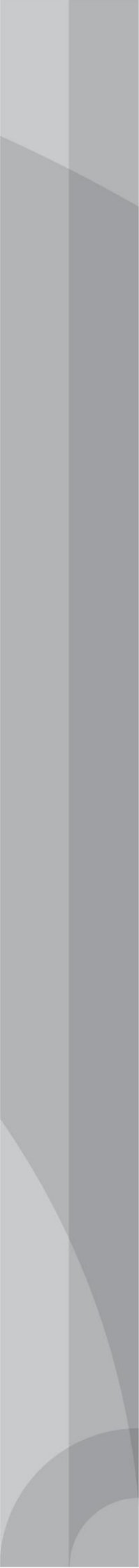


**REPORT**  
**of the General Inspector of Financial**  
**Information**  
**on the implementation**  
**of the Act of 16 November 2000**  
***on counteracting money laundering and***  
***terrorist financing and the Act of 1 March***  
***2018***  
***on counteracting money laundering and***  
***terrorist financing in 2018***

Warsaw, March 2019



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## Abbreviations and acronyms:

<b>ABW</b>	Internal Security Agency
<b>AML/CTF</b>	<i>anti-money laundering and counter-terrorism financing</i>
<b>APG</b>	<i>the Asia/Pacific Group on Money Laundering</i> (the organisation established in 1997 as a FATF-style regional body and associate member of FATF)
<b>OPS</b>	Office of Payment Services
<b>CAT</b>	ABW Anti-Terrorist Centre
<b>CBA</b>	Central Anti-Corruption Bureau
<b>CBŚP</b>	Central Bureau of Investigation of the Police
<b>CEP</b>	<i>Compliance Enhancing Procedure</i> , i.e. the procedure enhancing compliance applied towards countries demonstrating gaps in compliance of national AML/CTF systems with the FATF recommendations.
<b>COP</b>	<i>Conference of the Parties to the CETS 198</i> , i.e. the Conference of the States Parties to the Warsaw Convention (the body established under Article 48 of the <i>Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16 May 2005 - CETS 198</i> , stipulating creation of the monitoring mechanism to ensure the application of its provisions)
<b>Dz.U.</b>	Journal of Laws of the Republic of Poland
<b>O J</b>	Official Journal of the European Union - O.J. EU)
<b>EAG</b>	<i>The Eurasian Group on Combating Money Laundering and Financing of Terrorism</i> (the organisation established in 2004 being a FATF-style regional body and a FATF affiliate member)
<b>EBA</b>	<i>European Banking Authority</i>
<b>EGMLTF</b>	<i>Expert Group on Money Laundering and Terrorist Financing</i> , operating at the European Commission
<b>FATF</b>	<i>Financial Action Task Force</i> , established in 1989 during the G-7 summit in Paris, dealing with the analysis and assessment of threats related to money laundering and terrorist financing, in particular in the context of 40 recommendations it issued, defining international standards in the scope of counteracting money laundering and financing of terrorism and proliferation
<b>FTF</b>	- <i>Foreign Terrorist Fighters</i>
<b>GENVAL</b>	<i>Working Party on General Matters including Evaluation</i> - Working Party of the Council of the European Union
<b>GIFI</b>	General Inspector of Financial Information
<b>WSE</b>	Warsaw Stock Exchange (Giełda Papierów Wartościowych w Warszawie S.A.)
<b>GUS</b>	Central Statistical Office
<b>IAS</b>	Revenue Administration Regional Office
<b>ISIS</b>	<i>Islamic State of Iraq and Sham</i>

<b>FIU</b>	<i>financial intelligence unit</i> (in accordance with the FATF Recommendation no. 29 – the financial intelligence unit shall mean “a national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis” which “should be able to obtain additional information from reporting entities, and should have access on a timely basis to the financial, administrative and law enforcement information that it requires to undertake its functions properly”)
<b>NRA</b>	National Revenue Administration (KAS)
<b>NCIC</b>	National Centre of Criminal Information
<b>KDPW S.A.</b>	National Depository of Securities (Krajowy Depozyt Papierów Wartościowych S.A.)
<b>EC</b>	European Commission
<b>KGP</b>	Police Headquarters
<b>NPI</b>	National Payment Institution
<b>KNF</b>	Polish Financial Supervision Authority
<b>KOBIZE</b>	National Centre for Emissions Balancing and Management
<b>MENAFATF</b>	<i>Middle East and North Africa Financial Action Task Force</i> (established in 2004 as a regional FATF-style body and associate member of the FATF)
<b>SPI</b>	Small payment institutions
<b>MONEYVAL</b>	also referred to as the MONEYVAL Committee - <i>Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism</i> , (the body of the Council of Europe established in 1997 dedicated for the monitoring and assessment of MONEYVAL member states’ compliance with the basic international rules related to AML/CTF, as well as effectiveness of their implementation, being a FATF-style regional body and a FATF affiliate member)
<b>ITTT</b>	Inter-ministerial Team for Terrorist Threats (established pursuant to <i>Regulation no. 162 of the Prime Minister of October 2006</i> as an auxiliary body of the Council of Ministers in the scope of ensuring the interoperability of the central administration in the scope of detecting, preventing and counteracting threats of terrorist nature).
<b>NBP</b>	National Bank of Poland (Narodowy Bank Polski )
<b>OECD</b>	<i>Organisation for Economic Co-operation and Development</i>
<b>OSCE</b>	<i>Organization for Security and Co-operation in Europe</i>
<b>PKD</b>	Polish Classification of Business Operations
<b>RP</b>	Republic of Poland
<b>SAR</b>	<i>Suspicious Activity Report</i>
<b>SG</b>	Border Guard
<b>SKOK</b>	Cooperative Savings and Credit Union

<b>SKW</b>	Military Counter-intelligence Service
<b>SNRA</b>	<i>Supranational Risk Assessment</i> (related to the area of money laundering and terrorist financing)
<b>STR</b>	<i>Suspicious Transaction Report</i>
<b>EU</b>	European Union

## 1. INTRODUCTION

**2018 was a breakthrough year due to the adoption, promulgation and entry into force of the Act of 1 March 2018 on Counteracting Money Laundering and Terrorist Financing (Journal of Laws item 723, as amended)**, hereinafter referred to as the new AML/CTF Act. For over six months, until 13 July 2018, the General Inspector for Financial Information (GIFI) as well as the obligated institutions and cooperating units operated under the provisions of *the Act of 16 November 2000 on Counteracting Money Laundering and Terrorist Financing* (Journal of Laws of 2017, item 1049, as amended), hereinafter referred to as the old AML/CTF and subsequently, over the next part of the year - under the new AML/CTF Act.

The new AML/CTF law significantly changed the way of appointment of the GIFI. The performance of the function of the GIFI is no longer automatically connected with acting in the capacity of the Head of the National Revenue Administration. The GIFI is currently appointed and dismissed by the Prime Minister at the request of the minister competent for public finance after seeking the opinion of the minister - member of the Council of Ministers competent for coordination of the activity of special forces (if appointed by the Prime Minister).

Furthermore, the Financial Information Department of the Ministry of Finance, which supports the GIFI in carrying out its statutory tasks, ceased to be an organisational unit of the National Revenue Administration.

Apart from detailed changes in the numbering of regulations defining individual obligations and powers of the GIFI and their scope, **it is worth stressing an increased number of notifications sent in 2018 to the prosecutor's office in connection with suspected money laundering offences (increase by approx. 7.6% in the case of the so-called main notifications and by approx. 49.1% in the case of so-called supplementary notifications as compared to the data for 2017)**. In addition, although the number of accounts blocked by the GIFI and transactions suspended by it decreased, **the total value of assets held on those accounts or transactions suspended increased significantly (by approx. 279.0% as compared to the previous year)**.

**A significant event in 2018 was the establishment** - in accordance with the provisions of the new AML/CTF Act - **of a new opinion-making and advisory body to the GIFI, i.e. the Financial Security Committee**, with a much broader scope of tasks than the Inter-ministerial Committee for Financial Security, which operated under the provisions of the old AML/CTF Act.

The adoption of the new AML/CTF Act did not mean that in 2018 work on changes to the anti-money laundering and anti-terrorist financing system was completed. First of all, works were undertaken with the aim to issue implementing regulations to the new AML/CTF Act by the



Minister of Finance and to adapt the GIFI ICT system to the changed legal conditions. Moreover, in the European Union (EU) fora, Poland participated in works related to further provisions defining the directions of these changes, including in particular *Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU*, published in the Official Journal of the EU on 19 June 2018.

## 2. BASIC INFORMATION ON CHANGES TO THE NATIONAL AML/CTF SYSTEM

### 2.1. INFORMATION ON CHANGES IN STATUTORY REGULATIONS

In 2018, a new AML/CTF law was adopted. Most of its provisions entered into force on 13 July 2018. Compared to the old AML/CTF, the new AML/CTF is much more comprehensive.

The provisions of the new AML/CTF Act mainly implement the provisions of *Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC* (OJ L 141, 5.6.2015, p. 73), hereinafter referred to as Directive 2015/849; In addition, their development was based on including the international recommendations of the Financial Action Task Force (FATF), amended in 2012, as well as the recommendations of the evaluators from the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL (operating under the Council of Europe), indicated in the report issued in 2013 after the evaluation of the Polish anti-money laundering and anti-terrorist financing system carried out as part of the 4th Evaluation Round of Member States. Equally important for the shape of the new AML/CTF Act was the experience gained so far in applying the provisions of the old Act.

Modifications in the Polish anti-money laundering and anti-terrorist financing system, introduced by the new AML/CTF act, refer primarily to the following issues:

- changes in the catalogue of obligated institutions, including the introduction of new categories of obligated institutions;
- appointment of the Financial Security Committee;
- preparing and updating the national assessment of the risk of money laundering and terrorist financing and the strategy to counteract such offences, including the action plan aimed at mitigating the risks associated with money laundering and terrorist financing;
- changes in the obligations of obligated institutions, in particular with respect to the application of customer due diligence measures or providing information to the GIFL, as well as identification of new information (e.g. preparation and updating of money laundering and terrorist financing risk assessment related to their activities or development of an internal procedure for anonymous reporting by employees or other persons performing activities for the obligated institution of actual or potential violations of provisions on anti-money laundering and terrorist financing);

- the establishment and functioning of the Central Register of Beneficial Owners (the provisions relating to this register will enter into force on 13 October 2019);
- changes in the rules concerning the collection by the GIFI of information necessary for the performance of its statutory tasks, its protection and making this information available to other entities;
- the introduction of new and more detailed provisions on suspending transactions and blocking accounts;
- the precise definition of the rules of cooperation between the GIFI and foreign financial intelligence units and Europol;
- improving the provisions on specific restrictive measures against persons, groups and entities;
- changes in standards concerning the control of obligated institutions, as well as administrative sanctions imposed on obligated institutions which fail to comply with the obligations imposed thereon by this Act.

In accordance with the new AML/CTF Act, the performance of the GIFI function is no longer automatically connected with acting in the capacity of the Head of the National Revenue Administration. Moreover, the Financial Information Department of the Ministry of Finance, which assists the aforementioned authority in exercising its statutory tasks, has been separated from the structures of the National Revenue Administration (KAS), which was confirmed in §1(1) of *the Regulation of the Minister of Finance of 14 August 2018 amending the Regulation of the Minister of Development and Finance on the establishment of the organisational rules of the Ministry of Finance*.

## **2.2. INFORMATION ON CATEGORIES OF OBLIGATED INSTITUTIONS**

Institutions operating in the framework of the anti-money laundering and anti-terrorist financing system include cooperating units and obligated institutions. The largest group comprises obligated institutions, which have been divided into 25 categories in the new AML/CTF Act. In various descriptions of their activities, they are typically classified either as a group of entities operating in the financial market or as other entities operating outside this market.

### **2.2.1. Entities operating in the financial market**

Information received from the KNF<sup>1</sup>, Krajowa Kasa Oszczędnościowo-Kredytowa (SKOK) and NBP pursuant to Article 14(4) of the new AML/CTF Act concerning the entities supervised by them, is presented below.

#### *Banking Sector*

At the end of September 2018, 613 entities (34 commercial banks, 550 cooperative banks and 29 branches of credit institutions) carried out banking activity. At the same time, the banking

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<sup>1</sup> The information presented has been selected from a broader description of the financial market sectors provided by the KNF.

sector had a network of 13.1 thousand outlets and employed 163.6 thousand people<sup>2</sup>. As at the end of September 2018, 12 banks were listed on the Warsaw Stock Exchange (WSE), accounting for 66.4% of the sector's assets (in standalone terms).

The level of concentration remained stable (the share of ten largest banks in the sector assets, loans to the non-financial sector and deposits from the non-financial sector at the end of September 2018 amounted to: 71.1%, 69.4% and 74.7%, respectively).

Domestic investors controlled 13 commercial banks (8 banks were controlled by the State Treasury and 5 by private capital) and all cooperative banks, although their share in the assets of the banking sector decreased marginally (at the end of September 2018 it amounted to 54.1%). In the course of nine months of 2018 - due to merger processes - the number of cooperative banks decreased by 3.

The situation of the banking sector remains stable, supported by continued high economic growth rate<sup>3</sup>, improved labour market conditions<sup>4</sup> as well as enhanced business and consumer sentiment. However, the NBP forecast (of November 2018) indicates that the GDP growth rate will slow down in 2019-2020<sup>5</sup>.

The capital base of the banking sector was also stable. In the period from January to September 2018, an increase in own funds<sup>6</sup> and a marginal improvement in capital ratios was recorded<sup>7</sup>.

The current liquidity situation remained good. All commercial banks met the current LCR standard<sup>8</sup> of 100%. In the case of cooperative banks, some of them did not meet the required standard at an individual level but they held the KNF consent to apply the group LCR standard, which was observed.

The net financial result of the banking sector generated in the period from January to September 2018 amounted to PLN 11,629 million and was significantly higher (by PLN 1,137 million, i.e. 10.8%) than in the corresponding period of 2017. The improvement in results was mainly due to an increase in the interest income combined with a moderate increase in operating expenses. The impact of other items on the changes in the financial result was significantly lower.

The improvement of results was recorded in commercial banks (by 13.3%), whereas in cooperative banks they decreased (by 12.1%), similar to branches of credit institutions (by 19.1%). At the same time, six commercial banks, seven cooperative banks and eleven branches of credit institutions (comprising 7.3% of assets) reported losses (in the total amount of PLN 534 million).

The observed changes translated into a slight improvement in the key performance indicators, i.e. the reduction of the cost ratio<sup>9</sup>, the stabilisation of the interest margin (2.65) and the increase

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<sup>2</sup> Banks continued their efforts to increase their efficiency by optimising employment and the sales network, consequently, the number of employees in the banking sector decreased in the first three quarters of 2018 (by 0.8 thousand people), and the sales network was reduced (by 332 outlets).

<sup>3</sup> According to the GUS, the annual GDP growth rate in the first three quarters of 2018 exceeded 5%.

<sup>4</sup> At the end of September 2018, the registered unemployment rate dropped to 5.7%, the LFS to 3.9%, and the gross remuneration in the enterprise sector in y/y terms increased nominally by 7.2% and in real terms by 5.4%.

<sup>5</sup> According to the NBP projections, the growth rate in 2019-2020 will reach 3.6% and 3.4%, respectively.

<sup>6</sup> From PLN 197.6 billion at the end of 2017 to PLN 209.0 billion at the end of September 2018, i.e. by 5.8%.

<sup>7</sup> Tier 1 capital ratio from 17.2% to 17.3% and the total capital ratio from 19.0% to 19.3%.

<sup>8</sup> LCR - *Liquidity Coverage Ratio* - a short-term liquidity standard.

<sup>9</sup> From 56.60 in the period from January to September 2017 to 56.39 in the period from January to September

in ROA<sup>10</sup> (from 0.81 to 0.85) and ROE<sup>11</sup> (from 7.18 to 7.52). However, it should be noted that there were significant differences between banks in this respect and that, in the case of cooperative banks, the main indicators deteriorated.

Despite the overall positive situation, a decline in income in some areas observed over the past few years as well as an increase in regulatory requirements, is a major challenge for some banks and requires them to take action to ensure adequate levels of profitability.

### *Savings and credit unions*

At the end of December 2018, 30 cooperative savings and credit unions (SKOK) were active, whereas pursuant to the decision of 30 October 2018, the KNF authorised the merger of two SKOKs as of 31 December 2018.<sup>12</sup>

In accordance with Article 3 of the *Act of 5 November 2009 on Cooperative Savings and Credit Unions* (Journal of Laws of 2018, item 2386), the objective of the SKOK is to collect cash only from its members, grant loans and credits to them, carry out financial settlements on their request and act as an intermediary in concluding insurance agreements. Most savings and credit unions carry out financial settlements of their members, few (i.e. 5 out of 29 SKOKs<sup>13</sup>) provide only credit, loan and deposit services.

As at 31 December 2018, savings and credit unions pursuing business recognised the total loss of PLN 2.68 million<sup>14</sup> It is worth noting at this point that the SKOK sector (excluding one entity which is subject to proceedings related to its acquisition by a domestic bank) would generate a net profit of PLN 30.75 million.

The equity of savings and credit unions increased in relation to the end of 2017 by 12.08%, i.e. by PLN 41.73 million, and was recognised at the end of December 2018 in the amount of PLN 387.17 million. The solvency ratio of savings and credit unions reached 4.57%.

In December 2018, the assets of cooperative cash registers dropped by 7.07%, i.e. by PLN 731 million. At the same time, the gross loan and credit portfolio decreased by 2.03%, i.e. PLN 137.75 million and the value of deposits fell by 7.73%, i.e. by PLN 757 million. However, the situation of individual savings and credit unions is diversified. There are savings and credit unions that operate safely as well as those in a difficult financial situation which need restructuring. At the end of December 2018, a receiver appointed by the KNF operated in one savings and credit union. In relation to 7 entities, the KNF conducted proceedings to examine the grounds for appointing a receiver, while at the end of 2018, 21 savings and credit unions were obliged to implement a recovery programme.

The SKOK sector is strictly monitored by the KNF which undertakes a number of measures with the aim of restructuring of the sector and protecting deposits collected in savings and credit unions. Public funds are also involved in the restructuring of this sector with the consent of the European Commission (EC).

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<sup>10</sup> ROA - *Return on Assets* - rate of return on assets.

<sup>11</sup> ROE - *Return on Equity*- rate of return on equity.

<sup>12</sup> According to the information received from the National Cooperative Savings and Credit Union, all SKOKs employed 1,548.5 thousand employees and operated in 876 outlets.

<sup>13</sup> Numbers already taking into account the mergers of two SKOKs.

<sup>14</sup> SKOKs operating as at the end of December 2017. 34 savings and credit unions which carried out their business at that period recognised a profit of PLN 16.63 million.

### *Sector of Payment Institutions*

Within this sector, National Payment Institutions (NPI), Small Payment Institutions (SPI) and Offices of Payment Services (OPS) operate. These entities are authorised to provide payment services, however, there are significant differences - e.g. in the scope of permitted services to be rendered, territorial scope, legal form, licensing obligations, capital requirements. As at 29 January 2019, 40 NPIs, 15 SPIs and 1386 OPSs were registered.

As at the end of the third quarter of 2018, NPI own funds amounted to PLN 640.49 million, while taking into account statutory reductions<sup>15</sup> of PLN 204.86 million, NPI own funds, after reductions, amounted to PLN 434.98 million. In the third quarter of 2018, NPIs executed 403.4 million payment transactions with a total value of PLN 34.9 billion. In the third quarter of 2018, the OPSs processed only 9.3 million money transfers with a total value of PLN 1.6 billion. Considering that Krajowa Izba Rozliczeniowa S.A. (KIR S.A.) executed 449.51 million payment orders worth PLN 1,312.55 billion, payment transactions processed by NPIs in the third quarter of 2018 accounted for 89.75% of the orders executed by KIR S.A., whereas their value accounted for only 2.66% of the value of the transactions executed by KIR S.A. In connection with the foregoing, the importance of the sector of national payment institutions in the macroeconomic context is negligible.

### *Life insurance sector*

In the period of three quarters of 2018, in class I of insurance sector (i.e. life insurance), 26 insurance companies of this class had a licence to carry out insurance activity and conducted it. These companies had approximately 12.16 million insurance agreements.

The structure of revenues of insurance companies was dominated by gross written premium, which in the first three quarters of 2018 reached the value of PLN 16.41 billion, which constituted 35.44% of the total gross written premium of the entire insurance sector.

In the scope of direct insurance of class 1, in three quarters of 2018, the dominating insurance of group 3 (i.e. life insurance, if it is associated with unit-linked insurance as well as life insurance where the benefit of the insurance undertaking is determined based on specific indices or other underlying values) constituted 37.37% of the total premium of this class. Insurance companies of group 1 (traditional life and annuity insurance), constituting 34.65% of gross written premium were ranked second. It is also worth noting the supplementary accident and sickness insurance (group 5), accounting for 26.85% of the gross written premium of class 1.

In the period of three quarters of 2018, life insurance companies paid out compensation and benefits in the amount of PLN 15.88 billion. At the same time, at the end of three quarters of 2018, life insurance companies created gross technical provisions worth PLN 83.14 billion.

The net financial result of insurance companies of class I amounted to PLN 1.96 billion, while the value of income tax recognised by the above mentioned insurance companies amounted to PLN 458.97 billion. This result also has a significant impact, through the payment of dividends, on the financial result recognised by other personal and property insurance companies (class 2).

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<sup>15</sup> Own shares or stocks held by a payment institution, measured at their balance sheet value, less impairment losses, any liabilities arising from the issue of preference shares, intangible assets measured at their balance sheet value, loss of the previous years, loss in the course of approval and net loss of the current period.

The total value of assets of life insurance companies at the end of three quarters of 2018 amounted to PLN 99.12 billion. The aforementioned assets included, among others:

- PLN 27.67 billion - funds supporting the economy and public finance through domestic bonds and other fixed income securities,
- PLN 6.97 billion - funds invested in shares of companies and other variable-yield securities.

The total value of equity of life insurance companies at the end of three quarters of 2018 amounted to PLN 10.92 billion, which constitutes 11.02% of assets.

The solvency of life insurance companies at the end of three quarters of 2018 remained at a safe level. All insurance companies of class 1 showed coverage of solvency ratios (understood as a minimum of the amount of eligible own funds to the Solvency Capital Requirement and eligible underlying own funds to the Minimum Capital Requirement), including nineteen insurance companies of class 1 which recorded solvency ratios above 175%.

For class 1 insurance companies, the following factors had the greatest impact on the level of the capital solvency requirement: risk related to surrenders and mortality risk (within actuarial risk in life insurance) and equity price risk, asset concentration risk and interest rate risk (within market risk).

### *Capital sector*

As at 31 December 2018, the following entities conducted brokerage activities:

- 9 banks, including 7 in the form of a brokerage house (in 2017, respectively, 11 and 9),
- 40 brokerage houses (44 in 2017),
- 1 commodity brokerage house (1 in 2017).

In the same period, 12 banks operated as custodians (13 in 2017).

Investment firms demonstrate diversification in terms of the scope of brokerage licenses. Companies performing a single type of brokerage activity as well as companies offering a full range of brokerage services operate.

As at 31 December 2018, 40 brokerage houses with diversified scope of operations carried out brokerage activities. They included 22 entities holding financial instruments or customers' cash. As a rule, these entities also perform a much wider range of activities, accordingly, they have greater opportunities to diversify sources of revenue generation.

As at 31 December 2018, brokerage houses maintained 714,957 accounts of customers' financial instruments (a decline of 3.96% compared to 2017), on which financial instruments worth approximately PLN 79.33 billion were held (a decline by 13.69% compared to 2017). Cash accounts contained cash of customers in the amount of approximately PLN 3.74 billion (an increase by 2.30% as compared to 2017).

In 2018, 15 brokerage houses conducted the activity consisting in customer asset management. As at 31 December 2018, these entities managed customer assets worth approximately PLN 6.62 billion (an increase of 290.25% compared to 2017).

According to the data included in the December monthly reports<sup>16</sup>, in 2018 brokerage houses generated a net profit of approximately PLN 164.74 million (a decline by 25.28% compared to 2017). As at 31 December 2018, the equity of brokerage houses amounted to PLN 1.79 billion (an increase by 2.19% as compared to 2017) and total assets - to PLN 6.61 billion (a decline by 2.54% as compared to 2017).

According to the last audited financial statement (for 2017), the only brokerage house licensed by the KNF generated a profit of approximately PLN 511.59 thousand, its equity amounted to approximately PLN 7.94 million and total assets to approximately PLN 74.48 million.

As at 31 December 2018, brokerage houses maintained 1,113,066 accounts of customers' financial instruments (a decline of 6.65% compared to 2017), on which financial instruments worth approximately PLN 185.83 billion were held (a decline of 8.82% compared to 2017). Cash accounts intended for service of financial instrument accounts contained customers' cash in the amount of approximately PLN 3.92 billion (an increase by 0.92% as compared to 2017). While performing portfolio management services involving one or more financial instruments, brokerage houses managed customer assets worth approximately PLN 820.39 million (a decline of 33.53% compared to 2017).

As at 31 December 2018, custodian banks maintained 45,988 securities accounts (an increase by 13.12% compared to the data as at 31 December 2017) where assets worth approximately PLN 959.95 billion were recorded (an increase by 7.09% compared to the data as at 31 December 2017).

As at 31 December 2018, 61 investment fund management companies (TFI) held the KNF licence. The total value of assets managed by them amounted to PLN 371.93 billion.

As at the end of 2018, the companies managed 878 investment funds<sup>17</sup>:

- 47 open-ended investment funds,
- 52 specialist open-ended investment funds,
- 779 closed-ended investment funds.

The total value of assets of investment funds as at 31 December 2018 amounted to PLN 316.48 billion.<sup>18</sup> On the other hand, the value of portfolios

managed by TFIs which comprised one or more financial instruments amounted to PLN 55.45 billion.

As at 31 December 2018, the total assets of TFI amounted to approximately PLN 2.60 billion, including 57% of cash in the amount of approximately PLN 1.48 billion. On the other hand, the total equity of TFIs at the end of 2018 was equal to approximately PLN 1.94 billion. In the period from 1 January 2018 to 31 December 2018, the sum of net financial results of TFIs amounted to approximately PLN 909.99 million.

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<sup>16</sup> Data included in monthly reports are preliminary, not subject to verification by a statutory auditor.

<sup>17</sup> This figure also includes funds in liquidation.

<sup>18</sup> Which accounted for about 16% of GDP for 2017 and about 28% of the WSE capitalisation at the end of December 2018. The total assets of investment funds at the end of 2018 was two-fold higher than the value of net assets of open pension funds as at the end of December 2018 and corresponded to 43% of the value of household deposits as at the end of November 2018.



In 2018, the TFIs generated the total revenues at a level of about PLN 3.94 billion, which consisted primarily of revenues from the management of investment funds at a level of about PLN 3.73 billion. The total costs incurred by the TFIs in 2018 amounted to about PLN 2.79 billion, 33% of which were variable costs of distribution amounting to about PLN 936.02 million.

### *Entities pursuing bureaux de change activity<sup>19</sup>*

While performing the tasks specified in *the Act of 27 July 2002: Foreign Exchange Law* (Journal of Laws of 2018, item 160) and the new AML/CTF Act, the President of the NBP maintains a register of bureaux de change activities as well as controls currency exchange activities and controls the compliance of currency exchange operators with their obligations in the area of money laundering and terrorist financing. As at 31 December 2018, 2651 entrepreneurs conducting bureaux de change activity were entered into the register. As at 31 December 2018, bureaux de change activities were performed in 4873 bureaux de change outlets and suspended in 341.

*Table no. 1 - Value of foreign currencies bought and sold in bureaux de change outlets in the fourth quarter of 2017 and in the first, second and third quarters of 2018 (in PLN million)*

<b>period</b>	<b>Purchase of foreign currencies</b>	<b>Sale of foreign currencies</b>	<b>Balance of turnover</b>
Q4 2017	24,900	15,874	9,026
Q1 2018	21,080	13,953	7,127
Q2 2018	27,767	15,384	12,383
Q3 2018	27,716	17,307	10,409

### *Other institutions*

In addition to the above-mentioned obligated institutions (described on the basis of information received from the KNF, the National Cooperative Savings and Credit Union and the NBP), there are also other obligated institutions operating on the financial market, i.e. lending institutions referred to in Article 2(1)(25) of the new AML/CTF Act as well as a part of financial institutions.

The provisions of Chapter 5a of the *Act of 12 May 2011 on consumer credit* (Journal of Laws of 2018, item 993, as amended) contain the conditions determining the ability of lending institutions to conduct their business. Among others, pursuant to Article 59aa(1) of that Act, a lending institution may commence business activity after its entering in the register of lending institutions. The register of lending institutions has been maintained by the KNF since 2017.

<sup>19</sup> In addition to entrepreneurs pursuing bureaux de change activity, banks and branches of credit institutions, currency exchange is also handled by other entities that conduct currency exchange via the Internet. In addition, there are also entities providing services consisting in collecting and matching currency foreign currency conversion orders from different customers and arranging/enabling such exchange between them. Pursuant to Article 2(1)(11) of the new AML/CTF Act, they are obligated institutions.

According to the information available at [www.przeglad-finansowy.pl](http://www.przeglad-finansowy.pl) (accessed on 2 February 2019), the network comprises 34 websites of so-called Internet bureaux de change, also called e-bureaux de change (including e-bureaux de change owned by banks or entrepreneurs conducting bureaux de change activities). In addition, the Internet offers 6 platforms for the exchange of foreign currency among users, also called social currency exchange platforms (based on the model of matching the purchase/sale offers of foreign currencies of individual users), as well as 3 platforms for group purchases of currency on the interbank market.

According to information derived from the KNF website, as of 5 March 2019, 441 lending institutions were entered in the register.

The development of the non-banking sector in the scope of lending is more and more visible. The report of Biuro Informacji Kredytowej S.A. (BIK S.A.) shows that in the first half of 2018, lending companies cooperating with BIK S.A. gained 77.4 thousand new customers. This is nearly 22.1% more than in the previous six months (i.e. June - December 2017)<sup>20</sup>. According to BIK S.A., more than half of the borrowers who do not have any credit liabilities towards banks are young people under 35.

The vast majority of loans offered by the so-called lending companies are loans of a relatively small amount, below PLN 50 thousand, which is indicated by the data reported by BIK S.A.

As regards the definition of a financial institution, the new AML/CTF Act refers to the provisions of *the Act of 29 August 1997 - Banking Law* (Journal of U. of 2018, item 2187, as amended), which in Article 4(1)(7) defines it as “a financial institution referred to in Article 4(1)(26) of Regulation No 575/2013”. On the other hand, the quoted provision of *Regulation of the European Parliament and of the Council (EU) no 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms amending Regulation (EU) No 648/2012* (OJ L No. 176 of 27 June 2013 p.1) indicates, that “«a financial institution» means an undertaking other than an institution<sup>21</sup> the principal activity of which is to acquire holdings or to carry out one or more of the activities listed in subparagraphs 2-12 and 15 of Annex I to Directive 2013/36/EU, including financial holding companies, mixed financial holding companies, payment institutions within the meaning of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the market and an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies.” Thus, factoring and leasing companies (within the scope of financial leasing) as well as entities whose core business is “consulting for business enterprises in the scope of capital structure, industrial strategy and related issues, as well as consulting and services related to mergers and acquisitions of business enterprises” should be considered as financial institutions other than obligated institutions indicated in the new AML/CTF Act<sup>22</sup>.

According to the results of research conducted by the Central Statistical Office (GUS), based on data related to 95 enterprises conducting leasing activity in 2017<sup>23</sup>, published on 10 August 2018, in 2017, 469 thousand new lease agreements were concluded for 636 thousand assets/objects leased worth nearly PLN 58.2 billion. In 2017, the services of the above mentioned companies were used by 627 thousand lessees. The number of customers of the surveyed enterprises that concluded new lease agreements in 2017, amounted to over 368 thousand lessees. They were dominated by enterprises (96.3% of all customers) with

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<sup>20</sup> Loan Trends - Report for the 1st half of 2018. Semi-Annual Report of the Credit Information Bureau, p. 6 (at: <https://media.bik.pl/publikacje/read/406157/kredyt-trendy-raport-1-pol-2018-r>).

<sup>21</sup> As defined in Article 4(1)(3) of Regulation (EU) No 575/2013 as “credit institution or investment firm”.

<sup>22</sup> Subparagraph 9 of Annex I to *Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the conditions of admission of credit institutions to the activity and prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC* (OJ L 176, 27.06.2013, p. 338).

<sup>23</sup> This is more than the members of the Polish Leasing Association (according to the information on the website [www.leasing.org.pl](http://www.leasing.org.pl) the members of the association are 28 leasing companies and the Polish Vehicle Rental and Leasing Association, which in turn associates 20 companies - according to the information provided on the website [www.pzwlp.pl](http://www.pzwlp.pl)).

agreements for the lease of assets/objects with a total value of over PLN 56 billion. Natural persons constituted a relatively small part (3.6% of all customers), and the value of assets/objects leased by them amounted to about PLN 2.1 billion. Moreover, lessees also included public administration bodies and entities (approx. 0.1% of all customers)<sup>24</sup> The research conducted by the GUS implies that the form of financial leasing prevails over operating leasing<sup>25</sup>.

The data of the GUS included in the quarterly information on national economy entities show that as of 31 December 2018 in the national official register of national economy REGON (excluding natural persons running only individual farms), 735 entities were registered indicating their activity within the scope of the Polish Classification of Business Operations (PKD) - 6491Z, i.e. financial leasing<sup>26</sup>.

On 22 June 2018, the GUS published results of its surveys concerning the activity of 50 factoring companies (22% of which were banks dealing with factoring as an additional activity). Among the above factoring companies, other than banks, nearly 59% belonged to capital groups (including 2 companies acted as parent entities and 2 other companies - simultaneously as parent entities and subsidiaries).

According to the GUS information, the value of receivables purchased by all the above mentioned factoring companies in 2017 amounted to nearly PLN 222.5 billion. (a 17.1% growth in relation to the previous year). Factoring services provided by the above mentioned companies were used by over 12.4 thousand customers (10.2% more than in 2016).<sup>27</sup>

The data of the GUS included in the quarterly information on national economy entities show that as of 31 December 2018 in the national official register of national economy REGON (excluding natural persons running only individual farms), 9192 entities were registered indicating their activity within the scope of the Polish Classification of Business Operations (PKD) - 6499Z, i.e. other financial service activity, not classified elsewhere, excluding insurance and pension funds (this subclass comprises, among others, activity in the scope of factoring)<sup>28</sup>.

Apart from the above mentioned financial institutions, the National Depository for Securities (Krajowy Depozyt Papierów Wartościowych S.A.). (KDPW S.A.) as well as the company to which it outsourced the performance of activities in the scope referred to in Article 48(1)(1) of

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<sup>24</sup> Activity of leasing companies in 2017, GUS 2018 (publication at: <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/przedsiębiorstwa-finansowe/działalność-przedsiębiorstw-leasingowych-w-2017-roku,3,11.html>).

<sup>25</sup> More on this subject in: Information on leasing in surveys conducted by the Central Statistical Office, publication of 31.01.2019 at: <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/przedsiębiorstwa-finansowe/informacja-o-leasingu-w-badaniach-głównego-urzędu-statystycznego,20,1.html>.

<sup>26</sup> <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/zmiany-strukturalne-grup-podmiotow/kwartalna-informacja-o-podmiotach-gospodarki-narodowej-w-rejestrze-regon-rok-2018,7,6.html>, 19.03.2019

<sup>27</sup> Activity of factoring companies in 2017, GUS 2018 (publication at: <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/przedsiębiorstwa-finansowe/działalność-faktoringowa-przedsiębiorstw-finansowych-w-2017-roku,2,13.html>).

<sup>28</sup> <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/zmiany-strukturalne-grup-podmiotow/kwartalna-informacja-o-podmiotach-gospodarki-narodowej-w-rejestrze-regon-rok-2018,7,6.html>, 19.03.2019

*the Act of 29 July 2005 on Trading in Financial Instruments* (Journal of Laws of 2018, item 2286, as amended), are obligated institutions to the extent to which they maintain securities accounts or omnibus accounts.

KDPW S.A. and KDPW\_CCP, besides GPW S.A. and BondSpot S.A., are classified by the KNF as capital market infrastructure entities. KDPW S.A. is the central depository of securities and its tasks include, among others, operation and supervision of the securities registration system and the settlement system for transactions in financial instruments as well as supervision over the compliance of the issue volume with the number of traded securities, handling corporate events, fulfilment of issuers' obligations, and operation of a mandatory compensation system. On the other hand, KDPW\_CCP SA is a clearing house where KDPW holds 100% of the share capital. Since 8 April 2014, KDPW\_CCP S.A. has been operating as a CCP pursuant to Article 14 in conjunction with Article 17 of *Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories* (OJ L 201, 27.07.2012, p. 1).<sup>29</sup>

## **2.2.2. Other categories of obligated institutions**

### *Obligated institutions exercising legal professions*

Legal professions are professions of public trust exercised in the scope and manner described in specific provisions. They are usually of a regulated nature, i.e. they are subject to control by both the state and individual corporations. The exercise of a freelance profession is connected with the possession of high skills and knowledge.

In accordance with Article 1 §1-2 of *the Polish Notary Public Act of 19 February 1991* - (Journal of Laws of 2017, item 2291 as amended), a notary public, within the scope of its powers, acts as a person of public trust, taking advantage of the protection conferred on public officers, whereas notarial activities performed by a notary public in compliance with the law, take a form of an official document. The notary's tasks are to ensure the security and regularity of legal transactions (according to Article 80 § 2 of the aforementioned *Act*, a notary is obliged to take care of due protection of the rights and legitimate interests of parties and other persons for whom this activity may cause legal effects, while performing notarial activities).

According to the information of the National Notary Council, in 2018 the profession of notary was exercised by 3,534 people<sup>30</sup>

Notaries are obligated institutions to the extent they exercise activities performed in the form of a notarial deed, including:

- transfer of the ownership of an asset, including sale, exchange or donation of movable property or real estate,

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<sup>29</sup>In accordance with Article 2(1) of Regulation 648/2012, CCP means “a legal person operating between counterparties of contracts traded on at least one financial market, becoming a purchaser for each seller and a seller for each purchaser”.

<sup>30</sup><https://www.krn.org.pl/1193>, 15.03.2019

- concluding an agreement on distribution of the estate, dissolution of co-ownership, life annuity, rent in exchange for the transfer of the ownership of an asset and on distribution of jointly-held assets,
- assignment of the cooperative ownership title, title to premises, perpetual usufruct title and alleged promise of a separate ownership of premises,
- in-kind contribution following a company establishment,
- concluding the agreement documenting the contribution or increase of contributions to the company or increase of the share capital,
- transformation or merger of companies,
- disposal of an enterprise,
- disposal of shares in the company.

An advocate is a lawyer providing legal assistance on the basis of *the Act of 26 May 1982 - The Law of the Advocates' Profession* (Journal of Laws of 2018, item 1184 as amended). An advocate is obliged to keep secrecy of everything they learn about in connection with providing legal assistance. The obligation to keep the professional secrecy shall not apply to information made available pursuant to the regulations on counteracting money laundering and terrorist financing - in the scope defined under these provisions.

According to the information contained in the National Register of Advocates and Trainees kept by the Polish Bar Association, as at 18 March 2019, there were 18,571 active lawyers<sup>31</sup> and 107 foreign lawyers providing legal assistance<sup>32</sup>

On the other hand, a legal counsel is a lawyer providing legal assistance under the provisions of *the Act of 6 July 1982 on Legal Advisers* (Journal of Laws of 2018, item 2115, as amended). In particular, he/she provides legal advice and consultation, prepares legal opinions, drafts legal acts and appears as a representative or defender before authorities and courts (including the Supreme Court, the Constitutional Tribunal, the Supreme Administrative Court, the Court of Justice of the European Union and the European Court of Human Rights).

According to the information contained in the search engine of legal advisers, made available by the National Chamber of Legal Advisers, as at 18 March 2019, there were 45,622 active legal counsels.<sup>33</sup>

Advocates, like legal advisers and foreign lawyers<sup>34</sup> are obligated institutions to the extent they provide legal assistance or tax advisory activities to customers, in relation to:

- purchase or sale of real estate, an enterprise or an organised part of an enterprise,

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<sup>31</sup> <http://rejestradvokatow.pl/adwokat/ewidencja>, 18.03.2019

<sup>32</sup> <http://rejestradvokatow.pl/prawnikzagraniczny/ewidencja>, 18.03.2019

<sup>33</sup> <http://kirp.pl/wyszukiwarka-radcow-prawnych/>, 18.03.2019

<sup>34</sup>excluding legal advisers and foreign lawyers practising their profession under their employment relationship or service in offices providing services to public administration authorities, other government and local government units and entities other than companies referred to in Article 8(1) of the *Act of 6 July 1982 on Legal Advisers*.

- management of cash, financial instruments or other customer's assets,
- concluding the agreement for maintaining a bank account, a securities account or performing activities related to maintaining of those accounts,
- in-kind contribution to a capital company or increasing the share capital of a capital company,
- creating, operating or managing capital companies or trusts.

### *Tax advisers and statutory auditors*

Tax advisers exercise their profession in accordance with the provisions of *the Act of 5 July 1996 on Tax Advisory Services* (Journal of Laws of 2019 item 283). Pursuant to Article 2(1) of the aforementioned Act, tax advisory services include:

- providing taxpayers, payers and collectors, at their request or on their behalf, with advice, opinions and explanations in the scope of their tax and customs obligations and regarding administrative enforcement issues related to those obligations;
- keeping, on behalf and for the benefit of taxpayers, payers and collectors, accounting books, tax books and other records for tax purposes and providing them with assistance in this respect;
- preparing, on behalf and for the benefit of taxpayers, payers and collectors, tax returns and tax statements, or providing them with assistance in this respect;
- representing taxpayers, payers and collectors in proceedings before public administration authorities and in the field of judicial review of decisions, rulings and other administrative acts in cases referred to in the first subparagraph.

The activities referred to in the first and last subparagraph may be performed only by the entities indicated in the aforementioned Act, i.e. natural persons entered in the list of tax advisers, advocates and legal counsels and in the case of the activities indicated in the first subparagraph - also statutory auditors. Additionally, the following entities are also entitled to perform professional activities under the first and fourth subparagraph (provided that they perform these activities exclusively through persons referred to in the preceding sentence, employed in those entities):

- professional organisations with legal personality, cooperatives, associations or chambers of commerce, where their subject of statutory activity also includes tax advisory services provided exclusively to their members,
- audit firms authorised under separate regulations to audit financial statements,
- limited liability companies or joint stock companies that meet the conditions indicated in Article 4(1)(3) of the aforementioned Act.

Professional performance of tax advisory services is subject to statutory protection, and their performance by unauthorised entities is prohibited and is subject to a fine. A tax advisor is obliged to conclude a professional civil liability insurance agreement.



Tax advisers, in the case of providing legal assistance or tax advisory services to a customer, are obligated institutions to the same extent as advocates, legal counsels, foreign lawyers. Moreover, they are obligated institutions in connection with the performance of tax advisory services other than those listed in Article 2(1)(14) of the new AML/CTF Act.

According to information of 18 March 2019, 8929 persons were entered in the list of tax advisers<sup>35</sup>

Statutory auditors perform their profession pursuant to the provisions of the *Act of 11 May 2017 on statutory auditors, audit firms and public oversight* (Journal of Laws of 2017, item 1089, as amended). In accordance with Article 3(1), a statutory auditor shall, within the scope of his or her work, perform financial audit activities and provide attestation services other than financial audit activities which are not reserved to be performed by statutory auditors as well as related services. They may exercise their profession as: a natural person conducting business activity in own name and on own account or a partner in an audit firm, or a natural person remaining under an employment relationship with an audit firm, or a natural person (including a person conducting business activity in the scope other than specified above) who has concluded a civil-law contract with an audit firm.

In accordance with information derived from the register of certified auditors kept by the National Council of Statutory Auditors, as of 19 March 2019 there were 5,901 statutory auditors and 1,512 audit firms.<sup>36</sup>

### ***Entities operating in the field of games of chance, betting, card games and games on gaming machines***

The functioning of the gambling game market is regulated by *the Act of 19 November 2009: Gambling Law* (Journal of Laws of 2018, item 165 as amended) and the implementing acts thereto. Pursuant to these regulations, gambling games include games of chance, betting, card games and games on gaming machines.

Games of chance shall be games, including those arranged online, where the prize is either cash or a material prize and where the result depends primarily on chance. They include: number games, lotteries, telebingo, cylindrical games, dice games, cash bingo game, raffle bingo game, raffle lotteries, promotional lotteries, audiotele lotteries.

Mutual bets are bets on winnings in cash or in kind, consisting in guessing the results of sporting competition between people or animals, in which participants pay stakes, and the amount won depends on the total amount of paid stakes - lotteries and the occurrence of various events, including virtual events, in which participants pay stakes, and the amount won depends on the ratio of payment to win agreed between the host bet and the payer - bookmaking.

Games on gaming machines shall be games of chance that are played with the use of mechanical, electromechanical or electronic devices, including computer hardware and games corresponding to the rules of games on gaming machines arranged via Internet, where the prizes are either cash or in kind prizes and where the game contains an element of a lottery.

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<sup>35</sup> <https://krdp.pl/doradcy.php>, 18.03.2019

<sup>36</sup> <https://www.pibr.org.pl/pl/search/auditor?firmy=1>, 19.03.2019

Card games include black jack, poker and baccarat, as long as they are played in order to win cash or in kind prizes.

The operation of activity in the scope of number games, cash lotteries, telebingo games on gaming machines outside the casino and the organisation of online gambling (with the exception of betting and promotional lotteries) is subject to the State monopoly.

On the basis of the aforementioned *Act of 19 November 2009: Gambling Law*, the organisation of gambling requires - depending on the type of game - a licence or a permit from the minister responsible for public finance or a licence from the competent director of the Revenue Administration Regional Office (IAS) or, alternatively, an application to the competent director of the IAS.

*Table no 2 - Number of entities operating in the field of games of chance, betting, card games and games on gaming machines*

Specification	Number of entities	
	2017 <sup>37</sup>	2018 r. (preliminary data)
Number games (monopoly)	1	1
Cash lotteries (monopoly)	1	1
Casinos	8	9
Game machine arcades	0	1
Mutual betting:	9	15
<i>at ground points</i>	8	10
<i>over the Internet</i>	7	14
Audiotele lotteries	18	15
Promotional lotteries	132	<i>nd</i>

### *Post office operators*

In accordance with Article 3(12) of *the Act of 23 November 2012 - Postal Law* (Journal of Laws of 2018, item 2188, as amended), the postal operator is an economic operator authorised to perform postal activity on the basis of an entry in the register of postal operators. The Postal Law also provides for the existence of a designated operator - a special type of postal operator obliged to provide postal services. Until 1 January 2016, the designated operator was Poczta Polska S.A.

According to the information contained in the register of postal operators maintained by the President of the Office of Electronic Communications, as of 18 March 2019, there were 289 postal operators<sup>38</sup>

### *Foundations and associations*

A Foundation is a legal form of a non-governmental organisation in which the capital allocated for the specific purpose is an important element. Pursuant to Article 1 of *the Act of 6 April 1984 on Foundations* (Journal of Laws of 2018, item 1491, as amended), “the foundation may be established for the implementation of socially or economically useful objectives in accordance with the fundamental interests of the Republic of Poland, in particular such objectives as: health care, development of the economy and science, education and upbringing, culture and art, social

<sup>37</sup> Based on: Information on the implementation of the Gambling Act in 2017, Ministry of Finance, Warsaw 2018, p. 13.

<sup>38</sup> <https://archiwum.uke.gov.pl/marta/index.php>, 18.03.2019



care and welfare, environmental protection and care over monuments”. Foundations may pursue several objectives at the same time.

According to the GUS data, as of 31 December 2018, there were 26,567 foundations<sup>39</sup>.

Foundations are obligated institutions to the extent they accept or make cash payments of the total value equal to or exceeding the equivalent of 10,000 EUR, regardless of whether the payment is performed as a single operation or as several operations which seem linked with each other;

The information obtained pursuant to Article 14(4) of the new AML/CTF Act from district governors and ministers implies that they identified 7 foundations as obligated institutions (as at 31 December 2018).<sup>40</sup>

An Association is a basic organisational and legal form in which one of the most important constitutional rights guaranteed by the Constitution - the right to freedom of association and joint activities - is implemented. Pursuant to Article 2(1) of *the Act of 7 April 1989: Law on Associations* (Journal of Laws of 2017, item 210, as amended), it is a “voluntary, self-governing, sustainable and non-profit-making association”.

The Association shall independently determine its objectives, programmes of action and organisational structures and adopt internal acts concerning its activities and its operations shall be based on the social work of its members. The association may employ staff to conduct its affairs, including its members.

According to the GUS data, as of 31 December 2018, there were 114,687 associations<sup>41</sup>.

Only associations with legal personality are obligated institutions to the extent they accept or make cash payments of the total value equal to or exceeding the equivalent of 10,000 EUR, regardless of whether the payment is performed as a single operation or as several operations which seem linked with each other.

The information obtained pursuant to Article 14(4) of the new AML/CTF Act from district governors and Voivodes (governors of provinces) does not imply that they identified any obligated institutions among supervised associations (as at 31 December 2018).<sup>42</sup>

### ***Other non-financial obligated institutions***

A considerable group of obligated institutions operating outside the financial market comprises economic operators conducting non-regulated activity, mainly pursuant to the provisions of *the Act of 6 March 2018 - Entrepreneurial law* (Journal of Laws item 646, as amended). They

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<sup>39</sup> Structural changes in the groups of national economy entities in the REGON register, 2018, GUS, Warsaw, 2019, p. 29.

<sup>40</sup> The information provided by district governors and ministers was based on their knowledge. In some replies, the respondents pointed to limited possibilities of determining which foundations meet the conditions indicated in Article 2(1)(21) of the new AML/CTF Act.

<sup>41</sup> Structural changes in the groups of national economy entities in the REGON register, 2018, GUS, Warsaw, 2019, p. 29.

<sup>42</sup> The information provided by district governors and Voivodes was based on their knowledge. In some replies, respondents pointed to the limited possibilities to determine which associations meet the conditions set out in Article 2(1)(22) of the new AML/CTF Act (i.e. during inspections carried out pursuant to other legislation or by collecting statements from associations).

include obligated institutions specified in Article 2(1)(12), (16)-(18), (23)-(24) of the new AML/CTF Act.

Information from the website <https://gieldykryptowalut.pl/najwieksze-giedy-i-kantory-kryptowalut/> (of 8 October 2018) shows that at least 30 crypto-currency bureaux de change and exchanges, i.e. entities which could be considered as obligated institutions referred to in Article 2(1)(12) of the new AML/CTF Act, offered their services in the Polish language on the web. However, only half of them were operated by entities registered in Poland, others are owned by entities registered abroad.

The distinction between exchanges and crypto-currency bureaux de change is based on the difference in their business models. Crypto-currency bureaux de change provide their services both on the Internet and in stationary service points. They enable their customers to buy or sell a certain amount of decentralised virtual currency units. They do not offer storage services for these units or private keys to access them. On the other hand, crypto-currency exchanges provide a wider range of services. Buy and sell transactions of crypto-currency units can be concluded with the crypto-currency exchange, as well as - on the basis of matching buy and sell offers of its clients - between their different users. In addition, they offer their clients managing electronic portfolios on their behalf.

In Poland, it is also possible to buy and sell decentralised virtual currencies in cash, either at stationary points of some exchanges and crypto-currency bureaux de change or through dedicated ATMs. According to the information of the<sup>43</sup> <https://coinatmradar.com/website>, there were 23 machines in Poland, thanks to which it is possible to buy or sell Bitcoins.

A real estate agent - an entrepreneur conducting business activity in the field of real estate agency - may participate in the real estate trade. Real estate agency services consist in paid performance of activities aimed at concluding agreements by other persons. The scope of real estate agency services is specified in the agency agreement. The agreement must be executed in writing or in electronic form under pain of invalidity. It is not possible to specify the number of real estate agents, as each entrepreneur may perform real estate agency activities provided subject to holding a civil liability insurance for damages caused in connection with the performance of these activities.

The data of the GUS included in the quarterly information on national economy entities show that as of 31 December 2018 in the national official register of national economy REGON (excluding natural persons running only individual farms), 18,548 entities were registered indicating their activity within the scope of the Polish Classification of Business Operations (PKD) - 6831Z, i.e. intermediation in real estate trading<sup>44</sup>.

Bookkeeping services - pursuant to Article 76a(1) of *the Accounting Act of 29 September 1994* (Journal of Laws of 2019, item 351) - is a business activity within the meaning of the provisions of *the Act of 6 March 2018 - Entrepreneurial law*, consisting in the provision of services in the scope of:

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<sup>43</sup> Revision of 8 October 2018.

<sup>44</sup> <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/zmiany-strukturalne-grup-podmiotow/kwartalna-informacja-o-podmiotach-gospodarki-narodowej-w-rejestrze-regon-rok-2018,7.6.html>, 19.03.2019

- keeping accounting books on the basis of accounting evidence, which include records of events in chronological and systematic order,
- periodical determining or verifying, by means of stocktaking, the actual balance of assets and liabilities,
- measurement of assets and liabilities and determining the financial result,
- drawing up financial statements,
- collecting and storing accounting evidence and other documentation provided for in the aforementioned Act.

The activity consisting in the provision of bookkeeping services may be performed by any entrepreneur provided that the bookkeeping activities are performed by persons who have full legal capacity and have not been convicted by a final court judgement for an offence against the reliability of documents, property, economic turnover, trading in money and securities, for a fiscal offence and for offences specified in Chapter 9 of the aforementioned Act. An additional condition for conducting such activity is the requirement that the entrepreneur, no later than on the day preceding the day of commencement of business activity, concludes a civil liability insurance agreement for damages caused in connection with the business activity in the field of bookkeeping services.

Pursuant to Article 2(1)(16) of the new AML/CTF Act, obligated institutions also comprise entrepreneurs within the meaning of *the Act of 6 March 2018 - Entrepreneurial law*, not being other obligated institutions, who provide services consisting in:

- establishing a legal person or an organisational unit without legal personality,
- fulfilling a function of a member of the management board or enabling other person to fulfil this function or a similar function in a legal person or an organisational unit without legal personality,
- providing a registered office, address of establishment or address for correspondence and other related services to a legal person or an organisational unit without legal personality,
- acting or enabling other person to act as a trustee established by means of a legal act,
- acting or enabling other person to act as a person exercising its rights arising from stocks or shares to the benefit of an entity other than a company listed on the regulated market subject to the requirements related to information disclosure in compliance with the EU law or subject to equivalent international standards.

The data of the GUS included in the quarterly information on national economy entities show that as of 31 December 2018 in the national official register of national economy REGON (excluding natural persons running only individual farms), 15,760 entities were registered indicating their activity within the scope of the Polish Classification of Business Operations (PKD) - 6211Z, i.e. activity related to office administrative services<sup>45</sup>. This subclass includes

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<sup>45</sup> <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/zmiany-strukturalne-grup-podmiotow/kwartalna-informacja-o-podmiotach-gospodarki-narodowej-w-rejestrze-regon-rok-2018,7.6.html>, 19.03.2019

“activities related to day-to-day office administration such as reception, financial planning, accounting, bookkeeping, staff service and mail delivery performed on commissioning basis”.

Banking activities specified in Article 5 of *the Act of 29 August 1997 - Banking Law* include activities consisting in providing access to a safe-deposit box, provided that such activities are performed by banks. However, providing access to safe deposit boxes may also be an object of business activity within the meaning of *the Act of 6 March 2018 - Entrepreneurial law*.

A relatively broad category of obligated institutions comprising economic operators performing their business in various industries is represented by entrepreneurs accepting or making cash payments of the total value equal to or exceeding the equivalent of 10,000 EUR, regardless of whether the payment is performed as a single operation or as several operations which seem linked with each other. Although Article 19 of *the Act of 6 March 2018 - Entrepreneurial law* indicates the obligation of entrepreneurs to make and accept payments related to their business activity through their payment accounts, whenever the one-off value of a transaction, regardless of the number of resulting payments, exceeds PLN 15,000 or its equivalent, however, it applies only to transactions between entrepreneurs.

### 3. INFORMATION ON THE DATA SUBMITTED TO THE GIFI

#### 3.1. INFORMATION ON SUSPICIOUS TRANSACTIONS

In 2018, 3,622 descriptive notifications<sup>46</sup> of suspicious activities and transactions, so-called SARs (*Suspicious Activity Reports*), which were included in conducted analytical proceedings, were recorded in the GIFI IT system. The aforementioned notifications contain a description of a few, several or even several hundred transactions (related to each other through parties to transactions, circumstances of conducting a transaction, similar execution period and/or involvement of the same asset values) and accompanying circumstances which in the opinion of the notifying authority/unit may be related to money laundering or terrorist financing. Common components of these notifications often include additional data and documents justifying the suspicion and aiming at facilitating the proceedings (e.g., account records, copies of documents related to the transactions, etc.).

Table no. 3 – Number of SARs received in the period of 2001-2018

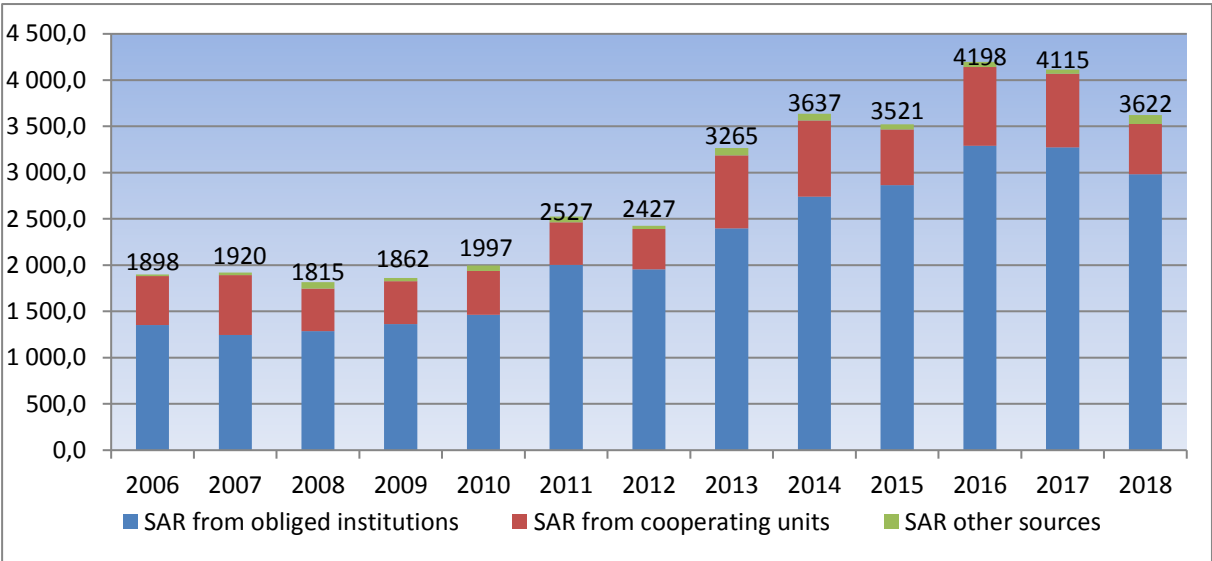
Period	Obligated institutions	Cooperating units	Other sources	Total
2001 (from July)	102	115	14	231
2002	358	237	19	614
2003	739	211	15	965
2004	860	521	16	1,397
2005	1,011	500	15	1,526
2006	1,351	530	17	1,898
2007	1,244	648	28	1,920
2008	1,287	460	68	1,815
2009	1,362	464	36	1,862
2010	1,462	476	59	1,997
2011	2,004	461	62	2,527
2012	1,954	436	37	2,427
2013	2,399	789	77	3,265
2014	2,739	823	75	3,637
2015	2,863	604	53	3,520
2016	3,290	853	55	4,198
2017.	3,272	796	47	4,115
2018	2,982	543	97	3,622

<sup>46</sup> Transferred under the provisions of both the old AML/CTF Act and the new AML/CTF Act.

The descriptive notifications – as compared to the notifications on individual suspicious transactions – include more information, particularly with regard to the suspicion of committing a crime and circumstances accompanying the transactions. Such a broad spectrum of information enables faster verification of the data received in other sources of information and reduces the implementation time of actions undertaken by the GIFI in cooperation with the prosecutor's offices office and the law enforcement agencies.

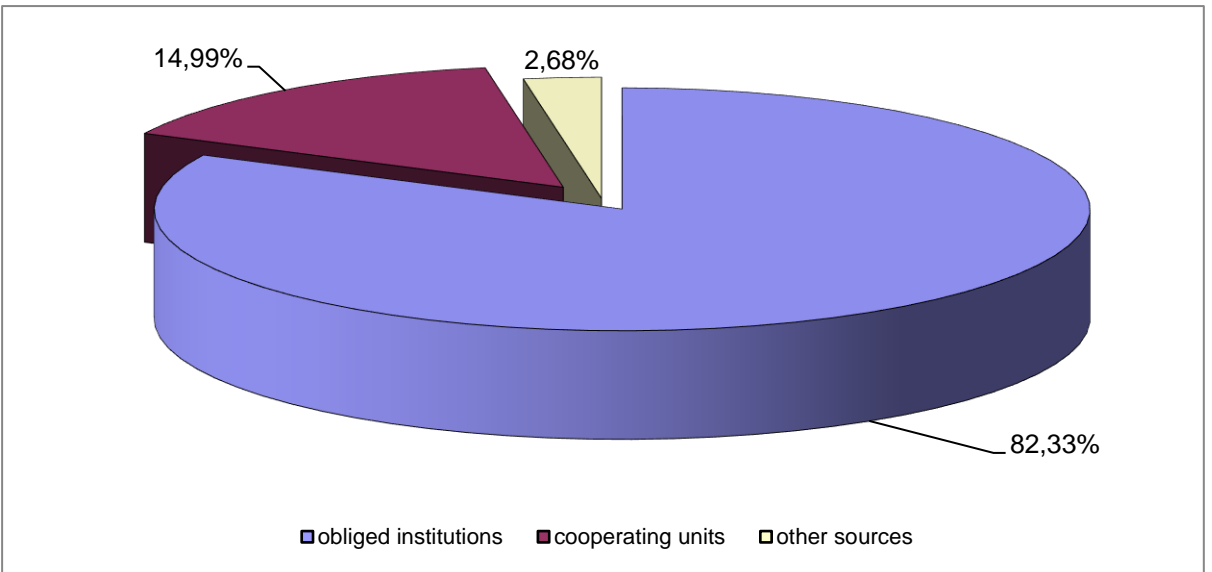
The number of descriptive notifications from all sources has remained high for six years, although the last year has seen a decline (to the 2015 level).

Chart no. 1 - Number of SARs reported to the GIFI in the years 2006-2018



The percentage share of descriptive notifications received from the particular sources of information is illustrated in Chart 2.

Chart no. 2 – Sources of SARs in 2018



In 2018, 543 descriptive notifications from cooperating units were registered. This figure remains at a high level, but in 2018 it fell compared to the previous five years.

In 2018, the GIFI received 2,982 descriptive notifications from obligated institutions. Their number has remained for several years at a level twice as high as the average for 2006-2010, however, compared to 2016 and 2017 it is lower by about 10%.

In 2018, the GIFI received 42,766 pieces of information from obligated institutions, concerning single transactions where circumstances may indicate association with criminal offence (*Suspicious Transaction Reports* - STR), including 42,737 transactions designated as potentially linked with money laundering (*Suspicious Transaction Reports on Money Laundering* - STR-ML), and 29 transactions – as suspected of terrorist financing (*Suspicious Transaction Reports on Terrorist Financing* - STR-TF).

As in previous years, the total number of such information pieces reported to the GIIF consisted of information on individual suspicious transactions, reported by obligated institutions to the GIIF directly as such whose circumstances, according to the reporting institution, could indicate a connection with money laundering or terrorist financing offences (pursuant to Article 11 in conjunction with Article 8(3) of the old AML/CTF Act) and information on single suspicious transactions reported by obligated institutions to the GIFI under the procedure of supplementation/amendment of information previously provided as information on a regular above-threshold transaction (under Article 11 in conjunction with Article 8(1) of the old AML/CTF Act, i.e. information on a transaction above the threshold which, following a subsequent analysis, has been found to be of such a nature that the circumstances may indicate a possible link with the crime). Since 13 July 2018, transitional periods for the provision of transaction information to the GIFI have been applicable - obligated institutions shall provide information on above-threshold transactions (referred to in Article 72 of the new AML/CTF Act) as of 13 October 2018, in accordance with the provisions of the new AML/CTF Act or the provisions of the old AML/CTF Act.

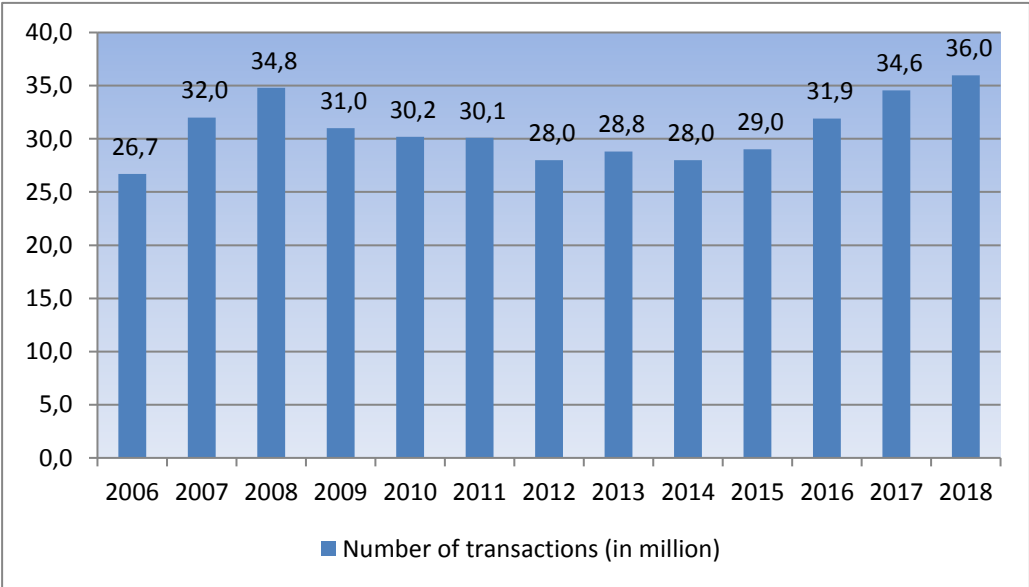
The amendment to the rules of reporting information on above-threshold transactions causes that direct comparison with the previous year is not fully reliable, nevertheless, in 2018, the second type of information, i.e. supplementation/amendment of the information provided previously as a standard above-threshold information, constituted about 25% of the total number of reported STRs (in 2017, it was about 36.6%). Thus, this percentage is the lowest over several years (approximately 42.7% in 2015 and approximately 29.4% in 2016). Significant variations can be observed in the percentage of second type transactions and absolute numbers of reported STRs (in 2015 - 70,345 STRs in total, in 2016 - 36,782, in 2017 - 62,124). It seems that they are triggered by various factors, one of which was different treatment by obligated institutions of the provisions of the GIIF Communication on the rules for reporting “suspicious transactions” of 27 January 2015. (published in the portal of the Ministry of Finance in the part related to the GIFI), pursuant to which “If an obligated institution finds that a transaction previously registered as a transaction above the threshold, i.e. referred to in Article 8(1) of the Act, meets the criteria indicated in Article 8(3) of the Act, it should correct the transaction card by entering the appropriate transaction code of the suspect in field 08 - «Kpdjrz» and explanations concerning the suspected circumstances in field 45 - «Comments» and subsequently provide information about the transaction correction to the GIFI”. The analysis of information sent in the previous years indicates that problems existed related to the explicit interpretation of the statutory obligations associated with the principles of reporting information on single transactions where the circumstances indicate a potential link with money laundering or terrorist financing. In 2018, the issue of transition periods in

information reporting additionally overlaps with this issue. The full entry into force of the new reporting rules for all types of information pursuant to the provisions of the new Act should result in streamlining these issues and facilitate a uniform interpretation.

### 3.2. INFORMATION ON TRANSACTIONS ABOVE THE THRESHOLD

In 2018, the GIFI received information on approximately 35.97 million transactions concerning so-called above-threshold transactions (under Article 11 in conjunction with Article 8(1) of the old AML/CTF Act and under Article 72 of the new AML/CTF Act), the equivalent of which exceeds the statutory threshold. The information is collected in the IT system of the GIFI and processed in the Financial Information Department of the Ministry of Finance, both for the purposes of analytical proceedings conducted by the GIFI and the analyses carried out as a result of the execution of requests submitted by authorised bodies. The number of information on transactions of this kind submitted to the GIFI on an annual basis remains at a similar level, while over the last five years it has increased y/y by a few percent.

Chart no. 3 – Amount of information on transactions above the threshold received by the GIFI in 2006-2018



Obligated institutions shall provide data on the above transactions collectively in the form of files within 14 days after the end of each calendar month in which they are registered (the provisions of the new AML/CTF Act change this rule to data reported up to seven days after the transaction is executed but due to transition periods, the cycle with the 14th day of the month as the cut-off date dominated in the inflow of information to the GIFI).

In 2018, the GIFI IT system accepted 120 thousand data files related to the aforementioned transactions. About 92.2% (over 110 thousand) of all files were transferred via the secure GIIF website. The remaining files were transferred via secure electronic mail.

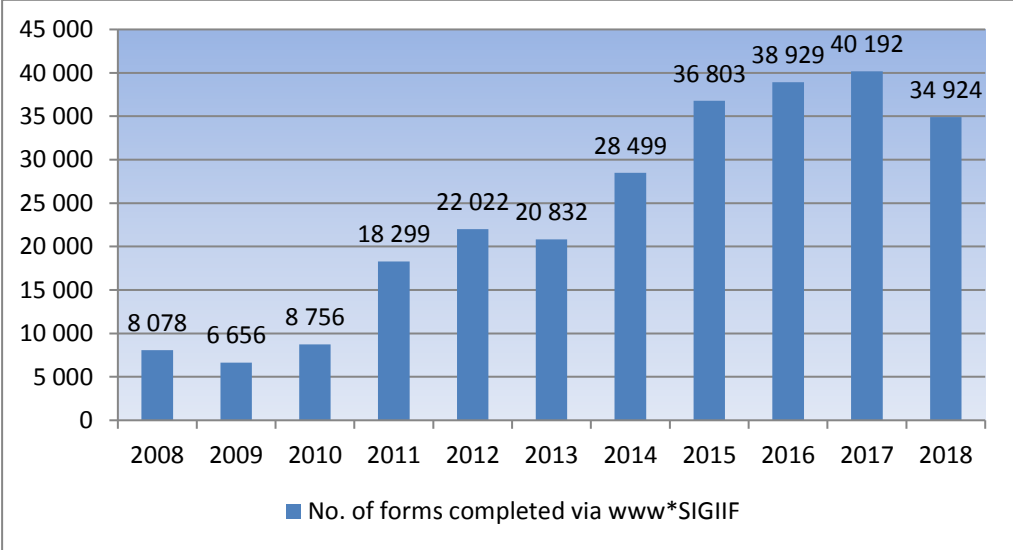
In the case of providing information concerning transactions via the secure website, it is possible to send it using a file including information on multiple transactions generated in a correct format from the system of the obligated institution (this solution is applied mainly by large institutions, which provide monthly information on many transactions; in 2018, 63% of



all files was submitted this way), or by filling in a form containing the electronic version of the transaction card directly on the website (this solution is used mainly by smaller institutions which provide monthly information on few transactions).

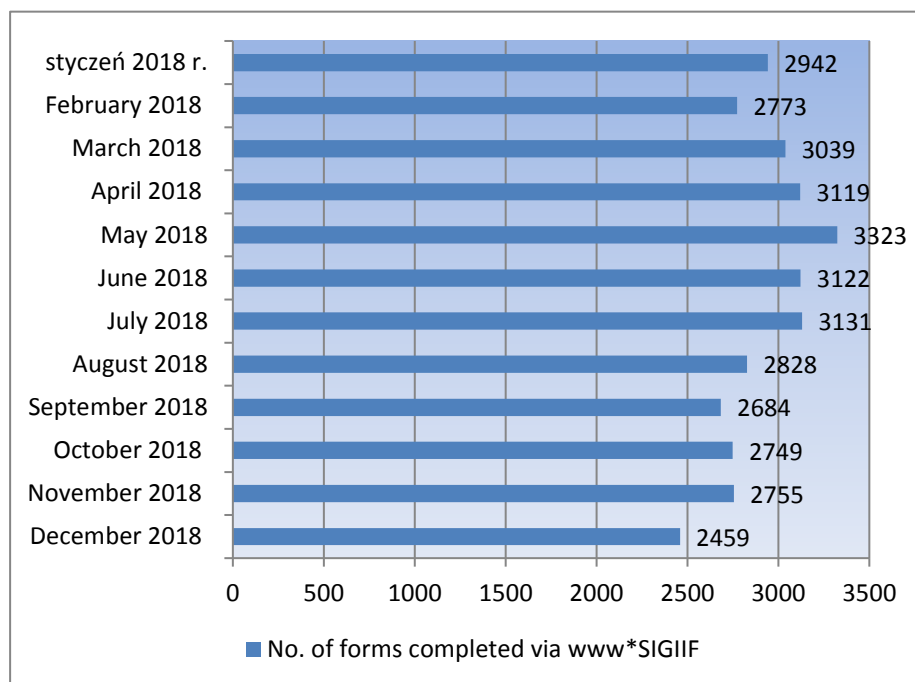
The amount of information concerning transactions registered by filling in the electronic form of the transaction card directly on the website was increasing starting from the surge in 2011 when 18.3 thousand transactions were submitted that way (while in the years 2008-2010 the number ranged between 6.7 thousand and 8.7 thousand transactions annually). In 2012 and 2013, the number of transactions reported this way increased to more than 20 thousand, in 2014 the figure reached 28.5 thousand, in 2015 - 36.8 thousand transactions, in 2016 – 38.9 thousand and in 2017 - 40.2 thousand. In 2018, the decline in the number of forms filled in to PLN 35 thousand was recorded.

*Chart no. 4 - Transactions registered by filling in the electronic form of the transaction card directly on GIIF IT system website in the years 2008-2018*



A decline in the number of WWW forms filled in directly on the website is not associated with the change of regulations in July 2018 - a monthly breakdown (illustrated in Chart no. 5) shows that if a decrease in the number of forms filled over the last months of the year can be observed, it is insignificant and does not explain the y/y decline.

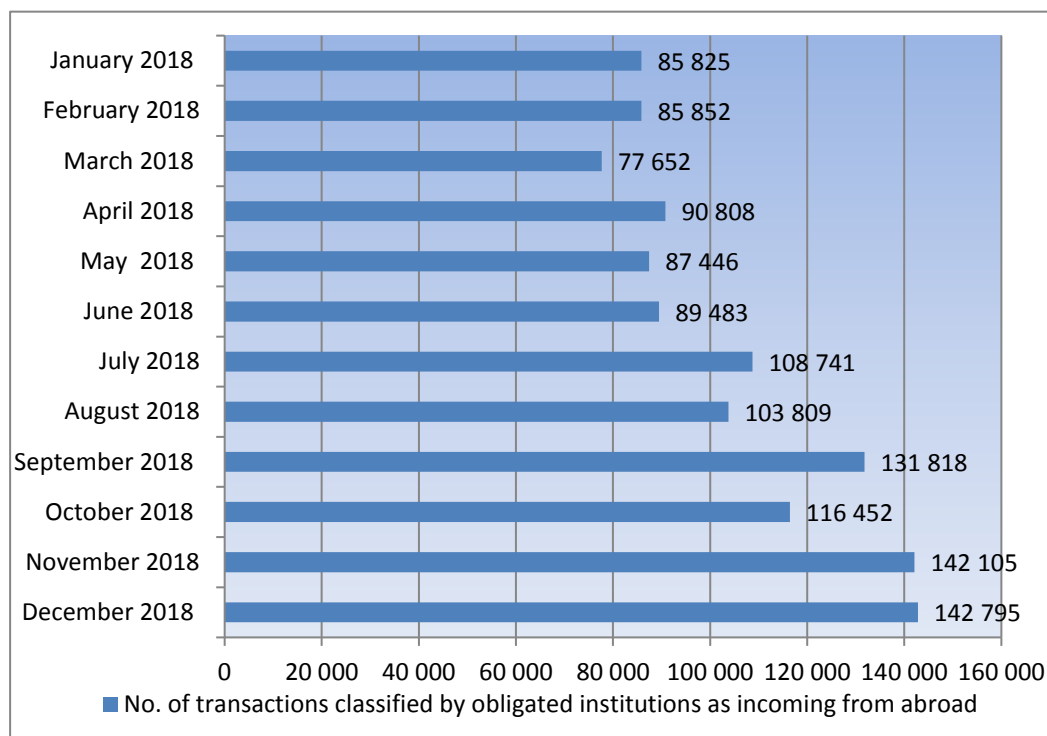
Chart no. 5 - Transactions registered by filling in the electronic form of the transaction card directly on GIIF IT system website in the subsequent months of 2018



The amount of information concerning transactions provided in the form of hard copies of transaction cards remained at a low level (5.5 thousand in 2008, 3.6 thousand in 2009, 3.2 thousand in 2010, 2.5 thousand in 2011, 1.5 thousand in 2012, 1.2 thousand in 2013, 1.2 thousand in 2014, 1.2 thousand in 2015, 1.0 thousand in 2016, up to 1.3 thousand in 2017, 1.0 thousand in 2018). It should be noted that even such an insignificant amount of information transferred by the obligated institutions to the GIFI in the form of hard copies of transaction cards requires proportionately much more time while collecting and entering to the databases than information on transactions submitted electronically. The situation should change after the end of the transitional periods for submitting information to the GIIF - starting from 13 July 2019 all data will be reported in electronic form. At the same time, new forms of transaction cards are already available (i.e. since 13 October 2018) on the website of the GIFI IT system. Even in the case of choice confirming the transfer of information by sending a paper version of the completed form, the data in the electronic version will be sent directly to the GIFI IT system.

Among the aforementioned 35.97 million transactions, submitted to the GIFI databases in 2018, approx. 6.26% were the transactions classified by the obligated institutions as cash payments or withdrawals (in 2017 - approx. 6.72% and in 2016 such transactions made approx. 7.55%). At the same time, approx. 12.50% were the transactions involving entities for which the obligated institution indicated the domicile outside the territory of Poland or the nationality other than Polish and approx. 3.51% of transactions were classified by the obligated institutions as incoming from abroad. The monthly distribution of the number of transactions classified by obligated institutions as incoming from abroad is presented in Chart no. 6.

Chart no. 6 - Transactions above the threshold classified by obligated institutions as incoming from abroad in 2018



A clear growth in the number of such transactions in the last four months of the year, reflecting changes in anti-money laundering and anti-terrorist financing legislation is visible. The new AML/CTF Act has clearly indicated that transfers of funds incoming from abroad are subject to reporting to the GIIF, thus putting an end to the interpretative speculation which accompanied the previous regulations. The effect is an increase in the number of reported transfers from abroad. Noting as a positive development the adjustment of the obligated institutions in this respect to the binding regulations, it should be noted that the analysis of the information provided shows that there is still much to be done to improve the quality of the information provided on incoming transfers from abroad. The willingness to improve its quality is reflected in the development of templates for electronic documents to be mandatory after the end of transition periods introduced under the provisions of the new AML/CTF Act.

The information on transactions received was made available in the IT system of the GIFI as input data used in further analyses. In particular, this information was subject to automatic analytical processes. For example, all the information on transactions was verified in terms of potential links with entities suspected of financing terrorism or entities originating from countries of high risk or subject to sanctions. The links of information on transactions with other types of information available in the system are searched for automatically (for example with the queries of external entities: prosecutor's offices, foreign financial intelligence units, etc.), which are subsequently used in the analytical proceedings, or transferred to external entities requesting the GIFI to provide financial information. The above-mentioned links were looked for with the use of analytical models functioning in the IT system of the GIFI, which were used both in the processes of automatic report generation and in ad hoc analyses for the purposes of a particular problem.

The information on transactions above the threshold is used both for the extraction of data on accounts of suspected entities, and information on the transactions themselves, constituting a helpful source of data in the pending analytical proceedings. The information on transactions is available for analysis both in a simple form, whereby asking about a particular entity or account provides the access to the data collected, as well as a source for the link analysis, by using a possibility of looking for linked objects (accounts, entities) in the database, i.e. remaining in a relationship of a defined type towards each other (e.g. entities or accounts linked through a common occurrence in the chain of transactions). This type of analysis of links within the accounts refers only to those accounts which were stated in the information on transactions above threshold and the STRs.

### **3.3. INFORMATION ARISING FROM CROSS-BORDER CASH DECLARATIONS<sup>47</sup>**

Pursuant to Article 15a(5) of the old AML/CTF Act and Article 85(1) of the new AML/CTF Act, the Border Guard authorities and KAS authorities shall provide the GIFI with information arising from declarations of cross-border cash transportation across the EU border.

In 2018, (as in the period of 2011-2017) the *said* information was provided using the electronic communication channel - directly to the IT system of the *GIFI*. The GIFI received information on 13.0 thousand cash transportation notifications (in 2017 – 11.8 thousand), contained in 7.8 thousand of transportation declarations (in 2017 – 7.1 thousand declarations).<sup>48</sup> Some of these transportation declarations contain more than one declaration (declarations refer to measures of different types).

Within the data submitted in 2018 - 11,116 notifications referred to cash import declarations to the territory of the EU and 771 notifications were related to cash export declarations from the territory of the EU (the GIFI also received information concerning 701 notifications arising from declarations of cash transfer between the EU Member States and 366 declarations of cash transfer between non-EU countries). The number of notifications arising from declarations submitted by the Border Guard bodies and KAS bodies in 2018 increased by approximately 10% in relation to 2017. This is reflected in the total value of the amounts declared in the declarations of funds imported to the EU (in 2016 - PLN 830.9 million, in 2017 - PLN 1,154 million, in 2018 - PLN 1,231 million). However, the total amount in PLN for funds declared as exported from the EU decreased in 2018 compared to the previous year (in 2016 - PLN 120.2 million, in 2017 - PLN 155.3 million, in 2018 - PLN 136.4 million).

The value of the cash declared for import to the EU amounted to (arranged according to the value in PLN):

- EUR 156.6 million,
- USD 95.5 million,

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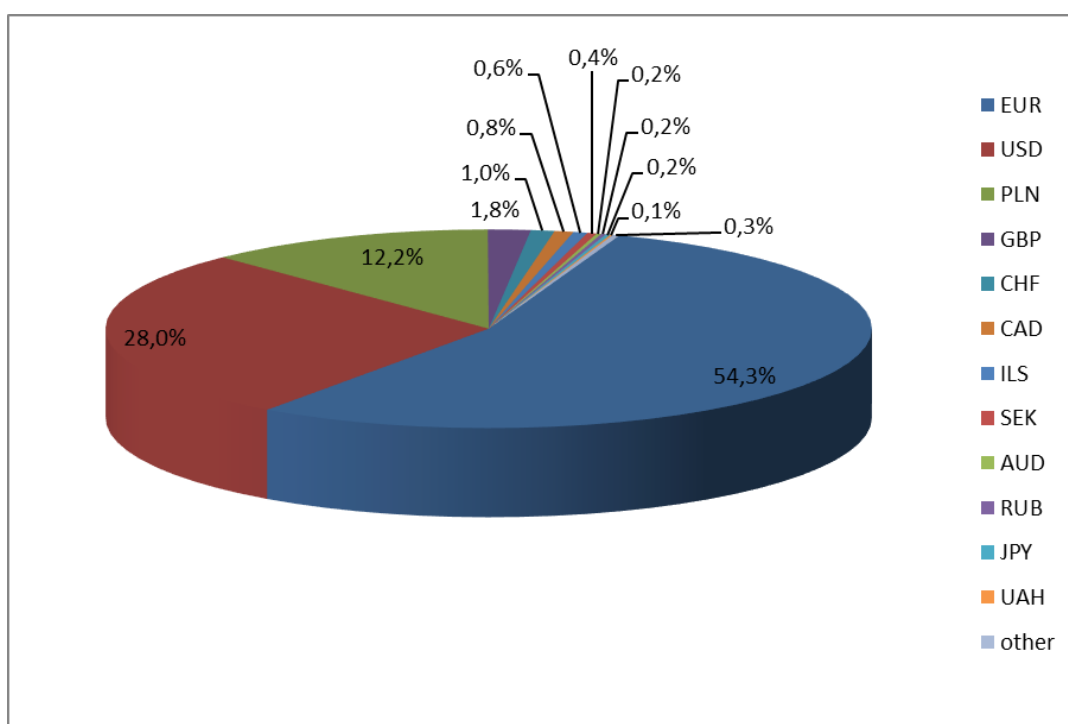
<sup>47</sup> All the amounts in this chapter calculated in PLN according to the average weekly exchange rates of a given currency.

<sup>48</sup>In accordance with the *Regulation of the Minister of Finance of 17 November 2010 concerning the form and procedure of providing information to the General Inspector of Financial Information by the Border Guard and customs authorities* (Journal of Laws of 233 of 2010, item 1526), the GIFI receives cash import/export notifications separately for each type of funds declared in a single transportation declaration.

- PLN 149.6 million,
- GBP 4.56 million,
- CHF 3.31 million,
- CAD 3.46 million,
- ILS 7.22 million,
- SEK 12.8 million,
- AUD 1.04 million,
- RUB 39.3 million,
- JPY 58.9 million,
- UAH 10.9 million.

The total amounts declared in the above mentioned currencies exceed the value of PLN 1.0 million on a case by case basis. Furthermore, the information on declarations submitted to the GIIF concerned the transport of funds of smaller amounts for 42 other currencies (35 other currencies in 2016 and 37 in 2017).

*Chart no. 7 - Share of currencies in funds declared as imported to the EU in 2018*



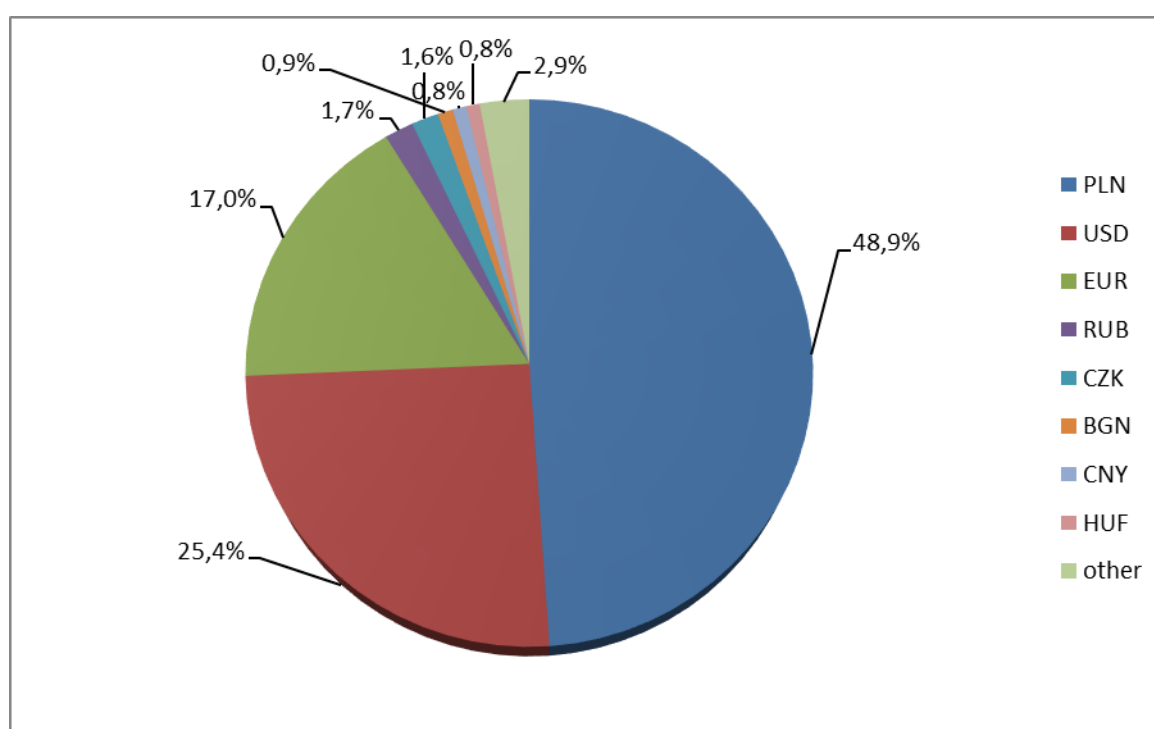
On the other hand, the value of the cash declared for export from the EU amounted to (arranged according to the value in PLN):

- PLN 66.6 million,
- USD 9.6 million,
- EUR 5.4 million,
- RUB 40.1 million,

- CZK 13.5 million,
- BGN 0.57 million,
- CNY 2.00 million
- HUF 82.0 million.

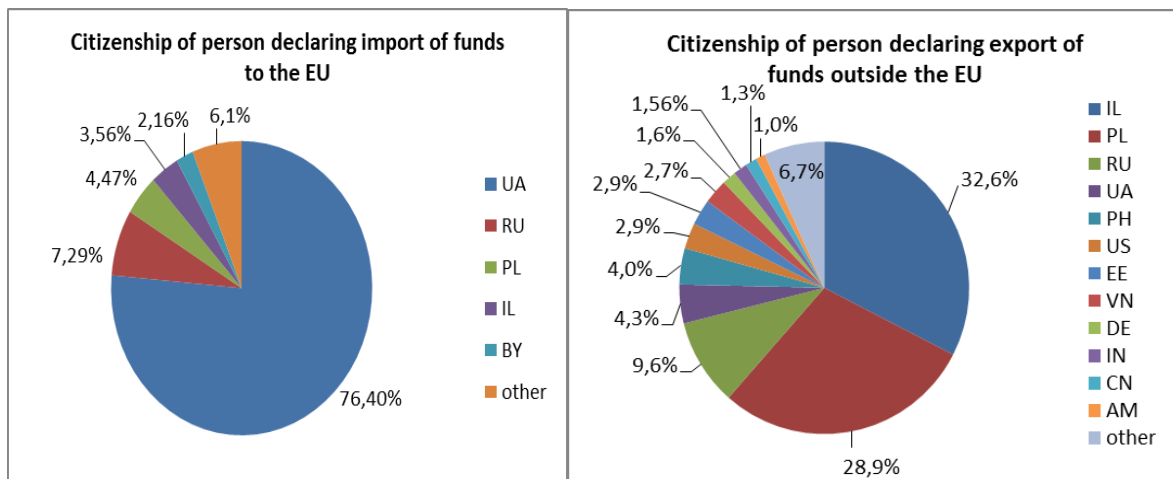
The total amounts declared in the above mentioned currencies exceed the value of PLN 1.0 million on a case by case basis. The amount declared as PLN exported outside the EU remained at a high level (PLN 37.6 million in 2016, PLN 79.8 million in 2017, PLN 66.6 million in 2018). As a result, PLN declarations occupied the first place in the above ranking. Furthermore, the information on declarations submitted to the GIFI was also related to the transfer of cash with lower amounts of values in 30 other currencies.

Chart no. 8 - Share of currencies in funds declared as exported outside the EU in 2018



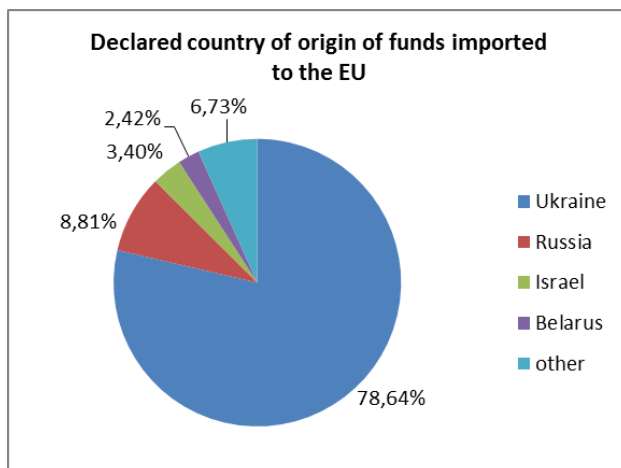
Import was most frequently declared (as in the previous year) by citizens of Ukraine (in 76.40% of cases), followed by citizens of Russia (in 7.29% of cases), Poland (in 4.47% of cases), Israel (in 3.56% of cases) and Belarus (in 2.16% of cases), and in addition, by citizens of 63 other countries. Exports were most frequently declared by citizens of Israel (in 32.56% of cases - this is a change in comparison to the previous year, when citizens of Israel were on the third position in this list), Poland (in 28.92% of cases), Russia (in 9.60% of cases), Ukraine (in 4.28% of cases), the Philippines (4.02% of cases), the United States (2.85% of cases), Estonia (2.85% of cases), Vietnam (2.72% of cases), Germany (1.56% of cases), India (1.56% of cases), China (1.30% of cases) and Armenia (1.04% of cases), as well as citizens of other 28 countries.

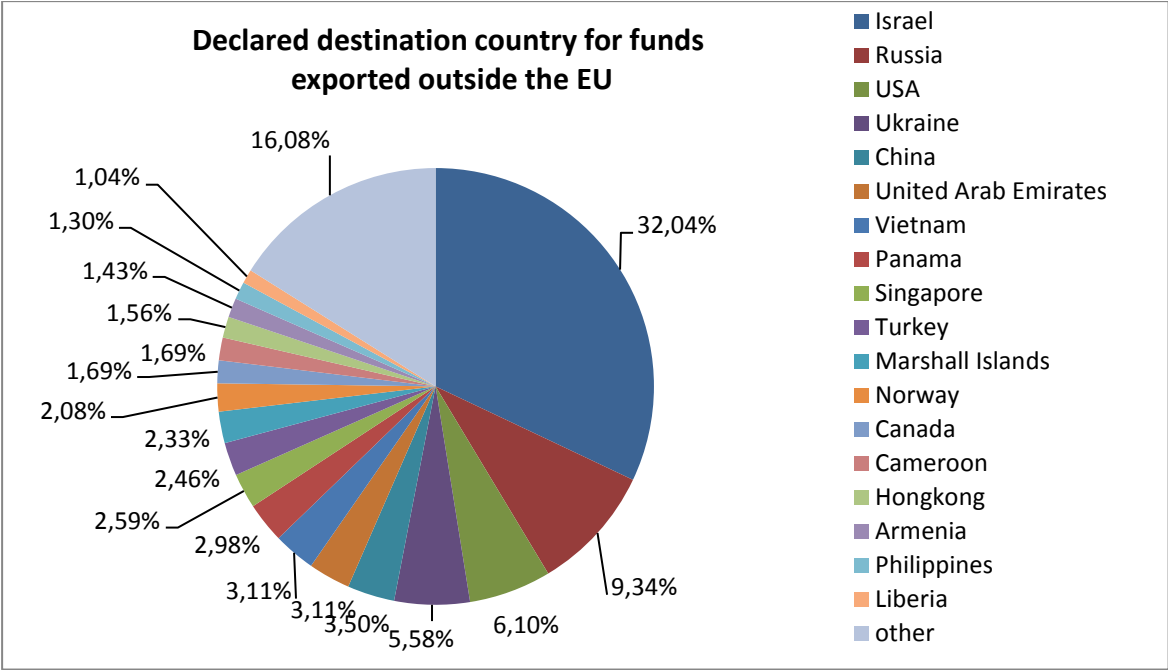
Chart no. 9 – Import/export of funds according to the citizenship of declaring persons in 2018



The analysis of directions from which import of funds to the EU territory originated indicates that 78.64% of declarations were related to the import of cash from Ukraine, 8.81% – from Russia, 3.40% – from Israel, 2.24% - from Belarus (other declarations referred to import from 57 other jurisdictions). In terms of exports of funds from the EU, the most common declared destination was Israel (32.04% of cases), followed by Russia (9.34%), Ukraine (5.58%), China (3.50%), United Arab Emirates (3.11%), Vietnam (3.11%), Panama (2.98%), Singapore (2.59%), Turkey (2.46%), Marshall Islands (2.33%), Norway (2.08%), Canada (1.69%), Cameroon (1.69%), Hong Kong (1.56%), Armenia (1.43%), Philippines (1.30%), Liberia (1.04%) (the remaining declarations concerned exports to 38 other jurisdictions).

Chart no. 10 – Import/export of funds according to the destinations declared in 2018







## 4. ANALYSES

### 4.1. COUNTERACTING MONEY LAUNDERING

The underlying task of the GIFI, pursuant to the provisions on counteracting money laundering and terrorist financing is to acquire, collect, process and analyse information, and to undertake measures in order to counteract money laundering and terrorist financing. Within those tasks, the GIFI investigates the course of the transactions as to which the GIFI has reasonable suspicion, makes information on transactions available to authorised units, and acquires from the obligated institutions requested information, as well as cooperates with foreign institutions and international organisations involved in counteracting money laundering or terrorist financing. All the aforementioned measures are undertaken in order to carry out a comprehensive analysis of collected information in terms of committing a crime of money laundering or terrorism financing by suspected entities. The analysis in question is to lead to substantiation that the asset values subject to the transaction originate from proceeds from committing a prohibited act.

#### 4.1.1. ANALYTICAL PROCEEDINGS AND THEIR EFFECTS

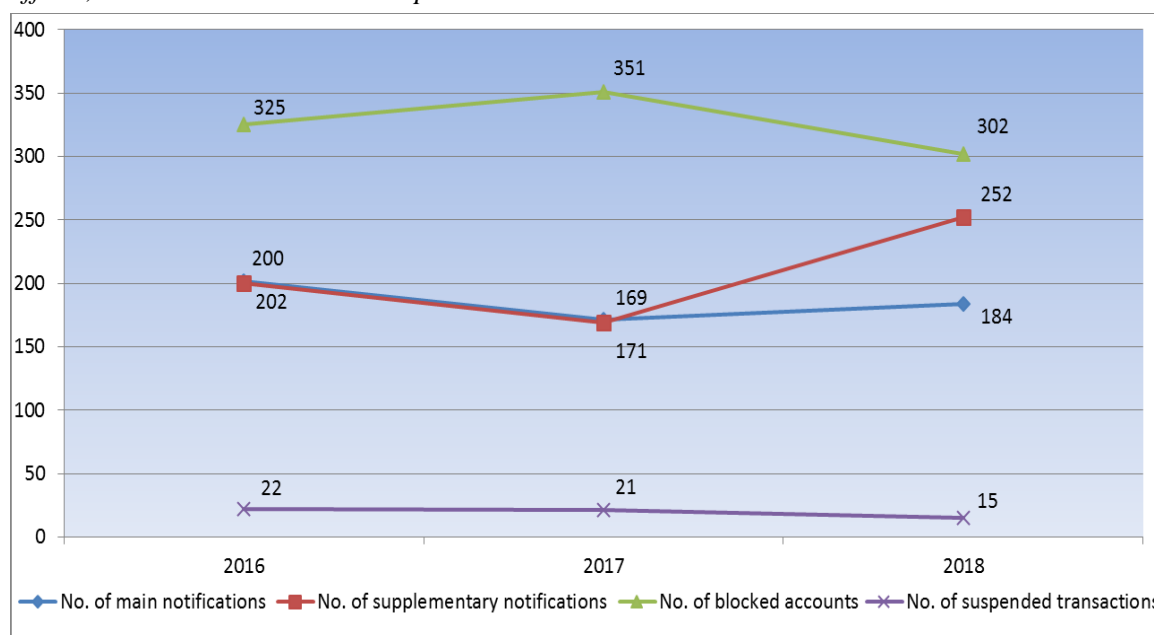
While performing its statutory tasks, in 2018 the GIFI instituted 2,160 instances of analytical proceedings based on the information acquired. This number includes proceedings with regard to the suspicion of money laundering, proceedings with regard to the counteracting of terrorist financing, and proceedings instituted based on the information submitted by the obligated institutions which could not perform the obligations concerning financial security measures and which did not conduct a transaction, sign a contract with a client, or which terminated the contracts already concluded. The number of proceedings pending remained at the same level as in the previous year. Results of the analytical proceedings conducted included:

- 1) Submission of 184 notifications on suspicion of committing the offence of money laundering (so-called main notifications) were submitted to territorially competent prosecutor's offices. The total amount of asset values constituting the object of the offence suspicion reached approx. PLN 6.2 billion. The notifications were submitted to prosecutor's offices pursuant to Article 31(1) or Article 18, or Article 18a of the old AML/CTF Act, or Article 103 or Article 86(8), or Article 87(3) of the new AML/CTF Act, i.e. they were prepared on the basis of information available to the GIFI, their processing or analysis, and at the same time the GIFI provided the prosecutor's office with materials justifying the suspicion of money laundering. Besides the aforementioned main notifications, the GIFI also provided the prosecutor's offices with 252 notifications, which

contained materials linked in objective or subjective terms with the proceedings conducted by the prosecutor's offices in cases of money laundering, and from which a reasonable suspicion of committing the said offence resulted (so-called supplementary notifications). These materials were obtained during follow-up analytical proceedings conducted by the GIFI. The total amount of assets constituting the object of the offence suspicion in those materials reached over PLN 0.1 billion.

- 2) 302 accounts were blocked, on which funds of the total value of approx. PLN 430.6 million were collected, and 15 transactions were suspended for the amount of approx. PLN 116.7 million. At the same time, 233 accounts were blocked on the own initiative of the GIFI, on which funds of the total value of approx. PLN 382.1 million were collected and two transactions amounting to over PLN 0.04 million were suspended. The above-mentioned amounts of funds blocked on the accounts are only estimations, and the actual amounts may be higher due to the nature of the blockade of accounts: during the blockade imposed by the GIFI the funds may be still injected into the accounts, but they may not be withdrawn or transferred to other accounts.
- 3) Submission of 1,245 pieces of information to authorised bodies and units on the own initiative of the GIFI.

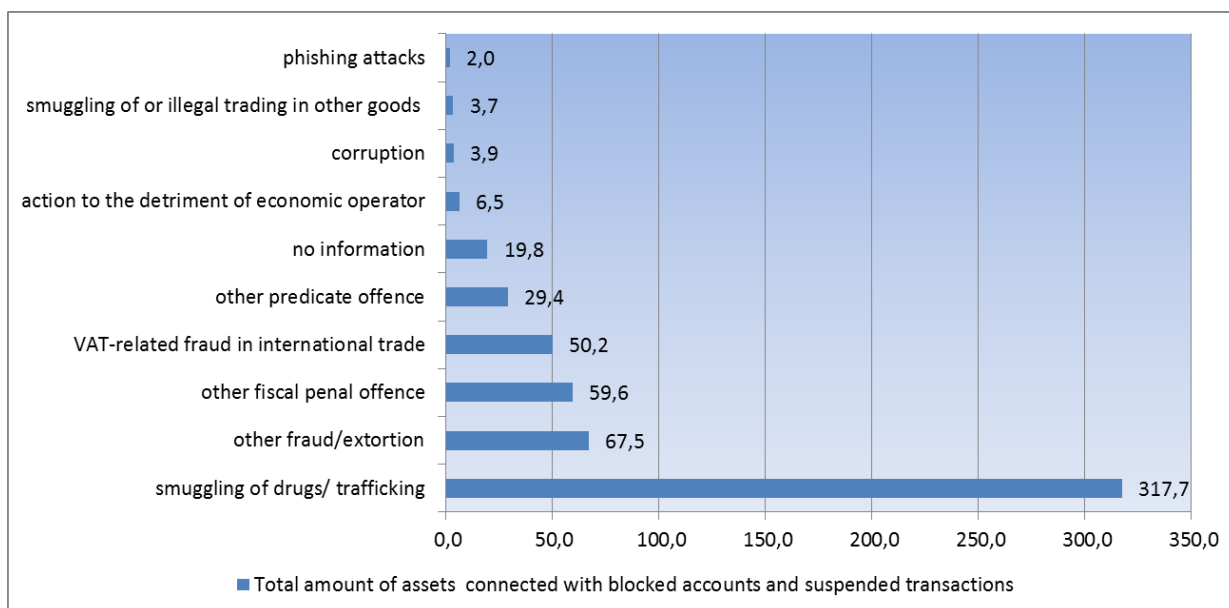
*Chart no. 11 – Specification concerning the number of notifications submitted to prosecutor's offices, account blockades and suspended transactions in 2016-2018*



The chart above shows the total number of notifications to the prosecutor's offices, sent both under the provisions of the old AML/CTF Act and the new AML/CTF Act. Based on the same principle, data related to the blocking of accounts and suspension of transactions, carried out at the request of the GIFI, were presented.

Although the number of account blockades and suspensions of transactions was lower than in the previous year, the total amounts involved were significantly higher.

*Chart no. 12 – Classification of assets deposited on blocked accounts or being subject to suspended transactions by types of suspected predicate offences (in PLN million)*



During the reporting period under discussion, the GIFI sent the following number of notifications to the competent authorities and units:

- 589 to the National Revenue Administration units,
- 250 to the Police (including the Central Bureau of Investigation of the Police),
- 199 to the Internal Security Agency (including the Counterterrorism Centre),
- 122 to the Central Anti-Corruption Bureau,
- 56 to the Military Counterintelligence Service,
- 13 to the Border Guard,
- 9 to the Intelligence Agency,
- 7 to the Polish Financial Supervision Authority.

In 2018, the largest number of notifications on GIIF's own initiative were sent to the entities of the National Revenue Administration. As in the previous years, the vast majority of the notifications indicated the suspicion of tax fraud related to the value added tax. These notifications comprised issues concerning understatement or non-disclosure of turnover due to forging or hiding invoices; claiming input VAT by deception; the “missing trader” fraud; the carousel fraud; intra-Community transactions and related purchases for so-called stocks in order to underestimate the output tax. A part of the notifications contained information regarding the suspicion of concealing the object of taxation, understatement of revenue, undisclosed income, or fraud in the import of goods.

In many cases, the notifications submitted by the GIFI to the KAS bodies provided basis for these authorities to initiate the control proceedings thereby as regards the correctness of assessing and paying taxes accounting for the income of the State budget due to the personal income tax, the corporate income tax, and the value added tax. On multiple occasions the control proceedings demonstrated that the entities subject to control had not conducted the actual declared business activity, had been issuing “empty” VAT invoices which had then been used by the purchasers to diminish unduly the output tax, which resulted in the decrease in the

amounts due to the State Treasury. Furthermore, the said control proceedings indicated that the entities subject to control had not made payments to the competent tax office of the VAT amounts demonstrated in the sales invoices issued. The findings of the control proceedings and the collected evidence constituted the basis to initiate inquiries on fiscal offences, which were then transformed into investigations conducted under the supervision of prosecutor's offices. As a result of the coordination of actions, the GIFI participated in such prosecutor's offices investigations, providing evidence consisting of the analyses of financial flows, and blocked the accounts if it was reasonably suspected that these asset values originate from the proceeds of a prohibited act.

Moreover, the GIFI submitted a significant number of notifications to the Police, including the CBŚP. The information contained in the aforementioned notifications were used by the KGP and CBŚP to undertake statutory measures resulting among others in instigation of preparatory proceedings. The information submitted by the GIFI was also used in the pending proceedings.

The next big group comprised the notifications to the Internal Security Agency. The notifications contained data on transactions which might have been linked to the suspicion of a prohibited act the investigation of which lies within the competence of the Agency, including among others: diagnosis, prevention, and detection of offences against the economic foundations of the State and its security as well as offences regarding the production and trading in items and technologies of strategic importance for the State security, the illegal manufacture of, possession of, and trading in weapons, ammunition, explosives, and abusive and psychoactive substances in international markets.

The notifications submitted by the GIFI containing a comprehensive analysis of suspected and unjustified financial flows, following the verification and performance of the statutory actions by the law enforcement authorities, often constituted comprehensive evidence providing the basis for the instigation of investigation, or were added to the criminal proceedings already instituted. As in the previous year, the information on transactions provided by the GIFI was used in particular in investigations concerning the activity of organised criminal groups involved in illegal trading in diesel oil, electronic devices, or investigations concerning wholesale trade linked with Wólka Kosowska (including trading in so-called "counterfeit" products) as well as fraud related to financial pyramid schemes and transactions linked with crypto-currency trade. The information provided by the GIFI was frequently the basis for prosecutors for drafting written requests to the GIFI for disclosure of information gathered in the manner and within the scope provided under the regulations on counteracting money laundering and terrorist financing for the purpose of the pending criminal proceedings. The preparatory proceedings conducted due to the notifications of the GIFI allowed for charging many persons with the commitment of an offence, and the recovery of assets of multimillion value. In multiple cases the coordination of actions by the GIFI and the competent law enforcement authorities led to the arrest of the members of criminal groups, and to the blockade of bank accounts with asset values originating from the proceeds associated with committing a prohibited act.

## **4.1.2 SAMPLE DIRECTIONS OF ANALYSES**

### *Laundering of money originating from fiscal offences*

Similar to previous years, fiscal offences still belong to the most often identified predicate offences underlying money laundering. They result not only in significant undue loss of revenue of the State budget but also act against the interest of the economic circulation participants, disturb fair competition, and posing threat to other entities acting in compliance with the law. In 2018, state institutions continued to focus particularly on the so-called “tightening of the VAT system” and on combating fiscal offence in which the GIFI actively participated.

As in the previous years, the most common areas indicated in the notifications addressed to the GIFI included transactions aimed at the extortion of undue tax refund or failure to pay the VAT due, resulting in significant loss of revenue of the State Treasury, simultaneously posing risk to the entities legally operating in the specific sector. The notifications from the obliged institutions and cooperating units referred mainly to the trade in fuel, electronic devices, food products and textiles. The transactions described in those notifications are conducted by the related and cooperating entities. The organisers of the criminal practice transfer funds through the accounts of those entities to fake legal commercial transactions. The transfers of funds through a number of accounts are usually carried out with the use of immediate electronic money transfers. These transfers are not linked with actual sales of goods. Moreover, very often, companies and firms involved in this practice, operate for a short period of time, being from time to time replaced by successive entities, fulfilling the role of “missing taxpayers”. In the case of intra-Community transactions, such companies usually transfer the funds to the accounts of foreign customers. They are, on the other hand, supplied by the legally operating entities which fulfil their obligations towards the tax authorities. These are intermediary companies, playing the role of the so-called “buffer” whose purpose is to conceal the virtual nature of the commercial trade in domestic transactions. The analyses show that the same money is often in circulation between the entities.

### *Laundering of money derived from the trade in gas futures contracts*

On the basis of the notification of the GIIF, prepared in connection with the conducted analytical proceedings, which included cooperation with the Regional Prosecutor's Office in Warsaw, the CBŚP and the KAS, the prosecutor's office initiated the first investigation in Poland into the so-called “VAT crime”, for which a penalty of up to 25 years' imprisonment may be imposed. The GIFI blocked bank accounts of companies with deposits of over PLN 37 million. A Polish company trading in gas futures contracts performed intra-Community acquisitions from a Dutch company, against which during six months of its operation it should pay tax in the amount of more than PLN 83 million due to domestic sales. In order to avoid paying the VAT, the company declared fictitious purchases of VoIP telecommunications services in the total amount of over PLN 446 million, which were documented by 143 unreliable invoices. VoIP signals were settled with countries such as: Uganda, Ghana, Senegal, Zimbabwe, Togo and Haiti, and payments to make tracking and identification difficult were made through the Malaysian payment platform.

### *Laundering money from trading in virtual currencies in the so-called financial pyramid*

In cooperation with the District Prosecutor's Office in Warsaw and one of the national payment institutions, the GIFI thwarted an attempt to evacuate from Poland over PLN 44 million from the sale of "pseudo" crypto-currency, Dascoin. The notification sent by the GIFI to the prosecutor's office concerned a possibility of committing an offence under Article 286 of the Penal Code, i.e. leading to an unfavourable disposal of property by selling licences for the purchase of a number of products and services, including crypto-currency called Dascoin via the website [www.netleaders.com](http://www.netleaders.com). The findings of the GIFI and the prosecutor's office show that the model of remuneration of persons encouraged to join the Dascoin ecosystem was probably a pyramid-type promotional scheme, where the profit of the specific participant was directly dependent on the contributions of persons joining at a later date. In Poland, the Ponzi scheme, the so-called "financial pyramid", is forbidden. The funds raised from the "shareholders" were then transferred abroad. The blocking of the last transfer worth over PLN 44 million made it possible to secure the funds of the fraudsters. Previously, the crypto-currency, Dascoin was declared a financial crime means by the *North American Securities Administration Association*.

### *Laundering of money originating from micro-credit scams from EU aid funds*

The procedure was identified by the Intermediate Bank which, as a result of an internal audit, determined that the loans from the aid funds managed by the Bank were transferred to entities - beneficiaries of the programme - omitting due verification of micro loan applications. Two Financial Intermediaries (acting as joint-stock companies) targeted funds at Beneficiaries (limited liability companies) with personal/capital links with their shareholders/members of the Supervisory Board. At the same time, funds of a very high total value were transferred from the account of one of the financial intermediaries to the account of one of the shareholders, who at the same time run a small business activity of a natural person, with a laconic title of transfer in accordance with a contract or a loan.

As a result of the analysis of the collected information, the GIFI also identified numerous payments from a very large number of natural persons for the purchase of bonds issued by both Financial Intermediaries. Small return transfers to bondholders were identified on account of interest or bond redemptions.

Ultimately, the funds available to the Financial Intermediaries, as a result of the huge number of financial transactions, were disbursed from the accounts of natural persons linked with the Financial Intermediaries and Beneficiaries. In a separate plot, doubtful transactions of purchase/sale of real estate and subsequent granting of a loan were identified, as a result of which funds from one of the Programme Beneficiaries were withdrawn from the borrower's account in ATMs.

In addition, a significant part of the funds was transferred to the Far East.

In the said case, the GIFI managed to block funds in the accounts of several Beneficiaries and in the personal accounts of several natural persons where the extorted funds were hidden.

### *Laundering of money originating from the theft of funds from customer policies*

The case was initiated by a notification under Article 86 of the new AML/CTF Act submitted by one of the Life Insurance Companies. The suspicion of the Insurance Company was evoked by an e-mail from a concerned Client who received information from an Insurance Agent on a partial surrender of his policy. It turned out that about 2 months before the notification to the GIFI the Insurance Company terminated the cooperation agreement with the Agent upon a 3-month period of notice. As a result of an immediate analysis of other transactions executed by the same Agent, several other surrender orders executed in the previous two years were identified, where the authenticity of Clients' orders was also deemed suspicious. Among other things, counterfeit signatures of customers were found on alleged instructions.

The analysis of the history of the accounts to which the funds from the policy purchase were transferred resulted in discrepancies between the data of the account holders and the Beneficiaries under the insurance agreements concluded. Beneficiaries transferred the received funds to their accounts in other banks or to accounts of other entities, e.g. as an investment in one of the financial pyramids promoted in the media, which may be evidence of co-participation (conscious or unconscious) of these persons with a dishonest Agent.

In the case in question, the GIFI blocked funds originating from one policy and sent a notification of suspected money laundering offence to the competent Prosecutor's Office.

### *Laundering of money from the fictitious activities of companies owned by foreign nationals*

The case was initiated with a notification pursuant to Article 16 of the old AML/CTF Act concerning the advising of a large-amount payment by a Polish citizen.

The funds to be disbursed out came from the United Kingdom, from two companies personally related to persons outside the Eastern border of the Republic of Poland and were transferred chain-wise through accounts of two Polish companies (as a payment for walnuts) also related to foreigners. One of the business entities was not authorised to carry out intra-Community transactions, it did not settle or submit JPK (standard audit files). The President of the company withdrew several hundred thousand euro from the account of the second company, and the rest (also several hundred thousand euro) was transferred to a Polish citizen who advised its disbursement.

The attempted payment was thwarted by law enforcement authorities which, as a result of immediate arrests of persons - Poles and foreigners - related to Polish companies, obtained information about the fictitious nature and subject matter of the transaction. As a result of extensive law enforcement activities, further companies and individuals involved in the illegal activity have been identified and charged with money laundering.

The case in question is a slightly modified example of the increasing use of the Polish banking system to transfer funds originating from unspecified foreign sources. In the present case, a real realisation of profits (in the form of cash withdrawals) by a foreign organised criminal group can be suspected.



## 4.2. COUNTERACTING TERRORIST FINANCING

The primary aim of the GIFI in the area of counteracting terrorist financing is to cut terrorist organisations off from their funding sources. The statutory tasks of the GIFI involve acquiring, collecting, processing, and analysing information pursuant to the procedure stipulated in the statutory provisions and providing such information to the competent services. Due to the diversity of sources used to finance terrorism, the analysis is applied both to transactions reported to the GIFI as suspicious, and lawful transactions of entities executed in circumstances raising doubts due to terrorist financing. The information based on which analytical proceedings are instigated comes mainly from the banking sector and from the banking sector.

While performing its statutory tasks related to counteracting terrorist financing in 2018, the GIFI initiated 41 analytical proceedings related to transactions which potentially could have been related to terrorist financing and 9 proceedings concerning entities subject to specific restrictive measures - international sanctions. The said proceedings were conducted based on the notifications from the Internal Security Agency, information received from obligated institutions as well as information or applications received from foreign financial intelligence units (hereinafter referred to as the FIU).

### *Cooperation with the obligated institutions*

The proceedings instigated based on information from obligated institutions usually referred to transactions executed by natural persons coming from countries suspected of supporting terrorism, in the territory of which terrorist groups are active, and countries in the territory of which military actions are performed. In such cases, the GIFI examined flows on personal bank accounts and money transfers with the participation of such persons. In cooperation with the ABW Anti-Terrorist Centre, the GIFI analysed links with persons or entities from increased terrorist risk countries and identified links of such persons with terrorist organisations. In some cases, the verification of terrorist financing suspicions resulted in confirming them or detection of illegal commercial activity not associated with terrorist financing or, on the contrary, to confirmation of conducting certain transactions as legal financial activity carried out, e.g. due to family or business relations with entities established in high-risk countries.

Information on transactions of economic operators running business in the defence sector was represented another significant group of notifications. Among others, transactions with entities linked by equity with companies entered in the lists of entities subject to financial sanctions raised doubts. The GIFI cooperated in this scope with the competent authorities mainly in relation to verification of weapons sales transactions in international trade when transferring of weapons in favour of terrorist organisations or infringement of international obligations regarding the failure to make funds available to specific entities was suspected.

Moreover, the verification covered, in particular those transactions for which it was difficult to determine the economic substantiation and transactions of foundations associated with Muslim countries concerning which the GIFI received information that they may potentially finance terrorist organisations.

### *Cooperation with foreign FIUs*

Requests for information and spontaneous information associated with terrorist financing received from foreign FIUs, based on which analytical proceedings were instituted, referred



mainly to natural persons suspected of links with so-called Islamic State of Iraq and Sham (Arabic: *الدولة الإسلامية في أقطر و الشام*, English: ISIS). The information mostly originated from countries of Middle Asia and the EU Member States, where a considerable number of so-called *foreign terrorist fighters* (FTFs) returned. The GIFI usually received information concerning transactions of such persons with Polish residents and verified it, potentially expanding it by additional information, and subsequently submitted it to the ABW.

### *Cooperation with the Internal Security Agency*

The GIFI received 15 requests for information on persons and entities suspected of terrorism financing from the ABW. The GIFI responded to all requests, submitting information received from obligated institutions to the ABW, pursuant to the provisions of the old and new AML/CTF Act and - in certain cases - additional information received from foreign FIUs.

### *The case of recruitment of ISIS fighters in Europe*

In 2018, the GIFI conducted an investigation initiated on the basis of information received from a foreign FIU, concerning the attempted recruitment of potential ISIS fighters on the territory of Sweden. A citizen of one of the Central Asian countries, under the guise of running a large enterprise in Sweden, urged his compatriots to come to Sweden, tempting them with high wages. Upon arrival, the recruited persons were subjected to the propaganda to encourage them to fight for the ISIS. As a result of these activities, some persons were transported to Turkey, from where they subsequently entered the territory of ISIS influence.

### *Additional information*

As a result of analyses related to the above issues, pursuant to Article 33(3) of the old AML/CTF Act and Article 106 of the new AML/CTF Act, in total, the GIFI submitted 53 notifications to the Internal Security Agency.

The available information indicates that in 2018 the prosecutors conducted 2 investigations related to the suspected offence defined in Article 165a of the Penal Code.

The GIFI is a member of the Inter-ministerial Team for Terrorist Threats (ITTT), a subsidiary body of the Council of Ministers, which is to ensure the interoperability of the governmental administration in the scope of detecting, counteracting and combating threats of terrorist nature. The basic assignments of the Team include, inter alia: monitoring of terrorist threats, presenting opinions and conclusions to the Council of Ministers, developing draft standards and procedures in the scope of combating terrorism, initiating and coordinating activities undertaken by the competent governmental administration bodies, organising cooperation with other countries in the scope of combating terrorism, etc.

Within the framework of the ITTT works, the subject of the meetings was, among others, to analyse the state of the terrorist threat to the Republic of Poland and its citizens in 2017, and to present a forecast for 2018. As part of the Team's work, the situation of security in the world regions popular among Polish tourists was discussed and information on preventive measures taken in the context of the holiday season was presented. In addition, the Team performed an analysis of threats to Western countries in connection with the return of FTFs to their countries of origin, and conducted a security assessment in the context of the 21st FIFA Football World Cup. The GIFI report on implementation of the *Act on Counteracting Money Laundering and Terrorist Financing* in 2017 was presented and discussed, including information concerning the progress in implementation of the MONEYVAL Committee recommendations related to

strengthening of the system for counteracting terrorist financing in Poland. The GIIF also provided the ITTT members with a working document drawn up by the Working Party on Combating the Financing Mechanisms of the so-called Islamic State<sup>49</sup> containing a list of certain generally available dual-use products whose wholesale purchase and dispatch to high-risk jurisdictions may indicate that their recipient is the ISIS and that they will be used for illicit activities. The list itself in the form of an announcement was also posted on the secure website of the GIFI, to enable the obligated institutions to consult it.

Under the implementation of priority no. 9 included in the Action Plan of the “National Counter-terrorist Programme 2015-2019” (Resolution no. 252 of the Council of Ministers of 9 December 2014 - M.P. of 2014 item 1218), on 28 May 2018 the GIFI organised the conference for representatives of prosecutor’s offices and law enforcement agencies concerning counteracting terrorist financing. During the conference, representatives of the Internal Security Agency introduced the participants to the results of the analysis of the state of terrorist threat to the Republic of Poland and its citizens in 2017 and the forecast of the state of terrorist threat to the Republic of Poland in 2018 and discussed the specific nature of terrorist threats in the RP. In addition, they presented the activities of the Anti-Terrorist Centre of the Internal Security Agency as a coordination and analytical unit in the field of preventing and combating terrorism in the anti-terrorist system of the RP. On the other hand, the prosecutors addressed practical problems in the investigation of terrorist financing cases and presented an analysis of cases of suspected terrorist financing on the basis of actually proceeded cases.

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<sup>49</sup> For more information on the work of this Group, see chapter 7.8.

## 5. CONTROLS

### 5.1. CONTROLS CONDUCTED BY THE GIFI

Pursuant to the provisions of the old AML/CTF Act, in the first half of 2018, the GIFI conducted 8 inspections in the following obligated institutions:

- banks - 2,
- cooperative banks - 1,
- payment institutions - 1,
- civil law notaries - 2,
- entrepreneurs operating in the field of trade in metals and precious and semi-precious stones - 1,
- investment fund management companies - -1.

As a result of the conducted inspections, irregularities in the performance of obligations arising from the old AML/CTF Act by the obligated institutions were disclosed. The irregularities found included:

1) formal irregularities:

- failure to adjust internal procedures to the provisions of the old AML/CTF Act.

2) substantive irregularities:

- lack of registers of transactions of the equivalent value exceeding EUR 15.000 referred to in Article 8(1) of the old AML/CTF Act,
- providing the GIFI with information related to transactions violating the time limit referred to in Article 12(2)(1) of the old AML/CTF Act,
- registration of transactions by violating the time limit specified in § 2(2) of *Regulation of 21 September 2001 of the Minister of Finance on Determining the Template of Register of Transactions, the Manner to Keep the Register, and the Mode to Provide Data from the Register to the General Inspector of Financial Information* (Journal of Laws of 2001 no 113, item 1210 as amended), hereinafter referred to as the Regulation,
- failure to perform risk assessment in relation to a part of clients covered by the sample,
- failure to apply customer due diligence measures referred to in Article 8b(3) and Article 9e(2) of the old AML/CTF Act,

- failure to carry out an ongoing analysis of the transactions carried out during the period subject to inspection,
- failure to document and file results of the current analysis of all transactions conducted, imposed by Article 8a of the old AML/CTF Act,
- failure to ensure participation of employees performing anti-money laundering and anti-terrorist financing duties in training programmes in the scope of the Act, referred to in Article 10a(4) of the old AML/CTF Act.

In the case of identified infringements, the GIFI issued post-audit recommendations to obligated institutions with the purpose of their fulfilment of their obligations under the old Act. Among other, the following recommendations were issued:

- adjustment of the internal procedure to the requirements of the Act, in particular, to Article 10a(2) of the old AML/CTF Act,
- providing the GIFI with documents related to transactions registered in accordance with the provisions of Article 8(1), (1a) and (3) of the old Act, maintaining the time limit defined in Article 12(2) of the old AML/CTF Act,
- registering transactions in the register of transactions in the manner compliant with the provisions of the old Act and the Regulation,
- conducting risk analysis in relation to all clients in order to apply the relevant customer due diligence measures referred to in Article 8b(3) of the old AML/CTF Act,
- applying customer due diligence measures referred to in Article 8b(3) of the old AML/CTF Act, documenting and storing of information acquired as a result of application of those measures over a period of 5 years, counting from the first day of a year following the year in which the transaction with a client was conducted,
- conducting ongoing analysis of transactions performed and documenting the results of this analysis in relation to all transactions performed,
- fulfilment of the training obligation immediately after the commencement of work for employees performing the obligations associated with counteracting money laundering and terrorism financing,

In accordance with art. 27 of the old AML/CTF Act, information on the results of the inspections conducted by the GIFI controllers was submitted to the supervising authorities for further official use.

Moreover, in 2018 the GIFI submitted 3 notifications to the prosecutor's office concerning committing offences fulfilling the premises of acts defined in Article 35 of the old AML/CTF Act.

The provisions of the new AML/CTF Act entered into force on 13 July 2018. In connection with the foregoing, in order to enable obligated institutions to properly implement the provisions of the new AML/CTF Act immediately after its entry into force, by adjusting their internal regulations and introducing adjustment measures in the functioning of these institutions, the GIFI, did not carry out any inspections in the second half of 2018.

## 5.2. CONTROLS CONDUCTED BY SUPERVISORY INSTITUTIONS

Pursuant to Article 21(4) of the old AML/CTF Act and Article 131(5)(3) of the new AML/CTF Act, the supervisory institutions provide the GIFI with information on the results of their inspections. Data in possession of the GIFI shows that in 2018<sup>50</sup>:

- the National Bank of Poland conducted 402 controls of bureaux de change,
- the Financial Supervision Authority conducted 32 controls,
- the presidents of appellate courts conducted 135 inspections in civil law notary offices,
- National Cooperative Savings and Credit Union conducted 12 controls in the Cooperative Savings and Credit Unions,
- province governors (Voivodes) or district governors carried out 15 inspections of associations,
- Customs and Tax Control Offices conducted 19 controls.

Pursuant to the provisions of the old AML/CTF Act, the evidence gathered during the controls and forwarded to the GIFI with the results of controls provided the basis for the GIFI to impose fines.

## 5.3. ADMINISTRATIVE PROCEDURES FOR THE IMPOSITION OF FINES

Pursuant to the provisions of the old AML/CTF Act, the proceedings concerning the imposition of fines on the obligated institutions for irregularities in performing the obligations referred to in Article 34a of the old AML/CTF Act are carried out under the provisions of the *Code of Administrative Procedure*. Imposition of pecuniary fines was subject to the jurisdiction of the GIFI. While determining the amount of a fine, the GIFI took into consideration the type and extent of the violation, previous activity of the institution, and the financial capability thereof.

In 2018, the GIFI carried out 49 administrative procedures pursuant to the provisions of the old AML/CTF Act, concerning the imposition of fines on the obligated institutions for failing to observe the provisions of the Act. Based on the results of own controls, the GIFI conducted 8 procedures, i.e. 16.33% and 41 procedures (83.67%) based on the results of controls performed by other authorities referred to in Article 21(3) of the old AML/CTF Act.

**In 2018, the GIFI issued 49 administrative decisions, including:**

- 4 decisions discontinued the conducted administrative procedures,
- 13 decisions waived imposing of administrative fine and only the instruction was used,
- 32 decisions imposed pecuniary fines on obligated institutions.

**In the decisions issued, the GIFI assessed fines for the total amount of PLN 236,600. The fines imposed by the GIFI constitute the revenue of the State budget.**

In 2018, the Minister of Finance issued 7 decisions concerning appeals against decisions issued by the GIFI (including 2 decisions concerning appeals against decisions issued by the GIFI in

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<sup>50</sup>as at 31 January 2019

2017). The Minister of Finance upheld 3 decisions of the GIFI; in 2 cases the Minister repealed the decision of the GIFI entirely and adjudicated fines in lower amounts; in 2 cases the Minister repealed the decisions of the GIFI entirely and discontinued the procedure of the first instance entirely; and in 1 case, as at 31 December 2018 administrative proceedings before the second instance authority were pending.

In 2018, 2 complaints against the decisions of the Minister of Finance were filed with the Regional Administrative Court in Warsaw (including 1 complaint against the administrative proceedings conducted in 2017). In 2018, the Regional Administrative Court dismissed entirely 1 complaint against the decisions of the Minister of Finance; in the second case the procedure was pending. Two cassation complaints were filed with the Supreme Administrative Court. In 2018, the Supreme Administrative Court dismissed entirely 2 cassation appeals (including 1 cassation appeal filed in 2017). In 2018, in 2 cases the procedure before the Supreme Administrative Court were pending (in 1 case after the cassation appeal lodged in 2017).

## 6. NATIONAL COOPERATION

### 6.1. EXCHANGE OF INFORMATION WITH NATIONAL ENTITIES

In 2018, the GIFI continued its cooperation with national units. Until 12 July 2018, the procedure and principles of this cooperation were set forth in Articles 32 and 33 of the old AML/CTF Act, while from 13 July 2018 the procedure and principles of this cooperation were subject to Articles 104 and 105 of the new AML/CTF Act.

Authorised bodies, mainly the prosecutor's offices and other law enforcement authorities, use the data held by the GIFI. Information collected according to the procedure and in the scope provided for in the provisions of the Act was provided by the GIFI on request of courts and prosecutors for the needs of conducted criminal proceedings (Article 32 of the old AML/CTF) and after 13 July 2018 - under Article 104 of the new AML/CTF. Information on transactions was also provided by the GIFI on request of the minister competent for the internal affairs (and persons authorised thereby from the units subordinated thereto, among others the Police and the Border Guard), the heads of the Internal Security Agency (hereinafter referred to as the ABW), the Foreign Intelligence Agency, the Military Counter-Intelligence Service, the Military Intelligence Service, and the Central Anti-Corruption Bureau (hereinafter referred to as the CBA). The authorities authorised to obtain information on transactions included, inter alia, the Head of the National Revenue Administration, directors of Revenue Administration Regional Offices, heads of customs and tax control offices and other authorities (Article 33(2) and (4) of the old AML/CTF Act), from 13 July 2018, pursuant to Article 105(3) of the new AML/CTF Act.

As regards cooperation with law enforcement agencies and special services, a very significant change took place on 13 July 2018, as from that date, on the basis of a written and justified request, the GIFI could provide information on transactions covered by the provisions of the Act, without the limitation resulting from the previous Act, i.e. without a written consent of the Prosecutor General, in the case of information on transactions whose value exceeded EUR 15,000.00.

An important element of the cooperation deserving emphasis is the exchange of information with the national entities under Article 14(2) of the old AML/CTF Act. Pursuant to this provision, the prosecutor's offices and other law enforcement authorities informed the GIFI on a case by case basis of acquiring information indicating the suspicion (of committing a crime) of money laundering or terrorist financing, instigation and completion of proceedings in a case for the offence of money laundering or terrorist financing, bringing charges of committing any of the said offences (also in the case when the proceedings were instigated based on information from sources other than the GIFI).

Since 13 July 2018, the organisational units of the prosecutor's offices have been obliged to provide information about the issuance of an order to block an account or suspend transactions, initiate proceedings, charge and indictment, in cases of money laundering or terrorist financing under Article 81 of the new AML/CTF Act. On the other hand, other law enforcement authorities entitled to conduct criminal proceedings (similar to other cooperating units) provide notifications on suspected money laundering or terrorist financing offences pursuant to Article 83(1) and (2) of the new AML/CTF Act.

The quantitative analysis of data concerning the exchange of information with national units shows that the cooperation of GIFI with the organisational units of the prosecutor's offices, the police and the CBA has stabilised. The cooperation with the ABW has significantly increased, while the exchange of information with KAS authorities and the Border Guard has decreased.

*Table no. 4 – Summary of data concerning the cooperation with selected national entities under Article 32, 33 and 14(2) of the old AML/CTF Act and Articles 81, 104-105 of the new AML/CTF Act in 2016-2018*

<b>Institution</b>	<b>Year</b>	<b>No. of requests under Article 32 and 33 of the old Act/ Articles 104 and 105 of the new AML/CTF Act</b>	<b>No. of pieces of information under Article 14 of the old Act/ Article 81 of the new AML/CTF Act</b>
Organisational units of prosecutor's offices	2016	597	51
	2017	747	77
	2018	737	90
Courts <sup>51</sup>	2016	1	NA
	2017	6	NA
	2018	8	NA
KAS authorities <sup>52</sup>	2016	1405	NA
	2017	834	NA
	2018	575	NA
ABW	2016	54	4
	2017	40	1
	2018	72	7
CBA	2016	26	0
	2017	31	2
	2018	27	2
Police	2016	145	55
	2017	109	40
	2018	108	54
Border Guard	2016	27	2
	2017	29	2
	2018	16	1
<b>Total:</b>	<b>2016</b>	<b>2255</b>	<b>112</b>
	<b>2017</b>	<b>1796</b>	<b>122</b>
	<b>2018</b>	<b>1543</b>	<b>154</b>

<sup>51</sup>Refers to courts submitting for information in connection with pending criminal proceedings.

<sup>52</sup>i.e. revenue control authorities, Revenue Administration Regional Offices and customs service bodies.



It should be additionally emphasised that since 13 July 2018, first of all, the number of authorities defined as law enforcement agencies, which may submit a request for information to the GIFI has increased. At the moment, these authorities comprise:

- Commander-in-Chief of the Police (previously under the authorisation of the minister competent for internal affairs),
- Commander of the Central Investigation Bureau of the Police (previously under the authorisation of the minister competent for internal affairs),
- Commander-in-Chief of the Border Guard (previously under the authorisation of the minister competent for internal affairs),
- Commander-in-Chief of the Military Police,
- Internal Supervision Inspector,
- Commander-in-Chief of the Internal Affairs Office of the Police (previously under the authorisation of the minister competent for internal affairs),
- Commander-in-Chief of the Internal Affairs Office of the Border Guard (previously under the authorisation of the minister competent for internal affairs).

Moreover, since 13 July 2018, the following authorities may also request information under Article 105(3) of the new AML/CTF:

- minister competent for public finance – in connection with the request referred to in Article 11(2) of the *Gambling Act of 19 November 2009* (Journal of Laws of 2018 item 165 as amended),
- minister competent for foreign affairs – in the scope of its statutory competence in connection with the application of specific restrictive measures.

### **6.1.1. COOPERATION WITH ORGANISATIONAL UNITS OF PROSECUTOR'S OFFICES AND COURTS**

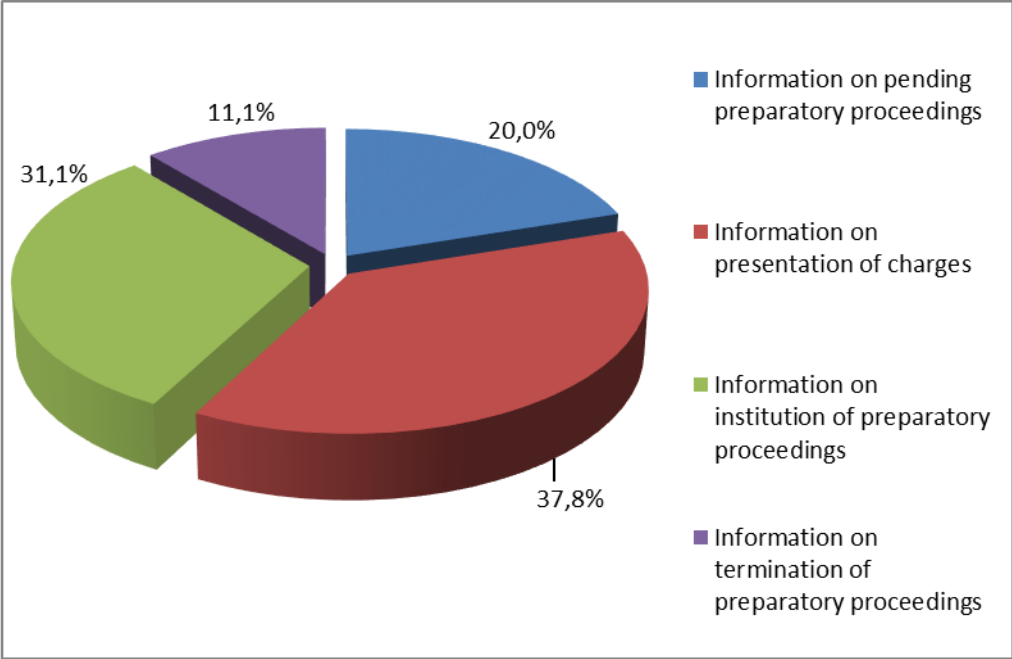
Pursuant to Article 32 of the old AML/CTF Act and Article 104 of the new AML/CTF Act, in 2018 the GIFI received 737 requests for information from prosecutor's offices concerning 4913 entities, which means a relatively small decrease in the number of submitted requests by approx. 1.3% (in 2017, 747 requests were submitted to the GIIF).

In the recent years the cooperation with the prosecutor's offices has been more and more effective, which is demonstrated by the high number of requests for information submitted to the GIFI by the organisational units of the prosecutor's offices. As of 2014 the organisational units of the prosecutor's offices sent more than 500 requests per year, which means a considerable growth as compared to the previous years (in 2013, 400 requests were recorded). In 2018, within these requests, a growth was recorded in the number of requests regarding and serving, to a major extent, for determining components of assets as well those processed under the international legal assistance. In addition, with the aid of the requests processed and information acquired in that way, the organisational units of the prosecutor's offices were able to present charges to suspects to a greater extent, in particular charges regarding Article 299 of the Penal Code.

In 2018, the GIFI also received 8 requests for information from courts, related to 20 entities. For comparison, in 2017, the GIFI received 6 such applications related to 8 entities.

In 2018, the GIFI received 90 pieces of information from the organisational units of the prosecutor’s office under Article 14(2) of the new AML/CTF Act, which means a growth by approximately 16.9% in relation to 2017 when 77 pieces of information were recorded.

*Chart No. 13 - Information received in 2018 from organisational units of prosecutor's offices pursuant to Article 14 of the old AML/CTF Act and Article 81 of the new AML/CTF Act*



In 2018, the submitted information most commonly concerned the instigation of proceedings in connection with the suspicion of committing the criminal offence indicated in Article 299 of the Penal Code (28 pieces of information) or the presentation of charges to specific persons under this provision (34 pieces of information). In more than twenty cases, the organisational units of the prosecutor’s offices added a request for considering the undertaking by the GIFI of the statutory activities aimed at account blocking or suspension of transactions.

On the basis of information provided by competent authorities under Article 14(2), of the old AML/CTF Act, the GIFI undertook statutory activities ultimately aiming at “cutting off” offenders from assets and, at the same time, from legalisation of funds originating from prohibited acts. The objective of such cooperation was the submission of notifications to competent organisational units of the prosecutor's offices based on information received by the GIFI, indicating suspected committing of a criminal offence defined in Article 299 of the *Penal Code*.

As in the previous years, in 2018 situations were also recorded where the organisational units of the prosecutor's offices, within one letter, submitted information under Article 14(2) of the old AML/CTF Act/ Article 81 of the new AML/CTF Act, at the same time requesting the data under Article 32(1) of the old AML/CTF Act/ Article 104(1) of the new AML/CTF Act, which allowed for more efficient and effective information exchange.

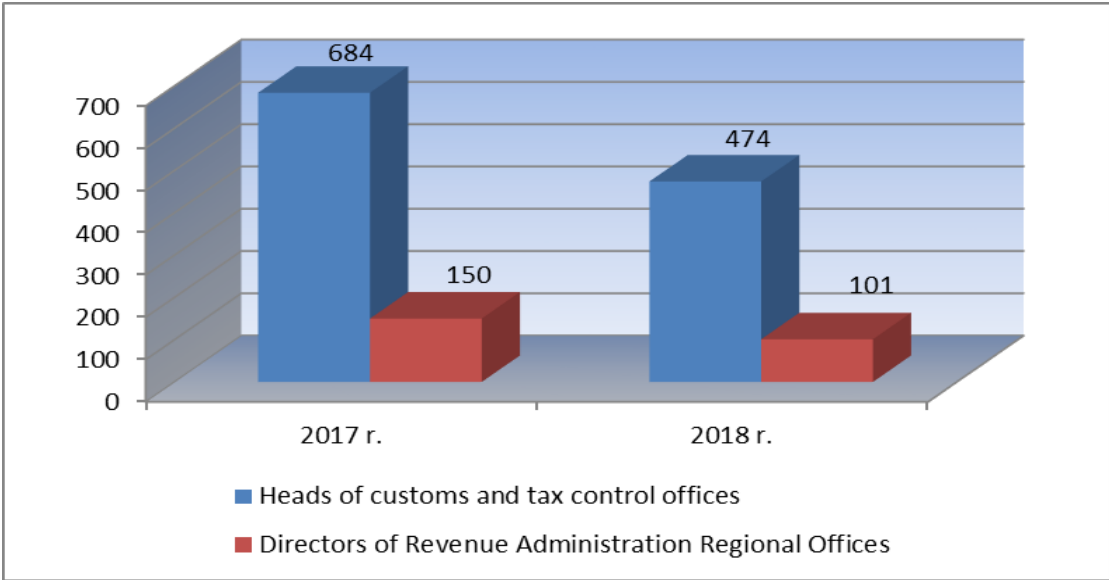
For the purpose of cooperation with organisational units of the prosecutor's offices, safe electronic information exchange channels were increasingly used, both for the exchange of information with the organisational units of the prosecutor's offices as such and with the obligated institutions, from which information on transactions covered by the provisions of the Act was acquired for the needs of this cooperation. This was largely due to, inter alia, the content of the applications, which referred to a large number of entities or a large number of accounts. Providing these data in an electronic version and in addition in an editable version, greatly accelerated the processing of applications.

In 2018, cooperation with the organisational units of the prosecutor's offices was continued which consisted in the participation of representatives of the Financial Information Department in initiatives aimed at the exchange of experience in the field of counteracting money laundering and terrorist financing. This allowed for substantive support of the training participants and dissemination of good practices aimed at providing more efficient cooperation between the GIFI and representatives of the organisational units of the prosecutor's offices.

**6.1.2 COOPERATION WITH KAS AUTHORITIES**

In 2018, GIFI received 474 applications from heads of customs and tax control offices in the scope of 1570 entities. It means a decline in the number of requests submitted by approx. 30.7% as compared to 2017 when the GIFI received 684 requests.

*Chart No. 14 – Cooperation with KAS authorities under Article 33 of the old AML/CTF Act and Article 105 of the new AML/CTF Act in 2017-2018*



Despite the decline in the number of requests for information, an increase in effectiveness of cooperation in this scope has been noticeable over the recent years. The consequence of the 2018 exchange of "request" correspondence in many cases was further cooperation between authorities under Article 15a(1) and (3) of the old AML/CTF Act / Article 83 of the new AML/CTF Act. The effect of such cooperation was the submission of notifications to competent organisational units of the prosecutor's offices based on information received by the GIFI from the KAS authorities, indicating suspected committing of a criminal offence defined in Article 299 of the *Penal Code*. The ultimate goal of the statutory activities undertaken by the GIFI was

also to “cut off” offenders from assets and, at the same time, to prevent legalisation of funds originating from prohibited acts, in particular those originating from the fiscal offence.

Moreover, in 2018 the GIFI received 101 requests for information from directors of Revenue Administration Regional Offices with regard to 130 entities, as compared to 150 requests in 2017. Compared to 2017, it means a decline in the number of requests for information by approx. 32.7%.

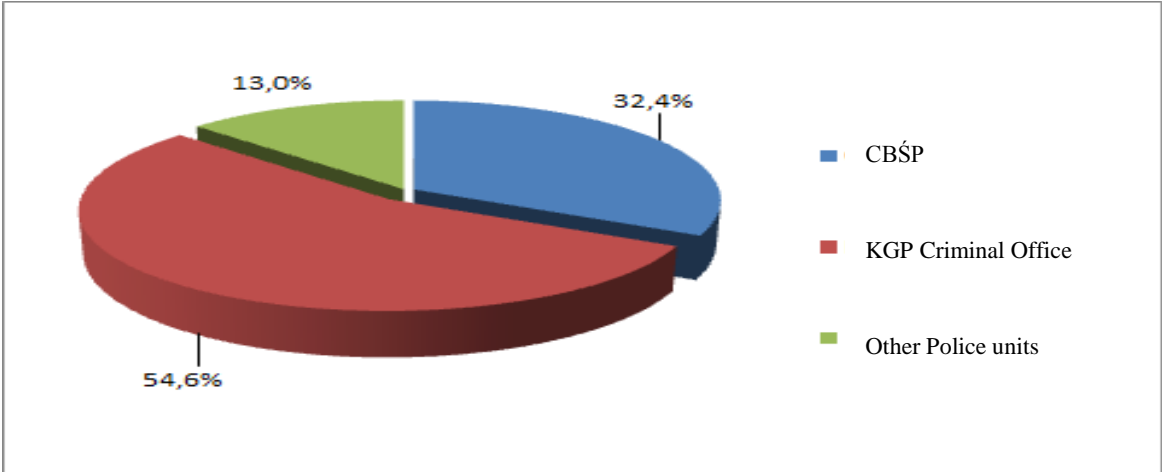
In 2018, permanent cooperation was continued which consisted in the co-organisation of training aimed at enhancing the knowledge in the field of counteracting money laundering and terrorist financing with the participation of representatives of the KAS bodies as well as the cooperating units and law enforcement services. Moreover, representatives of the management of the Financial Information Department also participated in quarterly consultation meetings attended by the NRA management.

**6.1.3. COOPERATION WITH AUTHORITIES REPORTING TO THE MINISTER OF THE INTERIOR**

In 2018, pursuant to Article 33 of the old AML/CTF Act and Article 105(1) of the new AML/CTF Act, the GIFI received 108 requests for information from the Police organisational units, related to 859 entities, including a considerable part of applications submitted by authorised persons representing:

- KGP Criminal Bureau,
- CBŚP.

*Chart No. 15 - Cooperation with the Police in 2018 pursuant to Article 33 of the old AML/CTF Act and Article 105(1) of the new AML/CTF Act*



As in the previous years, the cooperation with regard to the execution of the requests for the needs of the representatives of the Police authorities was efficient and effective.

It should be stressed, however, that in 2018 the number of applications was slightly lower than in 2017, when the GIFI received 109 applications from the Police organisational units.

Moreover, in 2018, the GIFI provided responses to 16 requests, concerning 180 entities, submitted by the authorised representatives of the Headquarters of Border Guard, which shows

a decline in the number of requests by 44.8% in relation to the data for 2017 when 29 requests had been submitted.

The units supervised by and reporting to the minister competent for the interior duly performed the obligations defined in Article 14(2) of the old AML/CTF Act, which allowed for significant expansion of the cooperation in the scope of counteracting the offence defined in Article 299 of the *Penal Code*. In 2018, the GIFI received 54 such pieces of information from the organisational units of the Police with regard to 529 entities and 1 piece of information from the Border Guard with regard to 9 entities.

Based on the information received, the GIFI was able to perform the statutory obligations more effectively, including the application of the account blocking. The activities undertaken in the scope of analyses conducted by the GIFI enabled more effective cooperation already at the stage of operational and exploratory work of services reporting to and supervised by the minister competent for internal affairs, including in particular the determination of assets already at the initial stage of exploratory activities.

In 2018, within the cooperation with the units supervised by and reporting to the minister competent for the interior, representatives of the Financial Information Department participated in many conferences, seminars, workshops organised with the participation of the Police bodies, resulting in the enhancement of the cooperation in the scope of counteracting money laundering.

#### **6.1.4. COOPERATION WITH THE STATE SECURITY SERVICES**

Within the cooperation under Article 33 of the old AML/CTF Act/ Article 105(1) of the new AML/CTF Act, the GIFI received 72 requests concerning 532 entities from the Head of the Internal Security Agency, as well as 7 pieces of information provided under Article 14(2) of the old AML/CTF Act referring to 71 entities.

However, it should be stressed that in 2018 the cooperation with the ABW has increased. Compared to 2017, the number of requests received increased by approximately 80.0% (40 requests were received in 2017).

In 2018, the GIFI also received 49 requests from the the Military Counter-Intelligence Service. Those requests were related to 262 entities. Compared to the previous cooperation in this area, its intensity has increased enormously. For comparison, in 2017, 4 applications were received from the Military Counter-intelligence Service.

#### **6.1.5. COOPERATION WITH THE CENTRAL ANTI-CORRUPTION BUREAU**

Pursuant to Article 33 of the old AML/CTF Act / Article 105(1) of the new AML/CTF Act, the GIIF received 27 applications from the CBA (which constitutes a decrease by approx. 12.9% as compared to the data for 2017) concerning 358 entities and 2 pieces of information provided pursuant to Article 14(2) of the old AML/CTF Act, which concerned 22 entities.

In relation to the exchange of information with the CBA, the quality of the justification to the requests was of particular importance, as it frequently constituted a prerequisite for further correspondence with the GIFI, among others in form of notifications prepared under Article 33(3) of the old AML/CTF Act and Article 106(1) of the new AML/CTF Act.

It should be additionally emphasised that in 2018, representatives of the Financial Information Department took part in projects organised with the participation of the Central Anti-Corruption Bureau.

#### **6.1.6. COOPERATION WITH OTHER AUTHORITIES**

In 2018, GIFI received 12 applications from the minister competent for public finance to determine whether there are any threats related to money laundering or terrorist financing against the entities indicated, submitted pursuant to Article 11(2) of the *Gambling Act of 19 November 2009* (Journal of Laws of 2018 item 165 as amended). They regarded 89 entities.

Moreover, in 2018, the GIFI received 2 requests for information from the National Centre for Emission Balancing and Management (KOBIZE) pursuant to Article 105(3)(3) of the new AML/CTF Act.

Since 2015, the GIFI, acting pursuant to Article 49a(10) of the *Act of 9 June 2011 – Geological and Mining Law* (Journal of Laws of 2016, item 1131, as amended), has issued opinions for the needs of the qualification proceedings with regard to entities interested in conducting business activity in prospecting and exploring hydrocarbon deposits, and production of hydrocarbon from a deposit, or in the concession for the production of hydrocarbon from a deposit, in the scope referred to in Article 49a(2)(1) of the aforementioned Act.

In 2018, the Minister of the Environment sent one request in the said scope to the GIFI to obtain an opinion.

It should be stressed that due to the legislative changes, since 13 July 2018, there has been no legal possibility for cooperation in this area.

#### **6.1.7. COOPERATION WITH THE NCIC**

In 2018, the GIFI cooperated with the Head of the National Centre of Criminal Information (NCIC). The GIFI provided criminal information ex officio (the number of registrations – 817), whereas the NCIC responded to queries submitted by the GIFI (817 inquiries, including 817 requests to the obligated entities for completing criminal information).

In addition, the NCIC submitted queries to the GIFI. In 2018, these regarded 3,077 entities. As a result of checking the databases of the GIFI, in 1,061 cases the response indicated that the entity asked about occurred in the analytical proceedings conducted by the GIFI.

The NCIC queries are provided to the GIFI electronically, in an agreed format, which allows to generate and provide reports partially automatically. In 2018, the aforementioned queries regarding 3,077 entities were submitted in the form of 88 electronic files directly to the GIFI IT system.

#### **6.1.8. DATA RELATING TO CRIMINAL PROCEEDINGS**

Pursuant to Article 14(5) of the new AML/CTF Act, the Minister of Justice is obliged to provide the GIFI with aggregate data on the following matters

- the number of criminal proceedings instituted and completed in cases related to money laundering and the number of criminal proceedings instituted and completed in cases related to terrorist financing;
- the number of persons who were accused of having committed the crime of money laundering and the number of persons who were accused of having committed the crime of terrorist financing;
- the number of persons finally convicted of money laundering and the number of persons finally convicted of terrorist financing;
- types of predicate offence referred to in Article 1(e) of the *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done in Warsaw on 16 May 2005* (Journal of Laws of 2008, item 1028), hereinafter referred to as the Warsaw Convention, to which information indicated in the preceding subparagraphs refer;
- assets in respect of which either freezing, suspension of transactions and blockage has been performed, or property seizure, confiscation or forfeiture has been adjudicated.

According to data submitted by the Ministry of Justice, in 2018, 158 criminal court penal proceedings for crime under Article 299 of the Penal Code were initiated against 401 people. At the same time, in the aforementioned period, 323 persons were convicted without legal validity and 228 - with legal validity. Under the conducted proceedings:

- the blocking of accounts and suspension of transactions for the total amount of PLN 2,032,243 was performed,
- seizure of assets in the total amount of PLN 1,357,198,213 was performed,
- seizure for the total amount of PLN 396,092 was adjudicated,
- the forfeiture of assets in the total amount of PLN 124,997,528 was adjudicated.<sup>53</sup>

At the same time, the Ministry of Justice informed that in 2018, common courts did not initiate any criminal proceedings in relation to the crime under Article 165a of the Penal Code, while 3 persons were finally sentenced for the above mentioned crime<sup>54</sup>

In addition, the Ministry of Justice has indicated that it does not currently have any data available on the predicate offences referred to in the Warsaw Convention.

On the other hand, the information received from the National Prosecutor's Office shows that in 2018, 608 preparatory proceedings were instituted in cases concerning money laundering. In

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<sup>53</sup> In addition, the Ministry of Justice provided verified data for 2017: in that period, common courts instituted 175 criminal proceedings for crimes under Article 299 of *the Penal Code* against 463 persons; 424 persons were sentenced for committing the aforementioned crimes in the first instance, while 262 persons were sentenced by a final judgement. Under the conducted proceedings:

- seizure of assets in the total amount of PLN 792,809 was performed,
- the blocking of accounts and suspension of transactions for the total amount of PLN 304,740 was performed,
- seizure for the total amount of PLN 250,000 was adjudicated,
- the forfeiture of assets for the total amount of PLN 166,376,609 was adjudicated.

<sup>54</sup> In addition, the Ministry of Justice provided verified data for 2017: the common courts initiated 1 criminal procedure for the crime under Article 165a of *the Penal Code* against 3 persons; in the first instance 3 persons were convicted. Courts have not pronounced the forfeiture of assets, attachment, seizure, no accounts were blocked or transactions suspended in connection with the proceedings related to the above offence.

that period, preparatory proceedings were pending in cases concerning money laundering, in which 3310 persons were charged under Article 299§ 1 of the Penal Code, and 11 persons were charged under Article 299§ 2 of the Penal Code. Moreover, 209 cases concerning money laundering were closed with a bill of indictment, 14 with a motion for a conviction and 135 with discontinuance. Preparatory proceedings were also refused in 40 cases<sup>55</sup>

### **6.1.9. FEEDBACK**

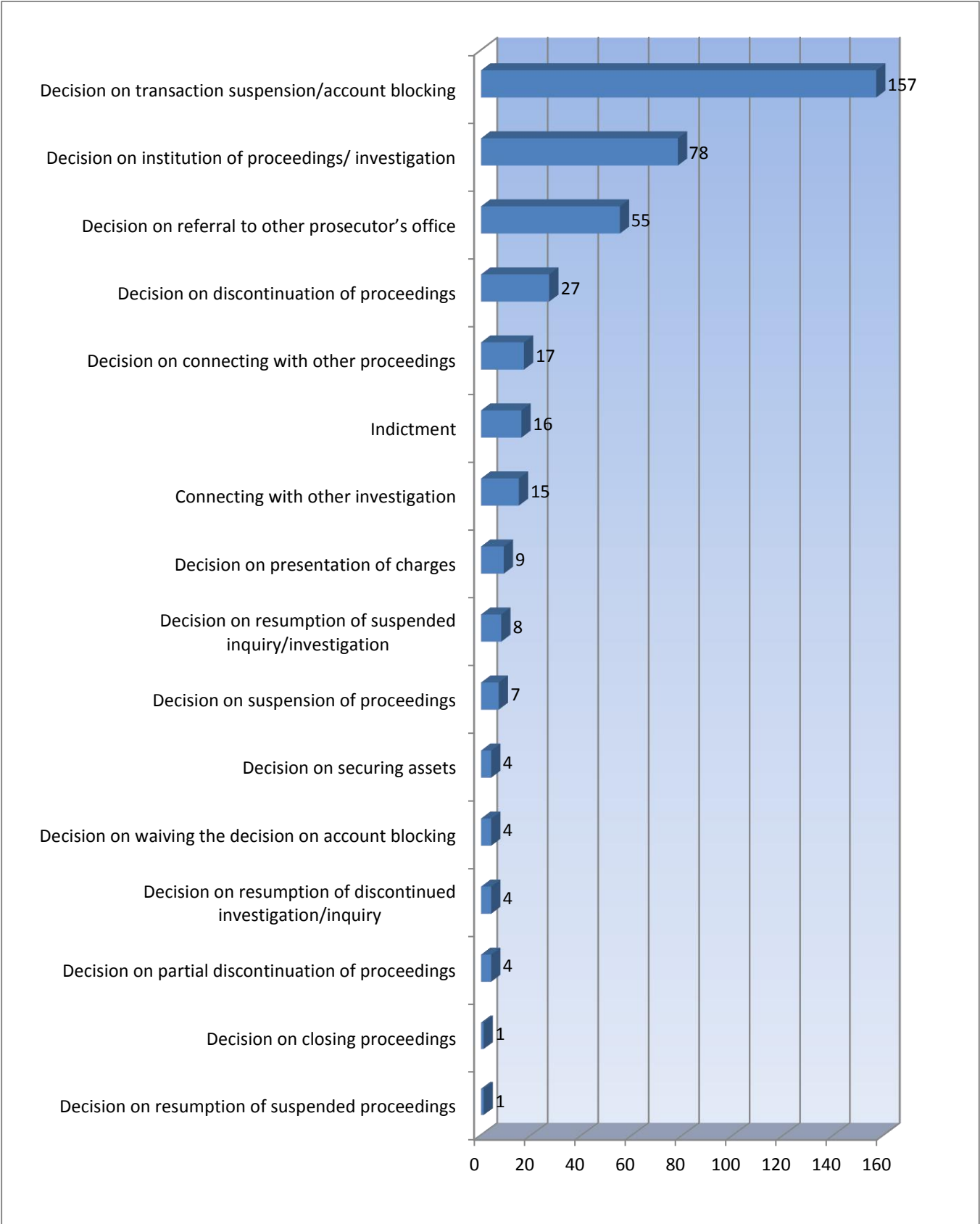
The information provided by the GIFI in 2018 pursuant to Article 32(1) of the old AML/CTF Act or Article 104(1) of the new AML/CTF Act to courts was used by them for the purposes of conducted criminal proceedings. The same applied to information sent to prosecutors under Article 34 of the old AML/CTF Act and Article 104 of the new AML/CTF Act, although in some cases the aim was also to obtain additional information from prosecutors in order to verify the data contained in the reports on suspected money laundering submitted by the GIIF.

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<sup>55</sup> Information on preparatory proceedings conducted in cases concerning the offence referred to in Article 165a of *the Penal Code* is contained in subsection 4.2.



Chart No. 16 - Breakdown of feedback received from prosecutors in 2018 by types of such information<sup>56</sup>

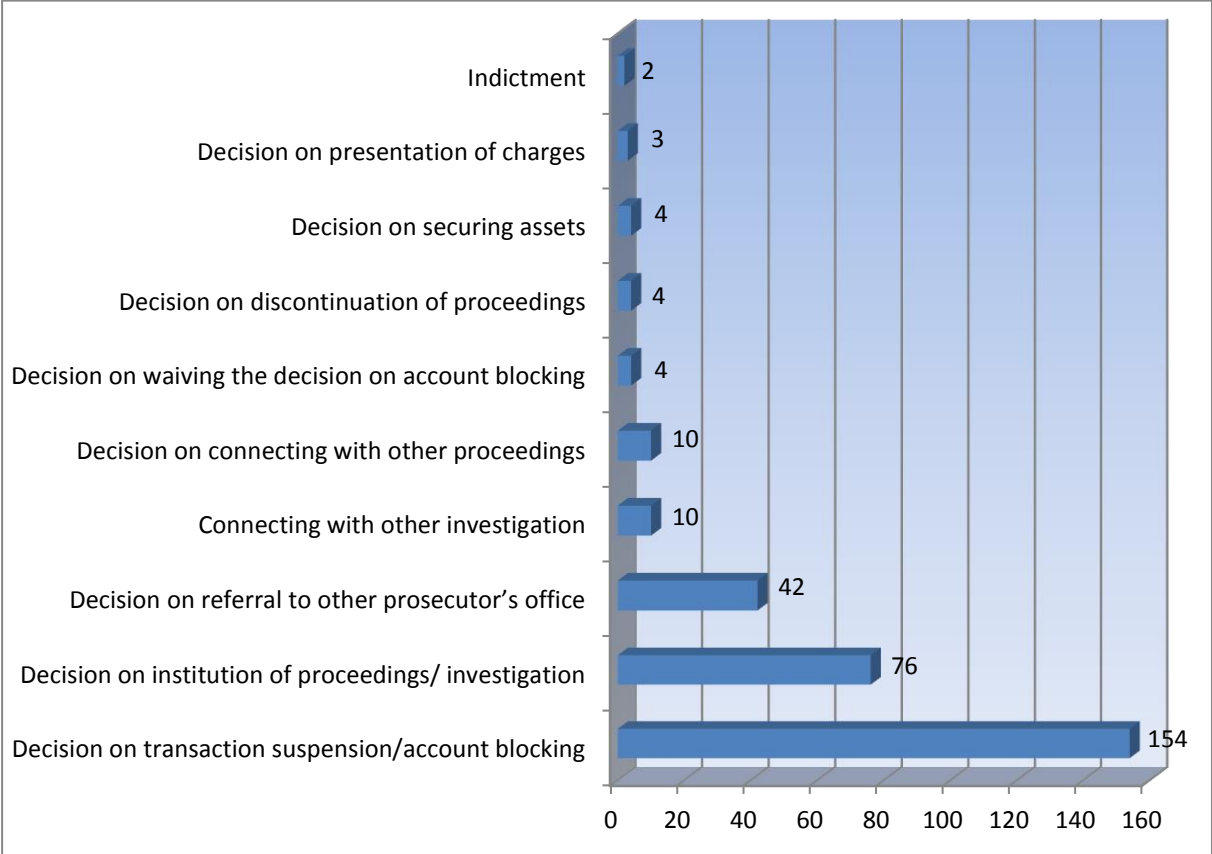


<sup>56</sup> According to the information registered in the GIFI IT system by 13 March 2019.

Pursuant to Article 107 of the new AML/CTF Act (as well as, respectively, pursuant to the provisions of *the Code of Criminal Procedure - kpk*), prosecutors are obliged to provide feedback on the actions taken in relation to notifications on suspicion of money laundering or terrorist financing received from the GIFI. Before 13 July 2018, they were obliged to provide such information in relation to Article 14(2) of the old AML/CTF<sup>57</sup> Act and the provisions of the Code of Criminal Procedure.

Chart No. 16 presents information concerning all feedback received from prosecutors in 2018 related to analytical proceedings, regardless of the year in which the GIFI sent a notification of suspected offence referred to in Article 299 of the Penal Code. On the other hand, Chart No. 17 presents feedback from prosecutors assigned to analytical proceedings, in which the GIFI sent in 2018 notifications on suspected offence referred to in Article 299 of *the Penal Code*.

*Chart No. 17 - Distribution of feedback received from prosecutors in 2018, related to analytical proceedings in which the GIFI sent reports on the suspicion of committing a crime to the prosecutor's office in 2018, by type of such information<sup>58</sup>*



<sup>57</sup> This provision referred to a broader range of obligations of the prosecution in the field of providing specific types of information on all criminal proceedings concerning offences referred to in Article 299 or Article 165a of the Penal Code (regardless of who provided the information on the basis of which they were instituted). A similar provision is also contained in the new AML/CTF Act (Article 81(1)).

<sup>58</sup> According to the information registered in the GIFI IT system by 13 March 2019.

The analysis of justifications for decisions on discontinuance of proceedings and decisions on refusal to institute proceedings in cases of money laundering received last year shows that the most frequent reason for discontinuance and refusal to institute proceedings was the fact that prosecutors did not recognise tax offence as predicate offence in money laundering. The above decisions of some prosecutors were taken due to a different interpretation of the Resolution of the Supreme Court of 18 December 2013 (I KZP 19/13), which was given legal force, concerning, inter alia, the recognition of tax offence as predicate offence in the money laundering procedure, as compared to the interpretation adopted by the majority of prosecutor's offices in Poland.

The information provided by the GIFI to other eligible entities cooperating on the basis of provisions on counteracting money laundering and terrorist financing was used by them in different ways, depending on their statutory competence. Below data on the above mentioned subject is presented, based on information received from cooperating units pursuant to Article 14(5) of the new AML/CTF Act.

### *KAS authorities*

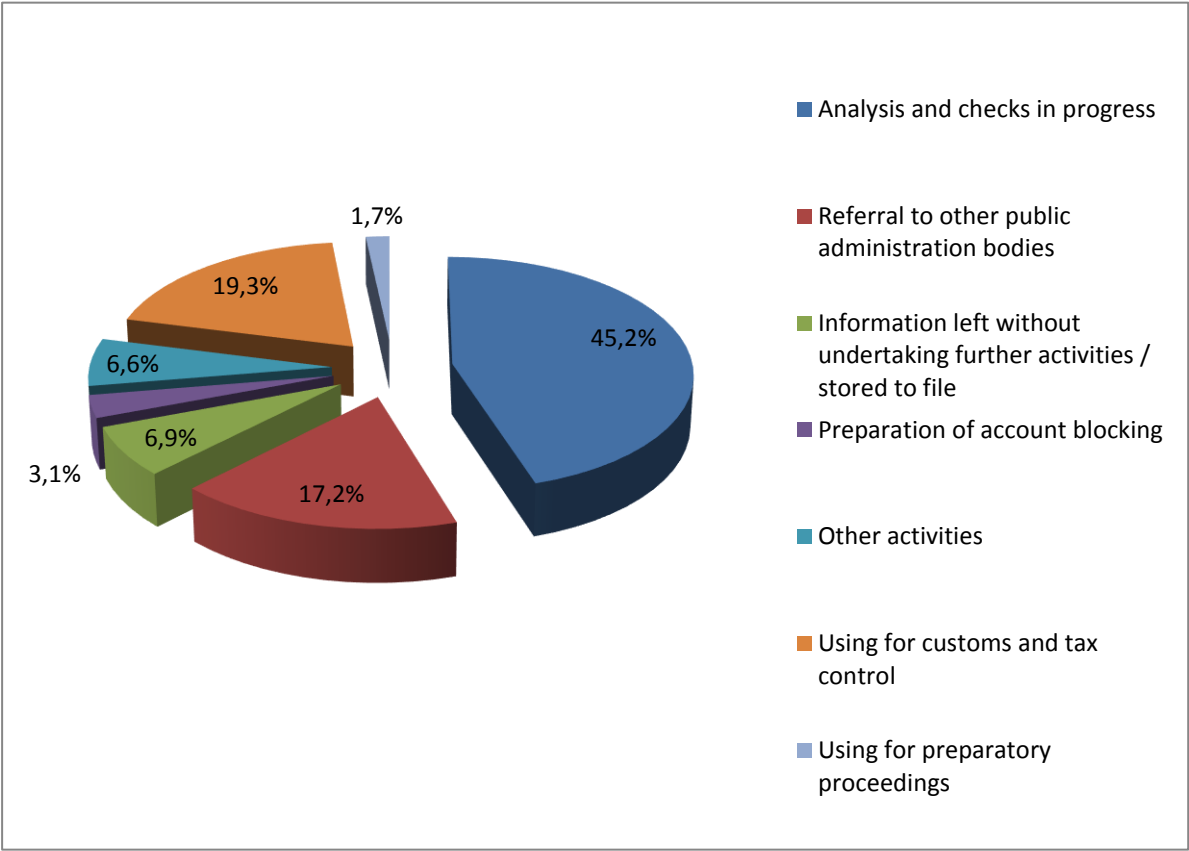
In the case of the KAS authorities, the information received from the GIFI was usually used for analysis and background checks to identify risks in areas under their supervision, in particular in the performance of the obligations connected with public levies. The information requested from the GIFI was intended, inter alia, to confirm or exclude the identified tax fraud mechanisms and to identify other entities involved. It was used both while considering customs and tax controls, as well as preparatory proceedings in cases concerning the suspicion of committing a fiscal offence and in connection with their conduct.

On the other hand, information provided by the GIFI on its own initiative (pursuant to Article 33(3) of the old AML/CTF Act or Article 106(1) of the new AML/CTF Act) was analysed in terms of a possibility of its connection with suspected fiscal offences.

Pursuant to Article 14(5) of the new AML/CTF Act, the GIFI received information from individual KAS authorities indicating that in 2018, on the basis of information received from the GIFI (both under Article 33 of the old AML/CTF Act and Article 105(4) and Article 106(1) of the new AML/CTF Act):

- at least 131 pieces of information were still subject to analyses and checks as at 31 December 2018,
- at least 56 were used to initiate, plan the initiation or conduct customs and tax controls,
- at least 50 were referred to other public administration bodies (mainly other KAS authorities) for use in accordance with their competence, at least 22 of which were transferred to prosecutor's offices,
- at least 20 pieces of information were left without further action after the analysis, possibly postponed *ad acta*,
- at least 9 pieces of information were used to prepare the blocking of accounts,
- at least 5 pieces of information were used to conduct a preparatory inquiry,
- at least 19 pieces of information were used for undertaking other activities.

Chart No. 18 - Breakdown of information received by KAS authorities from the GIFI according to the way it was used



**Police**

The information received from the KGP shows that in 2018 the KGP Criminal Bureau received 127 notifications from the GIFI pursuant to Article 33(3) of the old AML/CTF Act or Article 106(1) of the new AML/CTF Act. The Criminal Bureau of the KGP regularly forwarded them to the competent local and material Police units. As of 13 July 2018, they were obliged to provide feedback directly to the GIFI on the further use of these notifications.

According to the information sent by the Criminal Bureau of the KGP on the basis of Article 14(5) of the new AML/CTF Act, in 2018 - on behalf of the Police units (excluding CBŠP) conducting operational cases - 51 applications for access to information held by the GIFI were submitted in total. The information obtained on their basis was - as at the date of providing information by the Criminal Bureau of the KGP - still processed, analysed, supplemented and correlated with other data, including own findings, and used to perform a number of statutory activities of a classified nature. According to the Criminal Bureau of the KGP, the responses from the GIIF did not spontaneously (i.e. only on their basis) contribute to the initiation of preparatory proceedings. However, they constituted “the documentation supporting the transformation of operational and exploratory arrangements into process material prepared for this purpose, or they were transferred and incorporated into the investigations already carried out in the country (15 notifications)”.

According to the information received from the CBŚP under Article 14(5) of the new AML/CTF Act, in 2018 the CBŚP submitted 26 requests for information<sup>59</sup> to the GIFI. The information received in response was used in the forms of operational work performed, including:

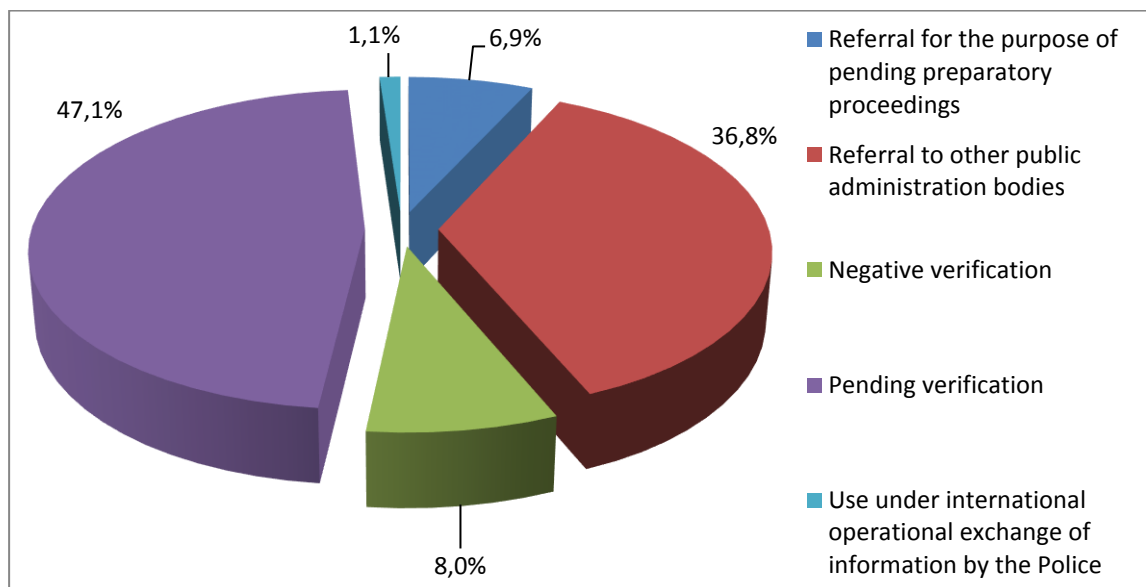
- in one case, the information was transferred to the conducted preparatory proceedings related to the determination of property;
- in one case, the information was transferred to the conducted preparatory proceedings for use;
- in one case, the information obtained from the GIFI together with other materials collected within the framework of the case was transferred to an organisational unit of the public prosecutor's office with a request to institute proceedings.

In 2018, the CBŚP also received 87 notifications from the GIFI (provided pursuant to Article 33(3) of the old AML/CTF Act or Article 106(1) of the new AML/CTF Act). Some of them were subsequently transferred:

- for the purposes of the conducted preparatory proceedings (6),
- to other public administration bodies (to ABW - 5, to other Police units - 17, to KAS authorities - 10).

In other cases, the information from 7 notifications was verified negatively, and on the basis of data from 41 notifications, official activities aiming at information verification were conducted (as of the day of transferring the information by the CBŚP). The information from one notification was used for international operational police information exchange.

*Chart No. 19 - Breakdown of information received by the CBŚP from the GIFI according to the way it was used*



<sup>59</sup> They contained requests for information concerning 148 natural persons, 162 economic operators and 38 bank accounts.

However, the Police Internal Affairs Office has informed that in 2018 one operational case was initiated regarding the suspected occurrence of an offence under Article 299 §1 of *the Penal Code* on the basis of materials received from the GIFl<sup>60</sup>.

### **OTHER AUTHORITIES**

According to the information received from the ABW pursuant to Article 14(5) of the new AML/CTF Act, in 2018 the Agency received 193 pieces of information submitted on behalf of the GIFl, 113 of which were replies to requests for information. Out of the total number of pieces of information received, 67 were used in the framework of operational procedures pursued under Article 5(1)(2) of the *Act on the Internal Security Agency and the Foreign Intelligence Agency* (Journal of Laws 2018, item 2387 as amended),<sup>61</sup> In the case of 2 pieces of information, the acquired knowledge was transferred to other bodies (i.e. the organisational unit of the prosecutor's office and the organisational unit of the Police).

In 2018, the ABW received 80 pieces of information sent on the GIFl's own initiative. In 6 cases, the knowledge gained was referred to other administrative bodies (e.g. to the KAS and the CBA). Other information has been used in the current work of the Agency.

On the other hand, the CBA indicated that in 2018 it received 122 pieces of information from the GIFl, of which 16 were referred to competent prosecutor's offices, e.g. to be used in preparatory proceedings. The remaining 106 pieces of information were used in the course of official activities carried out in the CBA.

The SG Headquarters as well as the Internal Affairs Office of the SG have informed that in 2018 they did not carry out activities on the basis of information provided by the GIFl.

On the other hand, the KNF Office has informed that in 2018 they received 6 pieces of information pursuant to Article 33(3) of the old AML/CTF Act and 1 piece of information pursuant to Article 106(1) of the new AML/CTF Act. In relation to all the above mentioned information, analytical activities were undertaken as provided for in *the Act on counteracting money laundering and terrorist financing* as well as in the Acts regulating particular sectors of the financial market. The UKNF did not refer the aforementioned information to the prosecutor's offices or other authorities or public administration bodies.

On the other hand, the KOBIZE has confirmed the receipt of a reply from the GIFl to its two requests for information, at the same time indicating that it “did not refer to the Prosecutor's Office in the above cases”.

## **6.2. TRAINING ACTIVITIES**

Conducting training activity and the exchange of information on a broad scale is required for ensuring more effective and more efficient operations of services and institutions involved in combating money laundering and terrorist financing.

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<sup>60</sup> In January 2019, the findings of this case were sent to the Prosecutor General, together with a motion to consider referring them to the relevant prosecutor's office in order to decide whether to initiate criminal proceedings, from where they were referred to one of the district prosecutors to designate an organisational unit of the prosecutor's office to conduct preparatory proceedings.

<sup>61</sup> Including within the scope of activities performed pursuant to Article 27 of *the Act on the Internal Security Agency and the Foreign Intelligence Agency*.

In 2018, representatives of the Financial Information Department took active part, as speakers or participants, in numerous training events and workshops (referred to in the previous sections hereof) and conferences devoted to the issues covered under the provisions concerning money laundering and terrorist financing, including, among others, in the following meetings:

- conference organised by Thomson Reuters on 23 May 2018 in Warsaw for representatives of obligated institutions, on the problems and challenges resulting from the provisions of Directive 2015/849,
- workshops organised by the Sygnał Association on 28 May 2018 in Warsaw, for representatives of entities associated in the Sygnał Association - topic: "Counteracting intellectual property infringements based on the provisions of the Act on Counteracting Money Laundering and Terrorist Financing",
- a course organised at the Police Academy in Szczytno on 11-12 September 2018 for representatives of CBŚP in the field of anti-money laundering - 12 persons,
- seminar organised by the CBA in cooperation with the Ministry of Foreign Affairs under the auspices of the OECD on 25 September 2018 in Lublin for representatives of Polish and Ukrainian public administration bodies - CBA, Border Guard, KAS Lublin, SKW, NABU (the Ukrainian counterpart of the Polish CBA), representatives of the Ministry of Foreign Affairs, OECD - topic: "GIFI cooperation in the field of corruption crime with special attention to the CBA",
- conference organised by the Sygnał Association on 26 September 2018 in Rawa Mazowiecka for prosecutors, police representatives and entities associated in the Sygnał Association - topic: "Cooperation with the General Inspector of Financial Information on the basis of the Act on Counteracting Money Laundering and Terrorist Financing of 1 March 2018 from the point of view of counteracting intellectual property infringements",
- 7. Polish-German bilateral seminar for Polish and German notaries, organised by the Bundesnotarkammer in cooperation with the National Chamber of Notaries on 27-29 September 2018 in Bad Schandau (Germany), topic: "The role of notaries in combating money laundering and terrorist financing",
- conference organised by the Police Academy in Szczytno in cooperation with the Office for Combating Cybercrime of the KGP on 29 October 2018 for representatives of the police, prosecutors, companies offering trading in crypto-currency, topic: "Obligations of stock exchanges/bureaux de change trading in crypto-currency stemming from the AML provisions."
- training organised by the Regional Police Headquarters in Katowice on 12 October 2018 for representatives of the police from the KWP Katowice and units subordinated to the KWP Katowice, topic: "Collaboration of the GIFI with cooperating units in the light of the Act on Counteracting Money Laundering and Terrorist Financing,
- training organised by the Revenue Administration Regional Office in Wrocław and the Lower Silesian Customs and Tax Control Office in Wrocław on 24 October 2018 for representatives of the KAS, prosecutor's offices, the police and the CBŚP, ABW, SKW, Military Police, Border Guard, topic: "Collaboration of the GIFI with cooperating units in the light of the Act on Counteracting Money Laundering and Terrorist Financing,

- training organised by the CBA Regional Branch in Szczecin on 22 November 2018 for representatives of the CBA Regional Branch in Szczecin, topic: “Collaboration of the GIFI with cooperating units in the light of the Act on Counteracting Money Laundering and Terrorist Financing, with special emphasis on the application of customer due diligence measures”,
- training organised by the Training Centre of Military Counter-intelligence Service on 5 December 2018 for representatives of the SKW, topic: “Collaboration of the GIFI with cooperating units in the light of the Act on Counteracting Money Laundering and Terrorist Financing, with special emphasis on the application of customer due diligence measures”,
- conference organised by the Sygnał Association on 18-19 October 2018 in Warsaw, topic: *International Content Protection Summit Warsaw 2018*.

In addition, it should be emphasised that the representative of the Financial Information Department in July 2018 discussed issues related to the provisions on anti-money laundering and terrorist financing for representatives of SKW during two meetings.

In addition, representatives of the Financial Information Department conducted training courses in the scope of provisions of the new AML/CTF Act for:

- representatives of all ministries, which took place on 5 October 2018 in the building of the Ministry of Finance,
- representatives of the Ministry of Sport and Tourism and the Ministry of Family, Labour and Social Policy, which took place on 4 December 2018 in the building of the Ministry of Sport and Tourism,
- representatives of the Ministry of Justice, which took place on 5 December 2018 in the training centre of the Ministry of Justice.

An important event in the past year was the organisation by the GIIF of the conference on counteracting terrorist financing held on 28 May 2018 at the Ministry of Finance. It was attended by representatives of the prosecutor's offices, law enforcement agencies, services and other public administration bodies involved in the counter-terrorism system.

In the past year, in order to prepare Polish public administration bodies and institutions obligated to evaluate the anti-money laundering and anti-terrorist financing system, the GIFI organised 4 information and training meetings for representatives of these entities, during which the representatives of the Polish FIU, the KNF and the private sector introduced the participants to the aspects related to the application of the new FATF standards and the way they were assessed during the evaluation process. The total of 100 people participated in the meetings.

Moreover, an important tool for disseminating knowledge on counteracting money laundering and terrorist financing was also the website of the Ministry of Finance. The publications of the Financial Information Department are posted under the GIFI activity-related tab. The tab was divided into subtabs, the headings of which clearly indicated the topics of the publications to the recipient. Interested parties found there, inter alia, significant information on current activities of the GIFI, the system of counteracting money laundering and terrorist financing, legal regulations, current announcements and publications.



In connection with the adoption of the new AML/CTF Act and the entry into force of most of its provisions, in 2018, work began on the preparation of the next edition of the e-learning course entitled “Counteracting money laundering and terrorism financing”, addressed primarily to employees of obligated institutions, as well as employees of cooperating units<sup>62</sup>.

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<sup>62</sup> The course was launched in February 2019.

## 7. INTERNATIONAL COOPERATION

### 7.1. COOPERATION WITH THE EUROPEAN COMMISSION

#### 7.1.1. EXPERT GROUP ON MONEY LAUNDERING AND TERRORIST FINANCING

The task of the Expert Group on Money Laundering and Terrorist Financing (EGMLTF) is to support the European Commission in defining policy directions in the field of counteracting money laundering and terrorist financing, preparing legal acts, as well as advising at the stage of preparing proposals on the implementing measures and coordination of the cooperation between EU Member States.

In 2018, the EGMLTF met five times. Meetings attended by GIIF representatives were devoted, among others, to the progress of countries in implementing the provisions of Directive 2015/849. The EGMLTF members provided information on notifications of options stemming from the provisions of the Directive and from the provisions of *Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying cash transfers and repealing Regulation (EC) No 1781/2006*.

The EC informed EU Member States about infringement proceedings initiated against states in connection with the failure to notify the provisions of Directive 2015/849 and carried out the verification of the completeness and accuracy of implementation of this legal act, informing individual states (including Poland) of the identified deficiencies.

In addition, during the EGMLTF meetings, the states updated information on the progress in preparing national assessments of money laundering and terrorist financing risks. The group also worked on the preparation of the next EU level Money Laundering and Terrorist Financing Risk Assessment (*Supranational Risk Assessment - SNRA*). As part of the first round of consultations with EU Member States, the European Commission prepared and submitted questionnaires concerning information on the implementation of recommendations from the previous report and updates of information on products and services involving the greatest risk. The Polish JAF prepared the answer to the questionnaire and the representatives of the GIIF participated in the works and consultations concerning SNRA. In addition, the works of the EGMLTF included the collection of statistical data from the states, related to the effectiveness of their anti-money laundering and counter-terrorism financing systems. The statistical data are collected for the purpose of conducting the reviews of this effectiveness as well as for the needs of the SNRA.

In the framework of the EGMLTF, a team was set up in 2018, composed of representatives from Denmark, Estonia, Liechtenstein, Latvia, Germany and Italy, who participated in the Expert Group of the Commission on Electronic Identification and Remote Processes *Know-Your-Customer*. The effects of the Group's work were presented during the FATF meeting in the context of a possible modification of the Interpretative Note to Recommendation 10 of the FATF *Customer Due Diligence* (CDD) in connection with *non-face-to-face* transactions that generate a higher risk.

The EGMLTF meetings also discussed the review of national supervisory authorities in individual countries and the verification of their effectiveness in AML/CFT oversight launched in the second half of 2018 by the Sub-Committee in the framework of the Joint Anti-Money Laundering Committee. The objective of the review is to identify areas for improvement, to enhance the effectiveness of oversight and to support the work of individual competent authorities in their work.

The EGMLTF also participated in discussions on the establishment and work of the Joint Working Group in connection with the money laundering and terrorist financing scandals involving the European banks, which have shown that cooperation between prudential supervisors and in the area of AML/CTF is not optimal. The work of the Joint Working Group is co-chaired by two Directorates-General of the EC, i.e. the Directorate-General for Justice and Consumers and the Directorate-General for Financial Stability, Financial Services and Capital Markets Union. Its participants are representatives of the European Central Bank, European Supervision Authorities, relevant EC services and the Chairperson of the above mentioned Sub-Committee of the Joint Anti-Money Laundering Committee. Effects of the Group's work in 2018 resulted in the preparation of a Roadmap for a smooth cooperation between AML/CFT and EU prudential supervision (*Roadmap for seamless cooperation between Anti-Money Laundering and Prudential Supervisors in the European Union*) and commencing the work on the content of the Multilateral Agreement on the practical arrangements for the exchange of information pursuant to Article 57a(2) of Directive 2015/849<sup>63</sup> (*Multilateral Agreement on the Practical Modalities for Exchange of Information pursuant to Article 57a(2) of Directive (EU)2015/849*) between the European Banking Authority (EBA) and the competent supervision authorities.

Additionally, during the EGMLTF meetings, the EC informed and the representatives of the Member States, including Poland, exchanged opinions on the following legislative initiatives:

- 3) drafted and subsequently adopted amendments to Directive 2015/849 (Directive of the European Parliament and of the Council (EU) 2018/843 of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU);
- 4) amendments to the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive of the European Parliament and of the Council (EU) 2015/849

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<sup>63</sup> The provision introduced by *Directive 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU* (OJ L 156, 19.06.2018, p. 43).

by indicating third countries of high risk having strategic deficiencies (OJ L 254, 20.09.2016, p. 1)<sup>64</sup> ;

- 5) amendments to Union legislation on prudential requirements and prudential supervision<sup>65</sup>;
- 6) draft Directive on combating fraud and counterfeiting of non-cash means of payment;
- 7) draft Directive laying down rules facilitating the use of financial and other information for the prevention of certain criminal offences, their detection, investigation or prosecution;
- 8) initiative concerning limiting cash payments;
- 9) drafted and subsequently adopted provisions:
  - *Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law* (OJ L 284, 12.11.2018, p. 22),
  - *Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders* (OJ L 303, 28.11.2018, p. 1),
  - *Amendments to Regulation (EC) No 1889/2005 of the European Parliament and the Council of 26 October 2005 on controls of cash entering or leaving the Community* (OJ L 309, 25.11.2005, p. 9).

In addition, EGMLTF meetings provided the opportunity to discuss certain issues related to the assessment of anti-money laundering and counter-terrorism financing systems of the states by FATF and MONEYVAL. In 2018, the UK assessment and the Belgian and Swedish progress reports were analysed. During the meetings, the position of the EC as the FATF member was also discussed in relation to issues dealt with during the FATF meetings.

### **7.1.2 THE EU-FIU PLATFORM**

The GIFI actively participated in the works of the EU-FIU Platform, getting involved in the matters discussed by that group. The Platform is an advisory body of the EC serving for ongoing cooperation between the FIUs of the EU Member States. Problems discussed during the EU-FIU Platform meetings, include, among others: new EU activities in the scope of counteracting money laundering and terrorism financing, proposals to improve the exchange of information between financial intelligence units, issues of joint analysis of cases with a cross-border element, the subject of transnational risk assessment and reporting of suspicious transactions.

In 2018, altogether four meetings of the EU-FIU Platform were held. The draft Directive on the exchange of financial and other information to combat certain criminal offences - COM(2018) 213 - was an important topic of the meetings of the EU-FIU Platform. In addition, much

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<sup>64</sup> In 2018, the addition of Pakistan to the list was discussed - see: *Commission Delegated Regulation (EU) 2018/1467 of 27 July 2018 amending Delegated Regulation (EU) 2016/1675 supplementing Directive 2015/849 of the European Parliament and of the Council by adding Pakistan to the table in point I of the Annex* (OJ L 246, 02.10.2018, p. 1).

<sup>65</sup> i.e. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, amending Regulation (EU) No 648/2012 and Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the conditions for the admission of credit institutions to the activity and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

attention was paid to the impact of *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC*. (OJ L 119, 04.05.2016, p. 1) and *Directive 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection and prosecution of criminal offences and the execution of criminal penalties, on the free movement of such data and repealing Council Framework Decision 2008/977/JHA* (OJ L 119, 04.05.2016, p. 89) on the processing of information by the FIUs. On the EC initiative, discussions were also held on the development of new solutions that would allow for closer cooperation between financial intelligence units of EU Member States and the creation of a mechanism supporting these units on a transnational level.

A representative of GIIF actively participated in the works of the EU-FIU Platform, representing the position of the PFIU in this forum, and as a vice-chairman of the FIU.NET Advisory Group and chairman of the project group devoted to the promotion and development of anonymous data linking technology, he reported on the progress of works in both groups on an ongoing basis.

### **7.1.3. THE FIU.NET ADVISORY GROUP**

In 2016, Europol took over the task of managing the FIU.NET network from the Dutch Ministry of Justice and Security. In the framework of the EU-FIU Platform the FIU.NET Advisory Group was established to provide support to Europol in the scope of creating the development strategy for the FIU.NET network, implementation of innovation and issuing opinions on third country FIU applications for connecting to the aforementioned network. It is composed of representatives of the Financial Intelligence Units of Austria, Belgium, Italy, Luxembourg, Poland, Romania, Sweden and Europol. In 2019, representatives of FIUs from Finland and Portugal joined. The Group is chaired by a Romanian representative and the GIFI representative has been acting as the Vice-Chairman of the group since 2018.

In 2018, the FIU.NET Advisory Group held four meetings. Its works focused primarily on: ensuring the stability of the FIU.NET network in view of the increasing exchange of information between financial intelligence units, improving the effectiveness of the cross-border reporting system and anonymous data linking technology and developing a long-term strategy for the development of the network within Europol structures.

At the meetings of the FIU.NET Advisory Group, the representative of the GIFI reported on the activities of the project group devoted to the promotion and development of anonymous data linking technology, which he chairs. He also presented the results of the above mentioned project at the FIU.NET user workshop organized in The Hague in November 2018. The GIFI representative was also involved in the process of developing the *roadmap* for the extension of the FIU.NET network for the coming years.

In December 2018, on invitation of the GIFI, Europol representatives provided a training course in Warsaw for employees of analytical divisions of the PFIU on the principles of functioning of the FIU.NET system, in particular the cross-border reporting module and the anonymous data linking technology.

## 7.2. COOPERATION WITH THE COUNCIL OF THE EUROPEAN UNION

In 2018, the EU undertook consecutive important legislative initiatives in the field of anti-money laundering and anti-terrorist financing.

On 17 April 2018, the draft Directive on the exchange of financial and other information to prevent certain offences was published - COM(2018) 213. The main objective of this Directive is the improvement of the cooperation and the exchange of information between competent authorities of Member States dedicated to combating serious crime.

The GIFI, in cooperation with other competent authorities, prepared the position of the RP Government on the proposal COM (2018)213 of the European Commission, in which the RP Government recognised the support to the draft new Directive as justified.

During the drafting process, the GIFI, like other European FIUs, presented the position that the draft Directive should preserve the principle of autonomy and independence of the FIU. In addition, it raised questions concerning the clarification of a number of provisions, in particular regarding the scope and rules for the exchange of information between competent authorities, in order to avoid uneven implementation of the regulations in the Member States.

The GIFI representatives actively participated in works on the draft Directive, conducted at the expert level, inter alia, through participation in meetings of the Working Group for Law Enforcement Agencies as well as coordinated the preparation of comments on subsequent versions of the draft at the national level.

At the COREPER meeting on 21 November 2018, the EU Member States accepted the compromise version of the draft (the *general approach*). The European Parliament also proposed amendments to the draft on 3 December 2018. The draft directive is currently at the trilogue stage . It is expected that works will be finalised in the first half of 2019.

The GIFI representatives also took part in the works on other EU legislative initiatives related to the subject of counteracting money laundering, such as:

- *proposal for the revision of the European Supervision Authorities COM(2018) 646;*
- *Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls of cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ L 284, 12.11.2018, p. 6);*
- *proposal for amending Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).*

Moreover, in 2018 a representative of the Polish FIU was a national expert in the 8th round of mutual evaluations of the EU Council Working Group on General Affairs, including the GENVAL Evaluation, appointed to the evaluation team for Finland.

### 7.3. THE MONEYVAL COMMITTEE

In 2018, two plenary meetings of the MONEYVAL Committee were held, with the participation of the permanent Polish delegation consisting of representatives of the GIFU, the Financial Supervision Authority and the National Prosecutor's Office.

From 26 to 27 March 2018 MONEYVAL organised, together with FATF and the Organisation for Security and Co-operation in Europe (OSCE), a regional workshop for prosecutors and judges. The workshop provided a platform for gathering and sharing experiences, challenges and best practices in the scope of prosecuting money laundering and terrorist financing and depriving criminals of their income. This initiative, which took place in Strasbourg, was attended by 100 participants from 43 different European countries (including Poland) and Central Asia. The workshop was chaired by the President of the FATF and the President of the MONEYVAL.

The representative of the GIFU participated in the training workshop for evaluators which took place in Larnaca (Cyprus). During the course, 48 future evaluators (33 from MONEYVAL and 15 from FATF jurisdictions) were trained in the scope of 2012 FATF recommendations and the 2013 FATF methodology.

Two evaluations carried out by MONEYVAL in 2018 were attended by representatives of Poland. In the Czech Republic (March 2018), a representative of the Police Headquarters took part, and in the evaluation visit to Lithuania (May 2018) - a representative of the GIFU took part. Discussions on the reports on the evaluation of national systems for combating money laundering and terrorist financing in the Czech Republic and Lithuania, with the participation of Polish evaluators, took place at the plenary session of the MONEYVAL Committee in December 2018. It should be noted that both reports were adopted by the Plenary Meeting.

In 2018, MONEYVAL accepted Poland's report as part of Step 1 of the *Compliance enhancing procedure* (CEP). The MONEYVAL Secretariat presented the analysis in which it concluded that the law adopted by the Polish Parliament in March 2018 addressed most of the shortcomings identified in the fourth round of mutual evaluations. It further recognised that Poland had brought all outstanding key recommendations to a “broadly compliant” level, in accordance with the conditions for exemption from the CEP process laid down in Article 13(4) of the Rules of Procedure of the fourth round of MONEYVAL. In connection with the results of the Secretariat analysis and discussion of the report, the Plenary Meeting concluded that Poland had taken sufficient steps to remove it from the CEP procedure.

In 2018, the Polish delegation participated in the discussions on four evaluation reports of the national systems for counteracting money laundering and terrorist financing of the states - members of the Committee through involvement in the activities of the Working Group on Evaluations and discussions at the plenary meetings. In 2018, the level of effectiveness and implementation of the FATF recommendations by Albania and Latvia (during the July plenary session) and by the aforementioned Czech Republic and Lithuania, was discussed.

As part of the wider international community, MONEYVAL also developed and adopted in 2018 a regional operational plan to combat terrorist financing which stipulates strengthening of the cooperation among Committee members in this area, organising training activities and seminars, exchange of information and good practices.



In December 2017, the MONEYVAL Plenary Meeting re-elected a representative of the GIFI as Vice-President of the Committee. Thanks to this function, she participated in the meetings of the Office responsible for coordinating the Committee's work and indicating the directions of its activities, held in 2018. Five such meetings were held last year, focusing in particular on the progress of the 5th evaluation round, activities with regard to the countries subject to monitoring procedure, cooperation with the FATF and potential initiatives with the private sector.

#### **7.4. CONFERENCE OF THE STATES - PARTIES TO THE WARSAW CONVENTION**

In connection with the implementation of the provisions of the *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16 May 2005* (CETS 198), so-called Warsaw Convention and the participation of Poland in the Conference of the States Parties to the Warsaw Convention (COP), the GIFI continued measures associated with activities undertaken by the aforementioned forum.

The 10th meeting of the COP took place on 30-31 October 2018. The representative of GIFI presented information on the implementation by Poland of the provisions of the Warsaw Convention (Articles 46 and 47 of the Convention) in the context of the entry into force of *the Act of 1 March 2018 on Counteracting Money Laundering and Terrorist Financing* and on the progress of work on the implementation of the provisions on the liability of collective persons for prohibited acts (Article 10 of the Convention).

The General Assembly of the COP welcomed the information concerning positive changes in the Polish AML/CFT system, which covered not only the area regulated by the Act on Counteracting Money Laundering and Terrorist Financing but also the area under the jurisdiction of the Minister of Justice. It also did not object to the adoption of an oral report by Poland on the progress made since October 2017, which allowed for the completion of a long-term process of evaluation of the Polish anti-money laundering and anti-terrorist financing system at the COP forum, in terms of its compliance with the provisions of the Warsaw Convention.

However, the COP secretariat stressed that the Polish authorities should take into account the other existing weaknesses of the Polish anti-money laundering and anti-terrorist financing system and strive to eliminate them as soon as possible, especially taking into account the upcoming evaluation of the Polish legal system and the effectiveness of the Polish anti-money laundering and anti-terrorist financing system under the 5th MONEYVAL mutual evaluation round.

It should be noted that the 9th COP meeting in 2017 agreed to change the form of reviewing the level of implementation of the provisions of Warsaw Convention by the States-Parties to the Convention. Instead of discussing the reports of individual countries, it was decided to carry out thematic horizontal reviews. During the 10th COP meeting, the first discussion on draft reports was held in a new formula, the scope of which covered:



- Article 11 of the Convention (concerning taking into account previous decisions of foreign judicial authorities when determining the penalty, final judgement against a natural or legal person);
- Article 25(2) of the Convention (concerning the mechanism for returning confiscated property);
- Article 25(3) of the Convention (concerning the issue of sharing confiscated property with other States).

The agreed draft reports were adopted by the States-Parties to the Convention and published on the website of the Council of Europe under the COP tab<sup>66</sup>.

## 7.5. THE EGMONT GROUP

The Polish Financial Intelligence Unit is involved in the activities of the Egmont Group, both during the meetings, by taking an active part in them (e.g. joining the works of the Working Group on Information Exchange and the Working Group on Technical Assistance and Training), as well as by providing support or exchanging its experience with partner units and cooperating with the Egmont Group Secretariat throughout the year.

Last year, the GIFI participated in two meetings of the Egmont Group and its working groups.

During meetings of the Heads of FIUs, the topics discussed included, among others, the Egmont Group Strategic Plan for 2019-2021, public-private partnership issues related to the combating of money laundering and terrorist financing, as well as the combating of laundering money originating from corruption. Special attention has been paid to issues relating to the operational independence of the FIUs, which are currently subject to discussion both at the FATF and at the EU forum.

The meetings provided a platform for the exchange of information and strengthening of bilateral and multilateral cooperation between the General Inspector of Financial Information and foreign financial intelligence units. Moreover, they enabled the exchange of experiences with partner organisations and discussions with the top management of the Egmont Group.

The GIFI representatives were involved in presentations of Polish and EU experience in the area of AML/CTF for members of regional groups of the Egmont Group. In addition, they participated in the evaluation of examples of analytical cases submitted by the FIUs in the annual competition for the best analytical case within the Egmont Group (*Best Egmont Case Award* - BECA).

The Egmont Group continued to work on numerous training projects (e.g. in the area of tactical and strategic analysis and tasks related to the control of obligated institutions), transferring them to e-learning platforms. She also worked on typological reports (especially dedicated to the fight against the so-called Islamic State and foreign fighters), developed another series of documents devoted to the safe functioning of the financial intelligence unit. It analysed the operability of the member financial intelligence units and their compliance with the Egmont Group standards as well as the units applying for membership.

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<sup>66</sup> On the website: <https://www.coe.int/en/web/cop198/-/cop-publishes-thematic-monitoring-reviews>.

Moreover, the Polish FIU, jointly with other EU Member States included in the so-called Europe I Region, participated in meetings of its regional group, usually accompanying meetings of the EU-FIU Platform between the sessions. During the discussion of Europe I Region, the following issues were raised: new EU initiatives in the area of counteracting money laundering and terrorist financing, development of the FIU.NET information exchange network or the impact of new regulations in the area of personal data protection on the functioning of financial intelligence units.

## **7.6. FINANCIAL ACTION TASK FORCE**

The GIFI continued its efforts to become a member of FATF, among others by developing, in cooperation with the Ministry of Foreign Affairs, thesis materials for Polish diplomatic missions in FATF member states.

It also continued the cooperation with the FATF through involvement in the measures promoted or organised by the aforementioned organisation in cooperation with the MONEYVAL Committee and the European Commission and the subordinated bodies.

Building on the work done in previous years, the FATF continued to play an important role in 2018 in strengthening the global system for counteracting terrorist financing. It was also one of the priority areas of the US Presidency of the FATF. In this context, the FATF carried out a number of projects in this area, including the publication of a statement on monitoring the risk of terrorist financing and actions taken to combat funding of ISIL, Al-Qaeda and affiliated entities (*FATF Monitoring of Terrorist Financing Risks and Actions Taken to Combat ISIL, Al-Qaeda and Affiliates Financing*) and adopted a report on the disruption of financial flows for terrorists.

GIFI representatives, as members of the MONEYVAL delegation, participated in meetings of working groups and plenary FATF meetings held three times last year. This enabled direct participation of representatives of the Polish FIU in works on evaluation reports of FATF member states or activities of Working Groups of this organisation. The access to reports, materials and documents prepared by this group contributed to the enhancement of the knowledge of the employees of the Polish FIU as well as of the cooperating units and obligated institutions.

The GIFI posted on its website, among others, information about FATF publications: the Guide on the risk-based approach for the life insurance sector and the Guide on the risk-based approach for the securities sector.

The GIFI regularly informed the public administration bodies, the supervision authorities, associations and industry associations on the statements adopted

by the FATF in 2018 related to the jurisdictions demonstrating strategic deficiencies in the field of counteracting money laundering and terrorist financing and documents related to the improvement of the international cross-compliance of the AML/CFT standards, by posting relevant information on its website.

Last year, in addition to its members, the FATF monitored MONEYVAL Member States as part of the standards compliance process carried out by the *International Cooperation Review Group* (ICRG). Serbia and Hungary were included in the process, as a result of obtaining a

considerable number of low-level evaluations of the effectiveness of the anti-money laundering and anti-terrorist financing system in the 5th evaluation round. During the 2018 review of these countries, FATF decided that Hungary had made sufficient progress during the so-called observation period to refer it back to the MONEYVAL monitoring process. As regards Serbia, it was decided to continue the FATF evaluation process until substantial progress is recorded in terms of efficiency of the system.

Owing to direct participation in the works of the FATF, GIFI representatives develop their experience in the scope of application of international standards in the area of combating money laundering and terrorist financing, which is particularly important in view of the upcoming evaluation of the Polish AML/CTF system by MONEYVAL experts under the 5th Evaluation round.

## **7.7. THE EURASIAN GROUP ON COMBATING MONEY LAUNDERING AND FINANCING OF TERRORISM**

Poland continued its works as the observer in the *Eurasian Group on combating money laundering and financing of terrorism* (EAG).

The permanent delegation of Poland (representatives of the GIFI and the KNF) participated in EAG plenary sessions and working group meetings held twice last year and also took part in a seminar devoted to the role of supervision authorities and the private sector during the evaluation of the AML/CFT systems.

In 2018, the EAG continued works aimed at strengthening of its role as a strong regional organisation, continuing the cooperation with international organisations from the Eurasia region, including the *Commonwealth of Independent States Anti-Terrorism Center* and the *International Training and Methodology Center for Financial Monitoring*. In addition, as part of increasing its participation in the global AML/CFT network, the EAG engaged in joint activities with other organisations, including the FATF and FATF regional bodies (MONEYVAL, APG, MENAFATF) through the organisation of joint workshops and typology projects as well as through active participation in meetings of these groups.

In 2018, a joint EAG and APG workshop on money laundering typologies and terrorist financing was held. In addition, a joint EAG and APG survey on the financing of terrorism by illicit funds, including those originating from organised crime, has been launched. Last year, a training for evaluators was also organised in the framework of the new round of evaluation for representatives of EAG and MONEYVAL member states.

In 2018, the EAG completed works (preparing reports) on projects concerning identification of persons supporting terrorist organisations in purchasing tickets for the FTF and money laundering with the use of insurance companies. Member States provided information on the practical application of the results of the typological studies regarding the FTF profile in the EAG region and on the analysis of cash flows used in predicate crime and money laundering.

In addition, work on the following projects was in progress:

- key features of drug trafficking schemes and income legalisation with the use of electronic tools and crypto-currency for payments,
- professional criminal networks participating in the money laundering practice.

The Polish FIU participated in the typological projects through substantive contribution which was appreciated by the EAG.

EAG member states continued mutual evaluations of their systems for counteracting money laundering and terrorist financing as part of the second evaluation round, based on the FATF standards of 2012. The reports on the evaluation of Kyrgyzstan (which in this round was evaluated as the first country) and Tajikistan were adopted. Both countries have made substantial progress compared to the evaluation in the first round. Information on the implementation by both countries of the evaluation recommendations will be presented during the EAG meetings in May and October 2019, respectively.

A representative of the Polish FIU also participated in technical assistance missions for EAG member states, arranged by international organisations.

## **7.8. TASK FORCE TO COUNTER MECHANISMS OF FINANCING THE SO-CALLED ISLAMIC STATE**

The GIFI continued its works within the *Counter ISIL Finance Group* (CIFG), operating as one of the working groups of the Global Coalition to Counter the Islamic State (Daesh). In addition to the Task Force to Counter Mechanisms of Financing the so-called Islamic State, the following groups also operate within the Global Coalition to Counter the Islamic State (Daesh): the Military Group, the Foreign Fighters Group, the Group for Combating Ideology, the Stability Support Group.

The CIFG, co-chaired by Saudi Arabia, Italy and the United States, regularly monitored Member States' actions in the framework of the Action Plan adopted in 2015. In order to carry out its tasks, it met twice in 2018, in Amman (11 February 2018) and in Warsaw (20-21 September 2018).

During the meeting in Amman, among others, Iraq and Turkey presented their activities, reporting on measures taken to improve the effectiveness of their national systems of combating terrorist financing.

On the initiative of the Polish FIU, the second CIFG meeting in 2018 was held in Warsaw. The meeting was attended by high-level representatives of 32 Member States and 5 international organisations: the UN, the FATF, EUROPOL, the EGMONT Group and the Gulf Cooperation Council. The meeting was attended by numerous representatives of foreign financial intelligence units and members of the Financial Security Committee.

The agenda of the meeting covered the update on the military campaign and the financial situation of the so-called Islamic State, the implementation of the Group's Action Plan (relevant information was presented by Iraq, Italy, Australia and Indonesia), issues concerning mechanisms to protect citizens against terrorism (including kidnapping for ransom), cyber-terrorism, foreign fighters, radicalisation and methods of combating organised crime. During the meeting, a representative of the Ministry of Culture and National Heritage also presented information on the Warsaw Recommendation on the recovery and reconstruction of cultural heritage - a document describing the standards to be followed in the reconstruction of cities destroyed as a result of armed conflicts or natural disasters.

The CIFG meeting organised by the Polish FIU, apart from the aspects important for the international community, united in the fight against the so-called Islamic State, also emphasised the role of Poland as an important and active participant of the Global Coalition to Counter the Islamic State (Daesh).

## **7.9. BILATERAL COOPERATION**

### **7.9.1. BASIS FOR THE EXCHANGE OF INFORMATION WITH FOREIGN FIUs**

Memoranda of Understanding on the exchange of information in the area of combating money laundering and terrorist financing and the cooperation undertaken thereunder, are compliant with the provisions of the Warsaw Convention as well as standards in this area developed by the Egmont Group<sup>67</sup>. The scope of the information received and made available, particularly the additional information, depends each time on the scope of the query and the compliance with the basic provisions of the national law.

In 2018, the GIFI continued the analysis of the needs to conclude bilateral agreements allowing for the acquisition of financial information from abroad within bilateral relationships with partner FIUs. As a result of the completed negotiations, the GIFI signed the MoUs concerning the exchange of information in the field of counteracting money laundering and terrorist financing with financial intelligence units from Tanzania and Singapore. Consequently, the number of FIUs with which the GIFI cooperates and exchanges information under bilateral agreements, increased to 92.

The entry into force of *the Act of 1 March 2018 on Counteracting Money Laundering and Terrorist Financing* has extended the opportunities for information exchange available to the GIFI. It enables the PFIU to exchange information with foreign partners without having to sign a bilateral agreement.

In the current legal situation, the GIFI cooperation in the scope of the exchange of financial information related to anti-money laundering and terrorist financing with EU countries is regulated under Article 111(1) of the new AML/CTF Act. On the other hand, pursuant to Article 111(2) of the new AML/CTF Act, the GIFI makes its financial information available to FIUs from non-EU countries on a reciprocal basis and the exchange of information under the Warsaw Convention is regulated under Article 111(3) of the new AML/CTF Act.

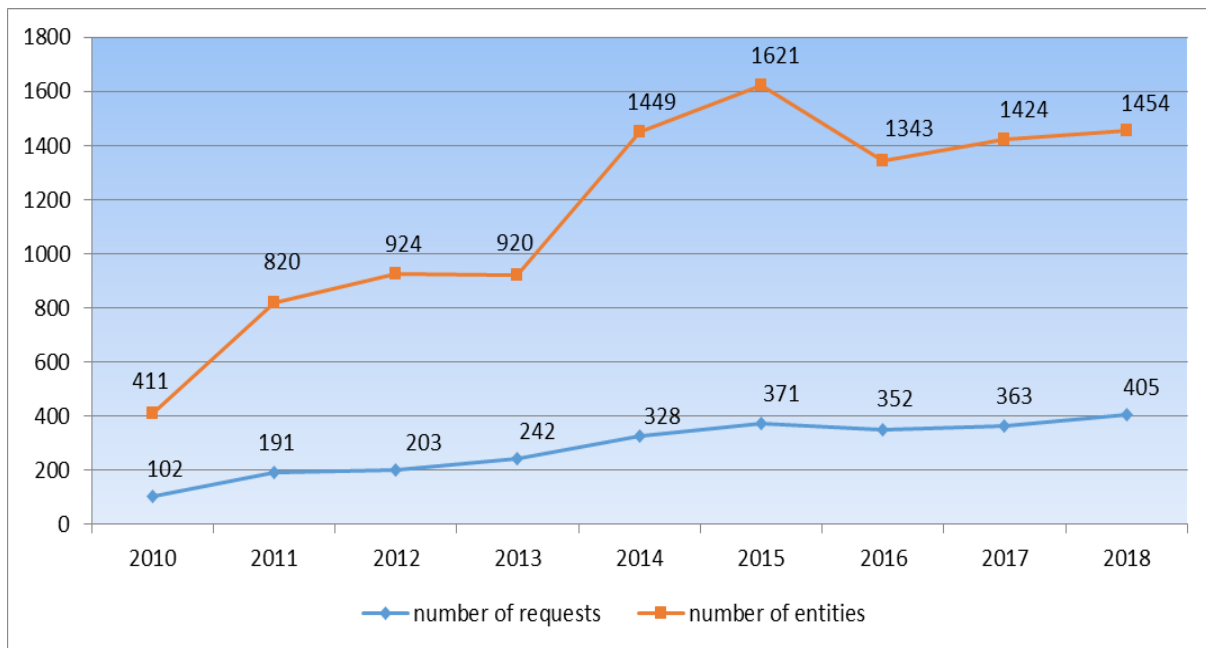
### **7.9.2 EXCHANGE OF INFORMATION WITH FOREIGN FIUs**

In 2018, the GIFI received 405 requests from foreign FIUs, related to 1454 entities. In addition, the GIFI also received one enquiry from a non-FIU entity. Since 2016, the number of inquiries from abroad has been steadily growing and in 2018 it was 12% higher than in the previous year. The chart below shows the quantitative summary of requests received from foreign FIUs in the years 2010-2018.

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<sup>67</sup> Egmont Group of financial intelligence units principles for information exchange between financial intelligence units.

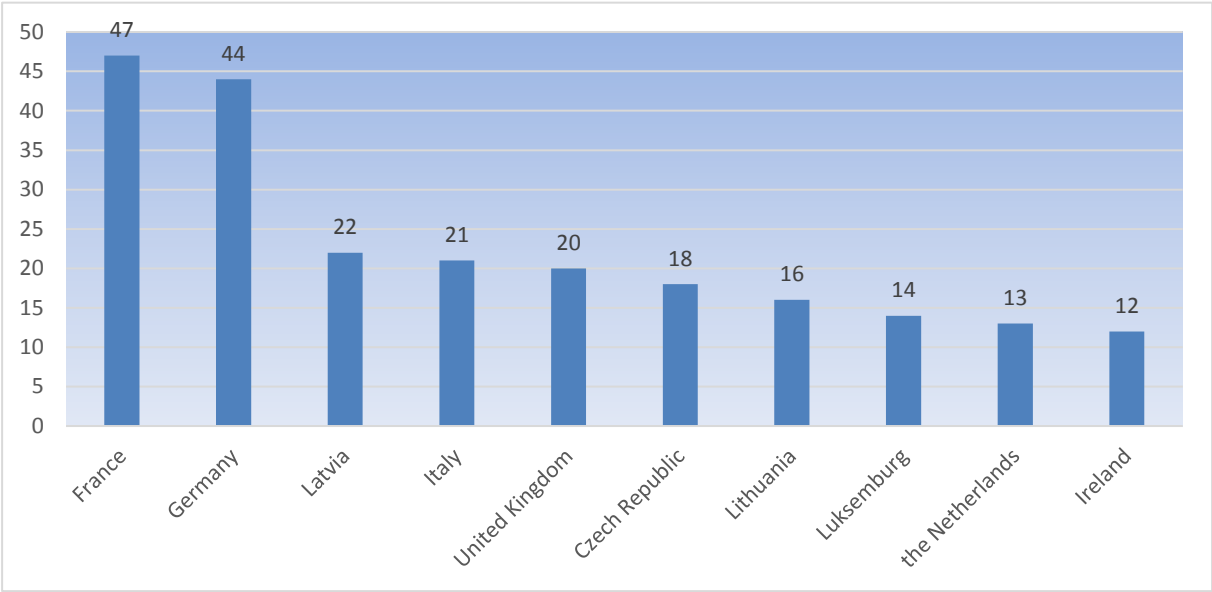
Chart no. 20 – Number of requests from foreign FIUs in the years 2010-2018



Apart from the new AML/CTF Act, the legal framework of the cooperation among the FIUs includes *Council Decision of 17 October 2000 concerning Arrangements for Cooperation between Financial Intelligence Units of the Member States in respect of Exchanging Information* (OJ L 271, 24.10.2000) and the Warsaw Convention. Bilateral agreements signed by the GIFI with its foreign counterparts also provide basis for the cooperation between the GIFI and entities from non-EU countries. Since 1 July 2018, a bilateral agreement has ceased to be a prerequisite for the GIIF to respond to a foreign FIU from a non-EU Member State which is not a party to the Warsaw Convention. The GIFI shall make available the information held by the FIUs of those countries on a reciprocal basis. In 2018, the GIFI did not refuse to provide information on any of the requests received from foreign FIUs.

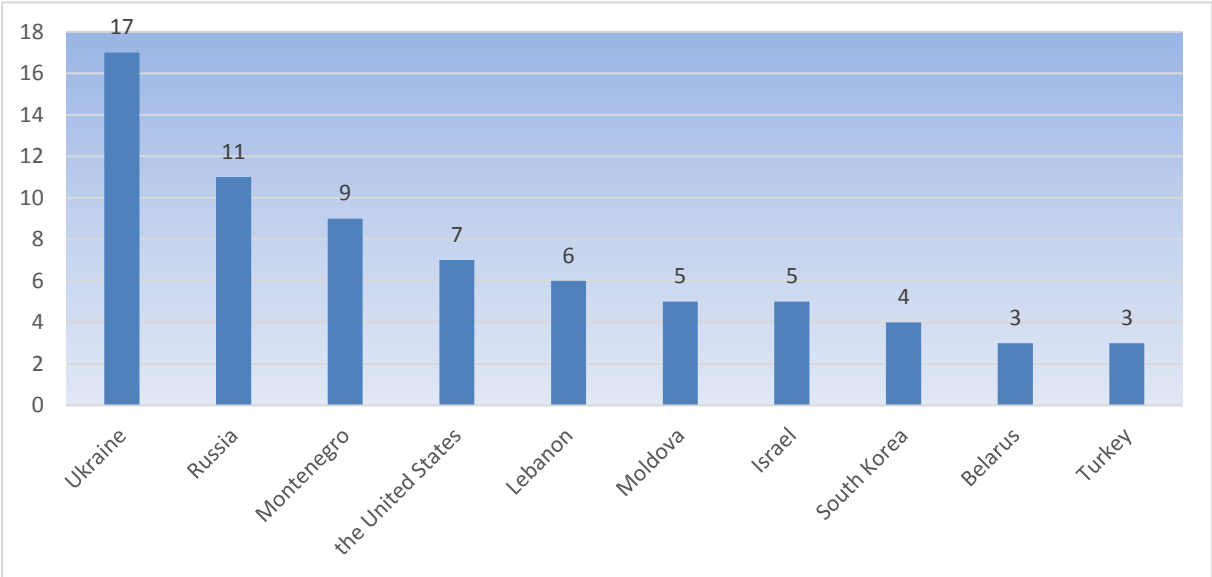
The queries received by the GIFI from foreign FIUs may be divided into two main groups, according to the sender of the query. The first group comprises requests coming from intelligence units of the European Union Member States whereas the second group - those from the non-EU Member States. Among all requests received in 2018, the FIUs from EU Member States sent over 77% of queries and almost 23% of requests were received from units representing third countries.

Chart no. 21 – Specification of EU Member States from which foreign FIUs sent the highest number of queries in 2018



In 2018, the GIFI received the major part of foreign requests for information from the FIU in France - 47 in total (10 more than in 2017). A little less queries (44) were sent from the FIU in Germany. The subsequent units indicated above submitted requests regarding a similar number of cases, i.e. from 12 to 22 queries.

Chart 22 – Specification of non-EU Member States from which foreign FIUs sent the highest number of queries in 2018

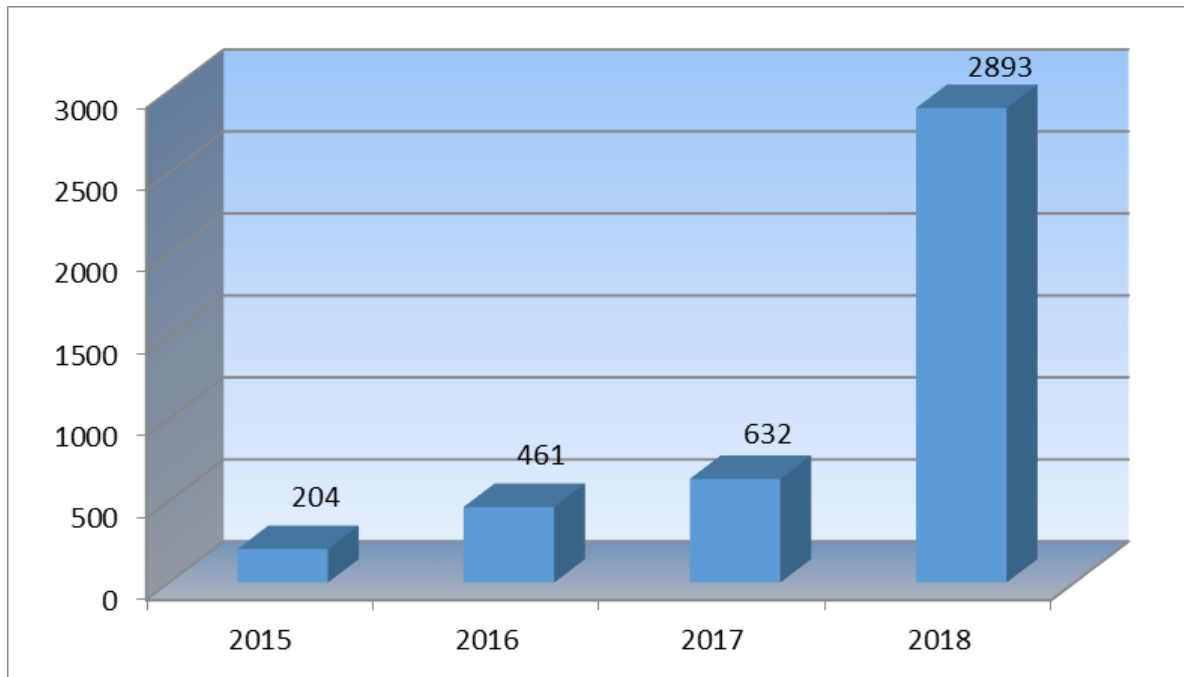


Among non-EU countries, the FIUs from Ukraine and Russia were most active (17 and 11 requests, respectively). In 2018, the GIFI also cooperated with units from such countries as: Armenia, Bosnia and Herzegovina, China, Japan, Jersey, Kazakhstan, Kosovo, Costa Rica, Liechtenstein, Mauritius, Nigeria, Norway, New Zealand, Panama, Paraguay, San Marino, Serbia, Singapore, Uzbekistan, Isle of Man.



In addition to the requests, the foreign FIUs also submit so-called ad hoc information to the GIFI concerning Polish entities, or asset values transferred to/from the territory of Poland. The said information concerned potential predicate offences or constituted the results of analyses which indicated a possible connection of the described transactions with laundering money originating from financial fraud or fiscal offence, or with the terrorist financing procedure. In 2018, the GIFI received a total of 2893 of such information pieces, compared to 632 in the previous year.

*Chart no. 23 – Number of ad hoc information received from foreign FIUs in the years 2015-2018*



Such a significant increase in ad hoc information received should be associated with the entry into force of the provisions of Directive 2015/849 by subsequent EU Member States, in particular Article 53(1) on reporting suspicious transactions related to another EU Member State. The largest amount of information was provided by entities from the following countries:

- The Netherlands - 1940,
- Luxembourg - 698,
- Germany – 66,
- Slovakia - 41,
- Czech Republic - 38,
- France - 17,
- Hungary - 16.

The cross-border reports sent by the FIU from Luxembourg since 2015 represent a particular type of ad hoc information. In 2018, reports of the Luxembourg unit were related to suspicions of committing various offences and associated financial flows on accounts operated by the “PayPal” company and using the accounts opened in the “Amazon” or “eBay” transaction service. In the latter case, the flow of funds was mostly associated with illegal activity



consisting in online sale of counterfeit clothing, cosmetic products or sale of pharmaceutical products prohibited on the territory of UE Member States.

In 2018, a unit from the Netherlands also started to send cross-border reports. The reports of the Dutch unit concerned mainly financial transactions made with the participation of persons claiming to be Polish citizens, with or on an account opened with a Polish bank, as well as transactions performed through the Western Union.

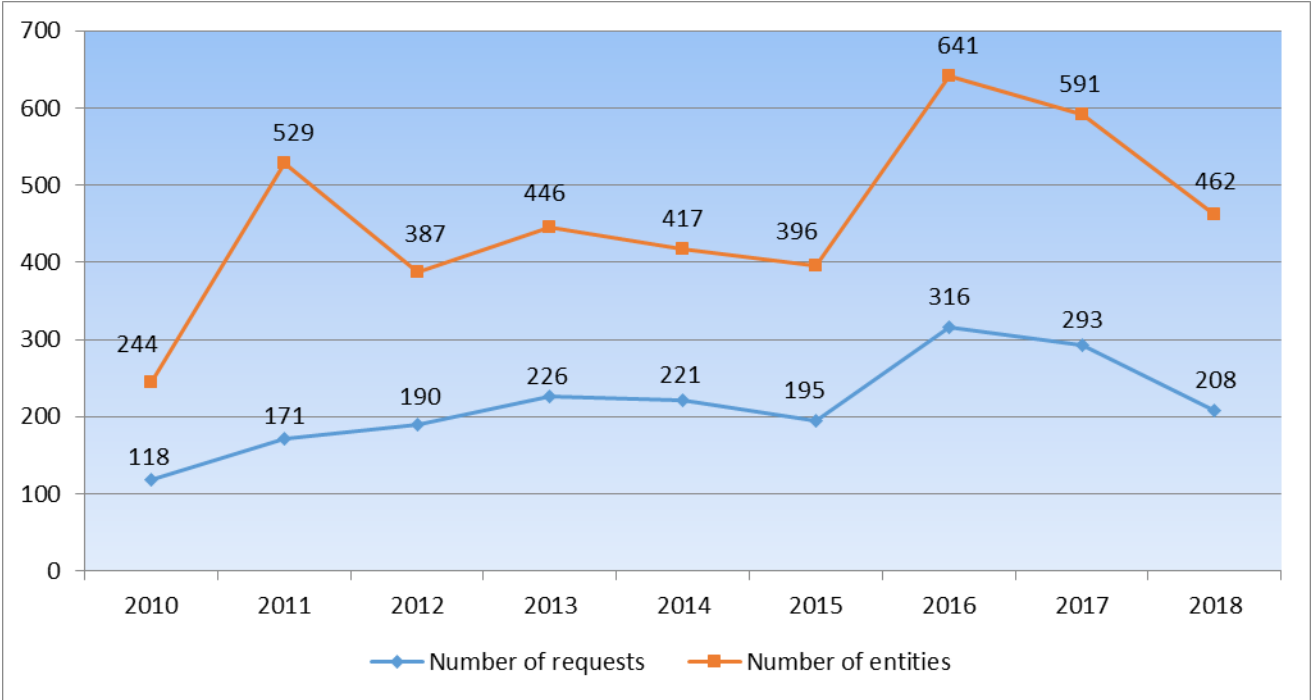
Information received from the Czech and Slovak units was mainly related to the flow of funds probably originating from malpractice associated with the value added tax.

In 2018, the GIFI also received 25 pieces of ad hoc information from the following non-EU countries: Albania, Armenia, Ghana, Jersey, Canada, Kyrgyzstan, Moldova, New Zealand, Russia, Singapore, Syria, Switzerland, Ukraine, USA, Isle of Man.

In compliance with the obligation to provide ad hoc information to foreign FIUs, the GIFI sent 16 such information pieces containing data of 21 entities. The recipients of the aforementioned information were the FIUs from the following countries: Estonia, the Netherlands, Ireland, Lithuania, Latvia, Moldova, Portugal, Slovakia, Switzerland, Ukraine, United Kingdom.

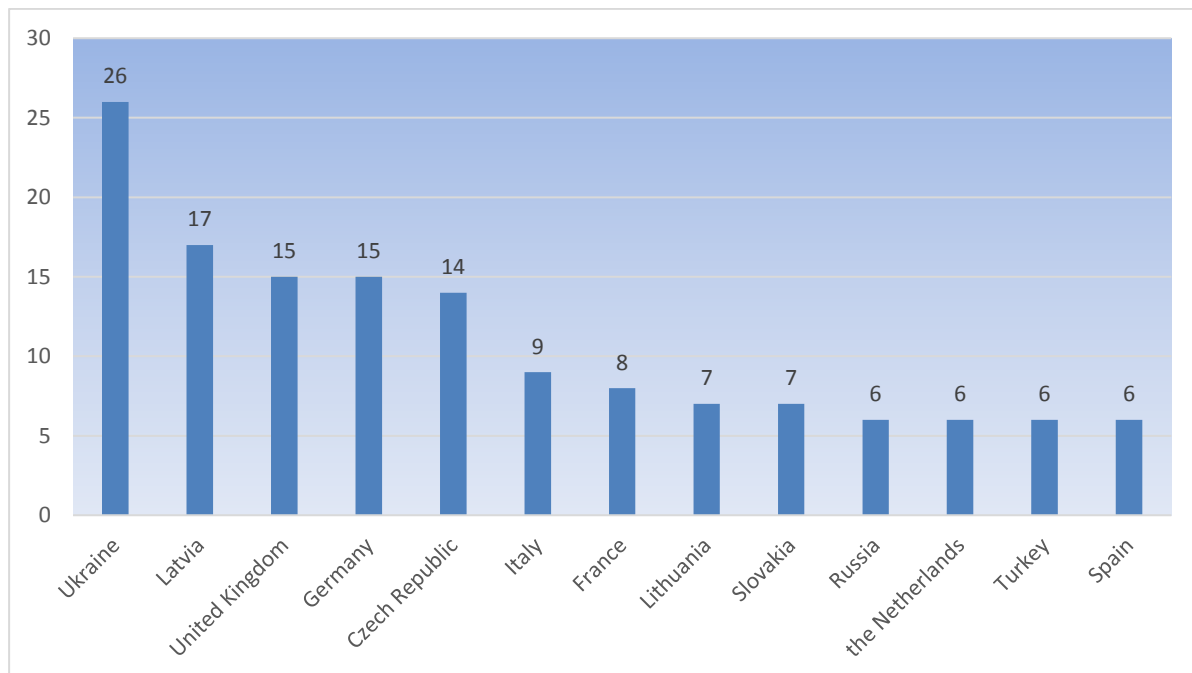
In 2018, the GIFI conducted 132 analytical proceedings under which it requested foreign FIUs to submit information. In the framework of those proceedings, the GIFI submitted the total of 208 requests for information concerning 462 entities. The number of requests was lower by approx. 29% than in the previous year.

Chart 24 – Number of requests submitted to foreign FIUs in the years 2010-2018



In connection with pending analytical cases, the GIFI most commonly cooperated with the FIUs from Ukraine, Latvia, United Kingdom, Germany and Czech Republic. The GIFI sent over 10 requests to each of the units from those countries.

Chart no. 25 – GIFI requests sent to foreign FIUs in 2018



The largest quantity of information was acquired from the FIUs located in the EU Member States, where the GIFI addressed over 67% of all requests (140). In addition, the GIFI also addressed two requests for information to Europol in accordance with Article 115 of the new AML/CTF Act.

The GIFI also acquires transaction and entity information from its non-EU counterparts. Besides Ukraine, in 2018 the GIFI submitted requests to the FIUs representing, inter alia, such countries and territories as: Argentina, Armenia, Azerbaijan, Brazil, Hong Kong, Israel, Canada, Kazakhstan, Kyrgyzstan, Mexico, Moldova, Norway, Panama, Singapore, St. Vincent and the Grenadines, Switzerland, USA, United Arab Emirates.

Information derived from abroad is primarily used to verify whether the entities involved in transactions, deemed suspicious by the obligated institutions and cooperating units, are known to the foreign unit in connection with suspected money laundering, terrorist financing or participating in other criminal activity. In addition, the GIFI receives data and information on financial flows, which allows for the determination of the source of money transferred to Poland or the further path of money flows. The information acquired serves as an additional prerequisite for making decisions about submitting notifications on the suspicion of committing an offence and sometimes also with regard to the blockade of accounts of persons suspected of money laundering. Upon the consent of the foreign units responding to the requests, the received information may be provided in notifications submitted to prosecutor's offices or to other law enforcement agencies.

## **7.10. OTHER ISSUES**

### **7.10.1. COOPERATION WITH THE CEPOL**

In June 2018, a representative of the GIFI performed as a lecturer at a course organised by the CBŚP under the training programme of the European Union Agency for Law Enforcement

Training - CEPOL. The course focused on the issue of counteracting money laundering and was addressed to domestic and foreign representatives of law enforcement agencies. A representative of the GIFI presented the assumptions of the Polish anti-money laundering and anti-terrorist financing system as well as new EU initiatives in the field of combating the discussed crimes.

GIFI representatives also organised a meeting with a representative of the Serbian revenue administration who visited Poland in August 2018 as part of the CEPOL ExPro 2018 exchange programme. During the meeting, the assumptions of the Polish AML/CTF system and international standards in this area were presented.

In addition, in December 2018, GIFI representatives provided the *online webinar* training on combating terrorist financing in the framework of the CEPOL programme. They presented the role of the financial intelligence unit in the Polish system of counteracting this crime and a catalogue of specific restrictive measures that cut off terrorists' access to financing sources. The course was attended by more than 200 representatives of the police and other law enforcement agencies from Poland and abroad.

### **7.10.2 ASSISTANCE PROJECT FOR THE FIU IN UKRAINE**

In 2018, the GIFI participated once again in the implementation of the *Plan of Developmental Cooperation*, preparing technical assistance for the FIU in Ukraine under the project on *Strengthening the Ukrainian System for Combating Money Laundering and Terrorist Financing*. The assistance funded from the earmarked reserve for the Implementation of the Polish Programme of Cooperation for Development consisted in the organisation of study visits for Ukrainian officials in Poland and workshops conducted by representatives of the Polish FIU in Ukraine.

The visit of experts from the Polish financial intelligence unit in Ukraine took place on 21-24 May 2018 and was devoted, among others, to: statistical analysis, including its use for national assessment of the risk of money laundering and terrorist financing, cooperation between the FIU and cooperating units, exchange of information between national institutions operating within the AML/CTF system and control of institutions reporting information on transactions that may be related to the above mentioned crimes, in terms of applying the risk-based approach.

On the other hand, on 3-7 September 2018, the study visit of representatives of the Ukrainian administration to Poland took place. The visit was devoted in particular to the implementation of international AML/CTF standards (including EU regulations) in the national legal system, effective cooperation between a financial intelligence unit and cooperating units, exchange of information with foreign FIUs and inspections of obligated institutions. The visit was organized by GIFI by inviting speakers - representatives of the National Revenue Administration, the Police and the Central Anti-Corruption Bureau - to participate in the meeting. Representatives of the Ukrainian administration were presented with comprehensive details of the functioning of the Polish anti-money laundering and anti-terrorist financing system, taking into account the role and tasks of various institutions participating in this system.

Thanks to the subsequent - fourth - edition of the programme, it was possible to present to the Ukrainian party good practices and solutions applied in the Polish AML/CTF system, including

in connection with the implementation of the provisions of Directive 2015/849. Both the role and tasks performed by the PFIU and the tasks of entities other than the FIU (e.g. the Central Anti-Corruption Bureau, the Asset Recovery Bureau of the Police Headquarters, the Regional Police Headquarters in Kraków and the Małopolska Customs and Tax Control Office) were presented.

The aim of the implemented activities was to increase the competence of Ukrainian administration employees in the field of, among others, analysis of suspicious transactions and control of obligated institutions, increase the compliance of the Ukrainian system of counteracting money laundering and terrorist financing with international standards (including EU regulations), as well as to strengthen current and long-term cooperation between the Polish and the Ukrainian FIU.

### **7.10.3. A TWINNING PROJECT FOR MOLDOVA**

In 2018, the PFIU received a proposal from the Lithuanian Financial Investigation Service (Lithuanian FIU) for a joint application within the Lithuanian-Polish-German consortium for the EU *twinning* project for the Republic of Moldova entitled “Strengthening the system of counteracting money laundering and terrorist financing in the Republic of Moldova”. As a result of the selection process, the submitted offer was chosen by the project beneficiary - the Moldova FIU and the EC Delegation in Chisinau. The kick-off meeting of this multilateral EU twinning project was held on 13 December 2018 in the capital of Moldova.

The launched *twinning* is a joint initiative of the Office for Preventing and Combating Money Laundering in the Republic of Moldova (project beneficiary), Financial Investigation Service within the structure of the Ministry of the Interior of the Republic of Lithuania (project lead partner), the Polish FIU (junior project partner) and the University of Public Administration in Bremen, Germany (junior project partner). The project is managed by the Lithuanian Central Project Management Agency.

The aim of the project is to support activities aimed at strengthening the anti-money laundering system in the Republic of Moldova. During 36 months, experts from Lithuania, Poland and Germany with the participation of Moldovan authorities and services: the Financial Intelligence Unit, the Public Prosecutor's Office, the General Police Inspectorate, the Tax and Customs Service, the National Bank and the courts will implement various measures to strengthen the Republic of Moldova in the area of money laundering and terrorist financing, divided into seven thematic components.

### **7.10.4. COOPERATION WITHIN THE FRAMEWORK OF AID PROGRAMMES OF THE EU AND OTHER INTERNATIONAL ORGANISATIONS**

In 2018, within the framework of the European Commission TAIEX programme, a GIF representative took part in the project "Expert Mission on Free Movement of Capital - Anti-money Laundering" for the so-called "Turkish Republic of Northern Cyprus", under which he provided training and lectures for representatives of obligated institutions (i.e. banks, insurance companies) and cooperating units (i.e. the police, tax offices). The assumption of the project is to promote good EU practices related to combating the procedure of money laundering and terrorist financing through the presentation and implementation of current EU legislation in the discussed scope (EU directives) and conducting targeted training.

On 25-26 April 2018, a representative of the GIFI participated as a speaker in the workshop organised by TAIEX in Minsk, Belarus, on the prevention of crime against banks, including money laundering. The participants of the workshop were officers of the Financial Investigation Department of the Belarusian State Control Committee (formerly known as the Financial Militia).

From 4 to 6 April 2018, within the framework of the EU ACT programme, a representative of GIFI participated as a speaker and co-chairperson in training workshops on international and inter-institutional cooperation of financial intelligence units for Central Asian countries, organised in Almaty, Kazakhstan, with the participation of UNODC.

On 23-25 April 2018, a representative of the GIFI, invited by the OSCE Office in Turkmenistan, took part as co-chairperson in a workshop in Ashgabat concerning international standards in the fight against money laundering and corruption for representatives of the Financial Intelligence Unit of Turkmenistan, the Turkmen Public Prosecutor's Office and the Anti-Corruption Agency.

From 2 to 4 October 2018, a representative of the GIFI, invited by UNODC Office in Bosnia and Herzegovina, took part in a regional meeting of Heads of Financial Intelligence Units of the Balkan states, where she delivered presentations on international standards and evaluation principles in the area of money laundering and terrorist financing and new EU initiatives aimed at strengthening national AML/CTF systems.

## 7. APPLICATION OF SPECIFIC RESTRICTIVE MEASURES



Since 13 July 2018, new rules on the application of specific restrictive measures have been in force following the entry into force of the provisions of the new AML/CTF Act. The provisions of Chapter 10 of this *Act* amend, supplement and clarify the existing regulations in this matter. First of all, they take into account the obligations arising from international agreements concluded by Poland and international standards in the field of counteracting money laundering and terrorist financing (especially FATF Recommendation No. 6 and Immediate Outcome 10<sup>68</sup>).

Since July 2018, lists of entities to be subject to specific restrictive measures under the new AML/CTF Act have been published and updated on the GIFI website. New entities are added to these lists as soon as they are added to the lists maintained by the UN Sanctions Committees. This filled the time gap between the publication of the UNSC Resolution and the publication of the relevant EU Council Regulation.

The provisions of the new AML/CTF, unlike the previous ones, impose an obligation to freeze all assets (without excluding movable and immovable property). In addition, provisions were introduced concerning the creation (on the basis of decisions of the GIFI, preceded by recommendations of the Financial Security Committee) of a national list of persons and entities to which specific restrictive measures are applied. They also relate to the procedure for exchanging requests for freezing of assets with other countries and the procedure for authorising the use of frozen assets with other countries.

In 2018, the GIFI informed the obligated institutions and cooperating units about the rules of application of specific restrictive measures. Information on new rules provided for in the new AML/CTF Act was published in July 2018 in the form of a communication on the GIFI website and was communicated to obligated institutions and cooperating entities during meetings dedicated to the preparation of the 5th round of evaluation and during the meeting of the Financial Security Committee. The GIFI also responded on an ongoing basis to enquiries of obliged institutions regarding the fulfilment of obligations resulting from the application of specific restrictive measures.

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<sup>68</sup> The immediate outcome is a concept derived from the AML/CFT systems assessment methodology developed and used by the FATF. Immediate outcomes describe the objectives to be achieved by an effective system in the field covered by the specific result and constitute the criteria for assessing its effectiveness. The immediate outcome 10 relates to the combating terrorist financing and assumes that in an effective system, terrorists and organisations are prevented from collecting, transferring and using funds and from using *non-profit* organisations.

Furthermore, the GIFI posted on the website dedicated to obligated institutions a communication concerning their certain obligations to apply specific restrictive measures against the Democratic People's Republic of Korea resulting from the provisions of *Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007* (OJ L 224, 31.08.2017, p. 1).

In 2018, the GIFI received **1 notification of asset freezing** and **5 pieces of information on transactions involving entities whose names coincided with the names of entities on sanction lists or relations with these entities**. In addition (under the provisions of the old AML/CTF Act), **the GIFI issued 1 decision on the complete de-freezing of assets**.

## 8. FINANCIAL SECURITY COMMITTEE

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The Financial Security Committee (KBF) provides a forum for cooperation between authorities and institutions involved in the fight against money laundering and terrorist financing. The Committee operates at the GIFI as a consultative and advisory body. Its competences include, inter alia, providing opinions on programme documents (in particular: the national risk assessment of money laundering and terrorist financing and the strategy of counteracting those phenomena) as well as recommendations of the EC regarding measures appropriate to manage the identified risks. The Committee is also competent in matters concerning the issuance of recommendations and opinions on motions concerning the application of specific restrictive measures. Moreover, the KBF is responsible for analysing and evaluating regulations and formulating postulates concerning the amendments to the regulations in the scope of counteracting money laundering and terrorist financing.

Due to the provisions of *the Act of 1 March 2018 on Counteracting Money Laundering and Terrorist Financing* which in a new way regulated the organisation and functioning of the KBF, a new composition of the Committee was established in 2018 and new rules of procedure for its work were developed.

Pursuant to the new AML/CTF Act, in addition to the GIIF and the Director of the Financial Information Department of the Ministry of Finance, the Committee consisted of 21 representatives of institutions, bodies and services performing tasks in the scope of counteracting money laundering and terrorist financing.

On 23 July 2018, a kick-off meeting devoted to the work of the KBF was held, attended by senior representatives of these bodies, institutions and services at the invitation of the GIFI. Subsequently, on 31 August and 29 November 2018, two meetings of the Committee were convened in the composition resulting from the provisions of the Act.

Issues discussed during the meetings included the tasks of the KBF, its composition and mode of work, selected issues concerning the provisions of the Act on Counteracting Money Laundering and Terrorist Financing, some challenges related to the implementation of the provisions of this and other acts of law related to the financial security of the state. In addition, the Committee's work was dedicated to the preparation of the national assessment of the risk of money laundering and terrorist financing, to be prepared for the first time in Poland.

The GIFI also reminded the members of the KBF of preparations for the next round of mutual evaluation of the MONEYVAL Committee member states, during which the Polish AML/CTF system will be subject to evaluation in terms of its compliance with international standards in the area of counteracting money laundering and terrorist financing. The Committee also



discussed the draft *Act on the Central Accounts Database* and the CBA's proposal to amend the provisions of law to enhance the security of economic transactions. Members of the KBF provided written comments on the above proposed amendments to the law.

In addition, the Committee discussed practical and legal problems related to the application of specific restrictive measures and discussed, inter alia, the issue of access to data held by the GIIF by cooperating entities by means of teletransmission.

## 9. NATIONAL RISK ASSESSMENT OF MONEY LAUNDERING AND TERRORIST FINANCING



The new AML/CTF Act provides that by 13 July 2019, the GIFI should prepare the national assessment of the risk of money laundering and terrorist financing (hereinafter referred to as the national risk assessment), in cooperation with the Financial Security Committee, cooperating units and obligated institutions.

At the beginning of 2018, the GIFI established 4 working groups to prepare contributions to the national assessment of the risk of money laundering and terrorist financing, composed of experts from various cooperating units, i.e.:

- Team for Collaboration of Co-operating Units,
- Team for Risk Assessment of Money Laundering and Terrorist Financing on the Financial Market,
- Team for Risk Assessment of Money Laundering and Terrorist Financing on the Non-Financial Market,
- Team for National Risk Assessment of Terrorist Financing.

Representatives of the Polish Bank Association, the Chamber of Brokerage Houses, the Chamber of Fund and Asset Management and the Polish Insurance Association were also invited to participate in the works of the Team for Risk Assessment of Money Laundering and Terrorist Financing on the Financial Market.

Originally, the Teams were to continue their work until the end of September 2018, however, due to the prolonged preparation and collection of contributions, their operation was extended until the end of December 2018.

On the basis of the collected contributions, preliminary, incomplete versions of 5 out of 9 planned chapters of the national risk assessment were prepared. In addition to the contributions, material was also received from the KNF Office on financial flows based on statistical data provided by entities supervised by the KNF.

Work on the national risk assessment is continued in 2019, inter alia, in close cooperation with the Financial Security Committee.

In 2018, the information needed to update the transnational assessment of the risk of money laundering and terrorist financing was also prepared at the EC request.

## 10. LEGAL ACTIVITY

In 2018, the Financial Information Department of the Ministry of Finance, exercising the tasks of the GIFI, completed legislative works on a new draft *Act on Counteracting Money Laundering and Terrorist Financing*, started in the third quarter of 2016, which implements Directive 2015/849 into the national legal system. On 1 March 2018, the Act was passed by the Sejm of the Republic of Poland.

Following the adoption of the new AML/CTF Act, another important task was to undertake work to ensure that the Minister of Finance should issue implementing regulations to the aforementioned Act<sup>69</sup>.

The legal activity of the Financial Information Department after the entry into force of the new AML/CTF Act focused in particular on communication with obliged institutions and cooperating entities and was based on the current provision of knowledge on anti-money laundering and anti-terrorist financing regulations in the Public Information Bulletin on the website of the office providing services to the minister competent for public finance in the form of GIFI Announcements.

In 2018, the Financial Information Department issued opinions on a number of draft normative acts, which remain within the jurisdiction of GIFI. These include the draft *Act on the liability of collective entities for acts prohibited under penalty*, the draft *Act amending the Act - Commercial Companies Code*, the draft *Act on the processing of passenger flight data*, the draft *Act on the protection of personal data processed in connection with the prevention and combating of crime*, the draft *Act amending certain acts in connection with ensuring the application of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC*.

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<sup>69</sup> Regulation of the Minister of Finance to the Act of 1 March 2018 on Counteracting Money Laundering and Terrorist Financing, issued in 2018:

- Regulation of the Minister of Finance of 16 May 2018 on receiving notifications of infringements of the provisions on counteracting money laundering and terrorist financing (Journal of Laws No. 959, item 959);
- Regulation of the Minister of Finance of 16 May 2018 on applications for access to information on beneficial owners and for access to such information (Journal of Laws, item 965);
- Regulation of the Minister of Finance of 16 May 2018 on reporting information on beneficial owners (Journal of Laws, item 968);
- Regulation of the Minister of Finance of 27 June 2018 on the official identity card of an inspector conducting an inspection in the scope of counteracting money laundering and terrorist financing (Journal of Laws item 1331);
- Regulation of the Minister of Finance of 4 October 2018 on providing information on transactions and a form identifying an obligated institution (Journal of Laws, item 1946).

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General Inspector of Financial Information