

# ANNUAL REPORT 2014

## FIU SINT MAARTEN



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## LIST OF ABBREVIATIONS

AML/CTF.....	Anti Money Laundering/Counter Terrorism Financing
CFATF.....	Caribbean Financial Action Task Force
DNFBP.....	Designated Non-Financial Businesses and Professions
FATF.....	Financial Action Task Force
FIU (s).....	Financial Intelligence Unit(s)
LEA.....	Law Enforcement Agencies
MOU.....	Memorandum of Understanding
ML.....	Money Laundering
NORUT.....	National Ordinance Reporting Unusual Transactions
NOIS.....	National Ordinance Identification when rendering Services
PPO.....	Public Prosecutor's Office
STRs.....	Suspicious Transaction Reports
SE.....	Supervised Entities
SXM.....	Sint Maarten
TF.....	Terrorism Financing
UTRs.....	Unusual Transaction Reports

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## **MISSION STATEMENT**

**To protect the integrity of Sint Maarten's financial system and contribute to the justice system through ever-improving expertise in countering money laundering and the financing of terrorism.**

## **VISION STATEMENT**

**A Sint Maarten community with financial and business sectors that are free of financial crime.**

## MESSAGE OF THE DIRECTOR

Pursuant to article 3 of the National Ordinance Reporting Unusual Transactions, the Financial Intelligence Unit of Sint Maarten (FIU Sint Maarten) annually has to issue a report on its activities and its plans for the coming year.

FIU Sint Maarten was established in the year 2010 as the sole unit in Sint Maarten, responsible for receiving, recording, processing and analyzing data it obtains, in order to see whether these data could be important in preventing and investigating money laundering and/or the financing of terrorism and underlying crimes.

In carrying out its legal duties, the FIU works closely, among others, with the financial and non-financial reporting entities, law enforcement agencies, the Public Prosecutor's Office (PPO), the Central Bank for Curacao and Sint Maarten, other international FIUs and last but not least with the Minister of Justice of Sint Maarten, under whose responsibility the FIU falls. The FIU provides anti-money laundering and anti-financing of terrorism trainings and guidance to all reporting entities and other partners in the reporting chain. The FIU is also responsible for informing the general public with regard to money laundering and terrorism financing in general and their legal consequences.

This report covers the activities of the Financial Intelligence Unit of Sint Maarten carried out during 2014, in exercising the various duties assigned to the FIU pursuant to the National Ordinance Reporting Unusual Transaction with regard to the fight against money laundering, and terrorism financing.

The year 2014 was a very memorable and important year for FIU Sint Maarten. This was the year FIU Sint Maarten passed the procedure and became a member of the Egmont Group of Financial Intelligence Units. FIU Sint Maarten can now on a biannual basis attend all Egmont Group Heads of FIUs meetings and committee and working group meetings to discuss policy matters on information sharing and mutual cooperation.

I hereby take the opportunity to thank the Government of Sint Maarten for its support in making this possible. I also want to thank the FIUs that sponsored FIU Sint Maarten, which are the FIU British Virgin Islands and the FIU Aruba. Last but not least I thank the staff at FIU Sint Maarten, for their hard work and dedication in helping to obtain this important goal.

In 2014 the FIU continued growing and appointed 2 legal professionals for its Supervision Department. The Minister of Justice approved the appointment of two consultants, the former Head of FIU Curacao and a senior legal/policy officer, to train the staff of FIU Sint Maarten and to assist the Head FIU Sint Maarten in developing both the Analyst and the Supervision departments. In this year the Provisions and Guidelines for the Designated Non-Financial Businesses and Professions were developed and stipulated and the first



management compliance assessment meetings were organized for the jewelers' sector and the real estate sector.

Furthermore the FIU organized informative and training sessions for the financial sector and for the jewelers' and real estate sector. The attendance ratio for these informative/training sessions was high. The trainings were organized at the University of Sint Maarten. The FIU was requested to organize more of these trainings to elaborate further on the issues at hand.

The FIU met with the Public Prosecutor's Office, the law enforcement agencies, the National Security Office on AML/CTF issues regarding their collaboration with the FIU on matters with regard to the fight against financial crimes leading to money laundering and or terrorism financing and on the national implementation of the Financial Action Task Force's (FATF's) standards.

In 2014 the FIU of Sint Maarten received a total of 7915 unusual transactions reports (UTRs) with a value totaling ANG 3,882,014,631.00. Compared to 2013, the number of unusual transactions increased in 2014 with 746 transactions. The amount involved with this increase in transactions was ANG. 3,308,149,902.00. This increase was caused by reports received from Customs, the Bank sector and the Trust sector. The reports from Customs contributed the most to this increase due to a huge backlog in reports from the year before, which were reported in 2014. The FIU is in constant contact with Customs to assist in the solution of problems Customs might be experiencing when reporting.

Again, the Bank sector reported the majority of the reports, being 4761 reports of unusual transactions amounting to ANG 789,908,362.00. The Bank sector was followed by the Money Remitting sector in number of reports, where 2189 reports were sent to the FIU, with a total value of ANG 15,033,945.00. The Trust sector reported 106 unusual transactions with a value of ANG. 31,827,990.00.

Of the 7915 unusual transactions received this year, a total of 844 were disseminated to the Public Prosecutor's Office (PPO) as transactions with a reasonable suspicion of money laundering and/or terrorism financing. A decrease of 74% compared to last year when a number of 2068 suspicious transactions were sent to the PPO. A reason for this decrease was the number of money remitting transactions reported in previous years, which were analyzed by the FIU and disseminated to the PPO.

As was the case in the previous years, no reports of unusual transactions were received from tax advisors, accountants, notaries, administrations offices and jewelers. The car dealers sent in 11 reports of unusual transactions to the FIU with a value of ANG. 432,675.00.

While last year the life insurance sector carried out 1 report of unusual transactions to the FIU, this year no reports were received from this sector. The FIU has had meetings with the

Public Prosecutor's Office with regard to legal steps to take in cases of non-compliance with the reporting obligation by certain reporting entities.

FIU Sint Maarten will continue seeking closer cooperation with the financial institutions and the Designated Non-Financial Businesses and Professions. The annual AML/CTF training of the staff of the FIU and the law enforcement agencies will proceed.

The FIU remains committed to the fight against money laundering and the financing of terrorism and will continue to enhance and strengthen its relationship with all reporting entities, foreign FIUs, law enforcement agencies, the Public Prosecutor's Office, and the local competent authorities.

We must all collectively combine our energies and resources in pursuit of those involved in the illegal activities of money laundering and terrorist financing.

Ligia Stella MSc  
Head of FIU Sint Maarten



## 1. OVERVIEW OF ACTIVITIES AND ORGANIZATION OF THE FIU

It is important when preparing an annual report regarding the activities of a Financial Intelligence Unit, to indicate to the reader which dates have been taken into account when completing the report.

FIU Sint Maarten uses the date the transactions are registered at the FIU as starting point. This way all transactions registered by the FIU in the respective year will be taken into account and consequently a more accurate view can be given of the work of the FIU in that year. With regard to the furnishing or dissemination of suspicious transactions to Law Enforcement Agencies, (LEA), and the Public Prosecutor's Office, (PPO), the date these transactions were disseminated will apply.

### 1.1 The organization of the FIU

The FIU of Sint Maarten resorts under the Minister of Justice. The FIU is an administrative FIU; this entails that only the Head and the tactical and operational analysts employed at the FIU are authorized to access the database with unusual transactions. When the FIU was set up, it was decided by government that due to, among other things, the privacy of the citizens, the FIU would be an administrative FIU and would act as a buffer between, on the one side the reporting entities and on the other side the PPO and LEA. The database of the FIU cannot be accessed by the LEA or the PPO.

In 2014 two legal professionals joined the staff of the FIU as supervisors for the Supervision department. It was expanded with a second supervisor for the Supervision department, a legal assistant to assist the FIU in certain legal matters and a Manager Quality and Control. Besides the Head, the staff now consists of 9 persons, namely two tactical and operational analysts (with one of the analysts functioning as IT-analyst), an office manager, two Designated Non-Financial Businesses and Professions (DNFBP) supervisors, the legal assistant, a senior legal advisor, and the Quality and Control Manager.

The following organizational chart gives an overview of the organization of the FIU.

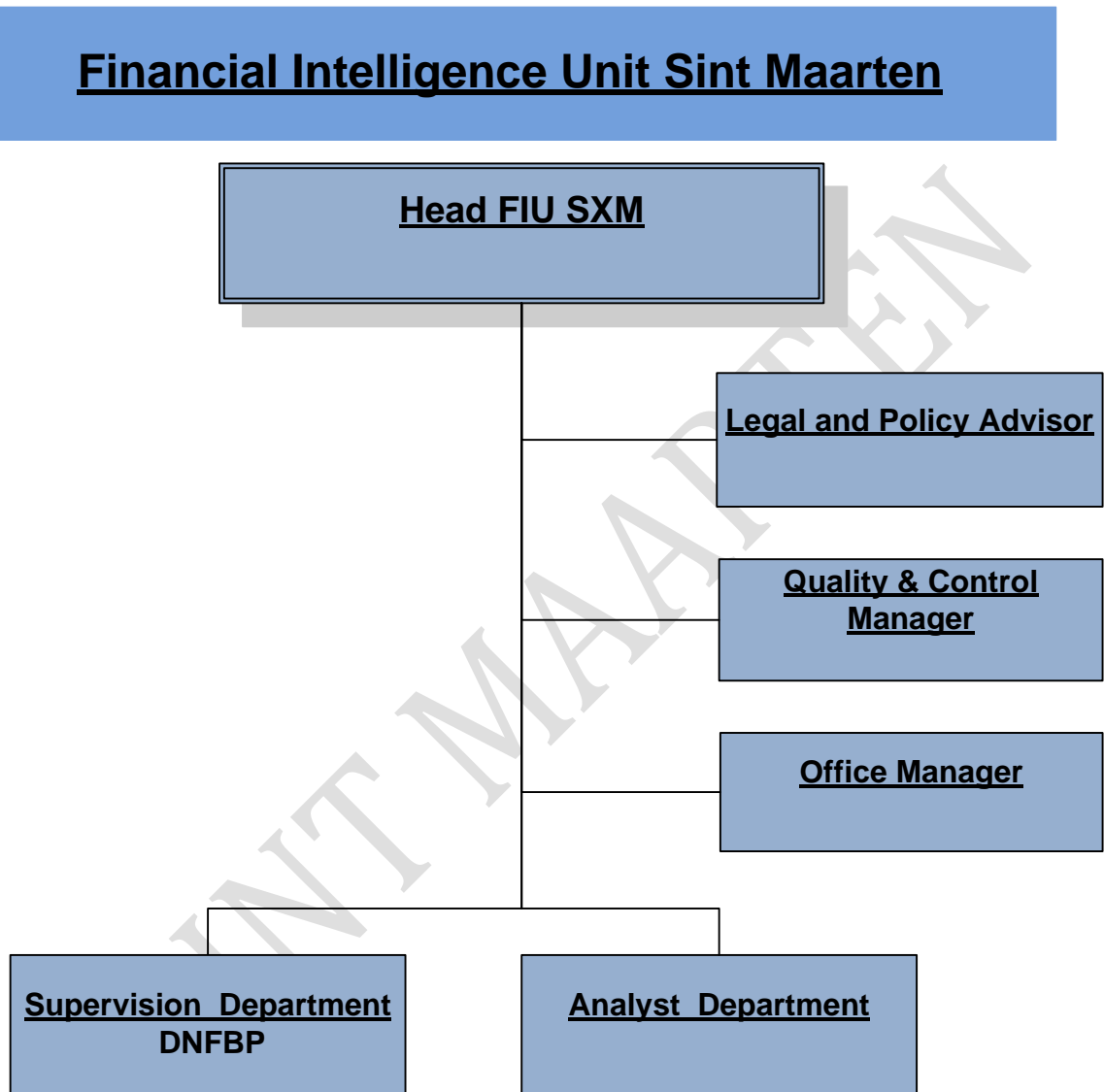


Figure 1. Organizational Structure FIU Sint Maarten 2014

## **1.2. Duties and activities of the FIU pursuant to article 3 of the National Ordinance Reporting Unusual Transactions (NORUT)<sup>1</sup>**

In this section we will give an overview of the tasks of FIU Sint Maarten pursuant to the NORUT as executed during this reporting year.

### **A. Collect record, process and analyze the data it obtains.**

In 2014, its fourth year of operation, the FIU of Sint Maarten received and analyzed a number of 7915 reports of unusual transactions (UTRs). Of the UTRs received, a number of 7729 regarded transactions which were executed and 186 were intended transactions. Intended transactions are those transactions whereby the client decides not to continue with the respective transaction. During this year no reports were received from accountants, notaries, jewelers, the administration offices and tax advisors. Of the received reports, a number of 4761 (excluding 333 credit card transactions) were received from the bank sector, while the second largest reporting sector in 2014 was the Money Remitting sector with 2189 reports.

Of the reports sent to the FIU the majority, 96%, was based on objective indicators and only 3% was based on subjective indicators. The reports sent by lawyers were solely based on subjective indicators. Reports are sent objectively to the FIU when the law states explicitly what should be reported. Subjective reports are also based on indicators, however here the reporting entity may also take into account subjective issues surrounding the client. Examples are: whether client is using a layman, whether client is trying to structure the amount (remaining below the reporting limit), or if the transaction in accordance with client's profile or not.

### **B. Provide data and information in accordance with the provisions set under or pursuant to the NORUT.**

FIU Sint Maarten after analysis disseminated 844 transactions to the PPO. This is a decrease of 59% compared to the year 2013 when 2068 suspicious transactions were disseminated to the PPO. Of the disseminated transactions a number of 237 were the result of 21 own investigations done by the FIU, and 607 transactions were disseminated based on requests for information received from the PPO and information received from other FIUs.

Based on article 7 NORUT, the FIU received 13 requests for information from international FIUs and exchanged 90 UTRs with a value of ANG. 4,370,393.00  
The FIU sent 10 requests for information in its turn to international FIUs.

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<sup>1</sup> All legislation mentioned can be viewed on the website of the FIU: [www.fiu-sxm.net](http://www.fiu-sxm.net)

Based on its analytical work and on requests for information received, the FIU sent out 32 requests for additional information to the reporting entities based on article 12 of the NORUT.

- C. Informing persons or authorities who have made a disclosure in accordance with Article 11 with a view to proper compliance with the disclosure obligation about the conclusion of the disclosure.

After receipt of the reports of unusual transactions, all reporting entities were notified of the receipt of their reported transactions and received a letter of confirmation to this effect.

The respective reporting entities received feedback and were also informed of relevant transactions which had been disseminated to the PPO.

- D. Investigate developments in the areas of money laundering and terrorism financing and investigate improvements in the methods of preventing and tracking down money laundering and terrorism financing.

This year the FIU conducted 21 own investigations regarding money laundering and terrorism financing. Of these own investigations, a number of 14 investigations comprising 237 transactions with a value of ANG. 12,862,232.00 were disseminated to the PPO.

In 2014 the Head of FIU contracted the former Head of FIU of Curacao and a former senior legal/policy officer of the same FIU to assist FIU Sint Maarten with trainings for the Analyst department and the Supervision department.

- E. Provide information and training to the industries and professional groups, the persons and authorities charged with supervising compliance with this national ordinance, the public prosecution department, the civil servants charged with tracking down criminal offences and the public concerning the manifestations and the prevention and combating of money laundering and the financing of terrorism.

The Supervision department of the FIU was assisted this year by the former Head of FIU of Curacao and a former senior legal/policy officer to further develop this department.

In 2014 the FIU organized AML/CTF info/ training sessions for the financial sector and for jewelers, real estate and notaries.

- F. Participate in meetings of international and inter-governmental agencies in the area of the prevention and combating of both money laundering and the financing of terrorism; as well as the independent conclusion of covenants or administrative agreements with other FIUs.

In 2014 the FIU participated in the XXXVIX Plenary session of the Caribbean Financial Action Task Force (CFATF) meeting in Miami and in the CFATF Plenary XL meeting in San Salvador, El Salvador.

FIU Sint Maarten participated in the Kingdom Seminar (Koninkrijksseminar) for all FIUs in the Kingdom of the Netherlands and other actors in the reporting chain, which was organized on Bonaire.

The FIU attended the Egmont Working groups meeting in Hungary where FIU Sint Maarten was accepted as an Egmont member. Thereafter FIU Sint Maarten participated in the 22nd Egmont Plenary and Working groups in Lima, Peru. At this meeting, Sint Maarten, together with Angola, Brunei Darussalam, Chad, Ghana, Jamaica, Namibia and Tanzania were endorsed as new members of the Egmont Group during the meeting and the total number of unit became 146.

This reporting year a total of 11 MOUs were signed. MOUs were signed with the FIUs of Taiwan, Cyprus, Guernsey, Lebanon, San Marino, Japan, Belize, Denmark, Haiti, Poland and Suriname. The main objective of MOUs is to make the exchange of information regarding among other things, money transactions between the signatories' countries, more efficient.

### 1.3. Training

In 2014 the FIU organized several AML/CTF informative/training sessions. The financial reporting entities received training with regard to among others, their reporting obligation, the reporting procedure, the correct way to report, the FATF recommendations, PEPs, cases of MLTF and the FIU and its legal duties.

Two AML/CTF informative/training sessions were organized for the jeweler's sector and the real estate sector, where AML/CTF issues relevant to the respective sectors were explained and discussed.

During 2014, the staff and management of the FIU received intensive and interactive, hands-on training regarding all aspects of the work of an FIU. This was given by the former Head of FIU of Curacao and a former senior legal/policy officer, who were contracted by FIU Sint Maarten, to assist the FIU of Sint Maarten, among other things, with further establishing the Analyst department and the Supervision department and all related work activities.

With regard to the Analyst department, the analysts received trainings in: the interpretation of the respective AML/CTF laws; how to execute analyses with the info at hand; making own investigations; the Egmont procedures for information exchange with other FIUs and contacts with the reporting entities.

The analysts were also assisted in providing informative/training sessions for the financial sector.

The Supervision department of the FIU was also instructed in the interpretation of the relevant laws, among other things, through the use of relevant cases. Assistance was given in establishing the respective Provisions and Guidelines for some DNFBP sectors, compliance assessment forms were drawn up, assistance was given with regard to informative/training sessions for DNFBP and the first compliance audits were organized for jewelers and real estate agents.

#### 1.4. Achievements 2014

One of the most important achievement this year was being recognized as an Egmont FIU and becoming a member of the Egmont Group. The Egmont Group is the International Association of FIUs. To become a member an FIU among other things needs be up to date with the Egmont definition of an FIU, adhere to the Egmont Charter and Principles of Information Exchange. The country where the FIU is established needs to have its AML/CTF legislation in place and conform certain standards.

The FIU made much progress on the work regarding the follow up actions with regard to the evaluation report of the CFATF.

This year the Minister of Justice approved technical assistance to be given to the FIU. This assistance was given by the former Head of FIU of Curacao and a senior legal/policy officer. Much work was executed and at the end of 2014 the FIU can look back to a successful and necessary assistance and guidance in its AML/CTF work.

With the help of the technical consultants the Supervision department was further established: trainings with regard to the work was given; Provisions and Guidelines for the DNFBP were drawn up; informative/training sessions were organized for the jewelers' and real estate sectors and compliance assessment Management meetings were organized with several jewelers and real estate agents.

The Supervision department registered 125 DNFBP (supervised entities) that fall under the supervisory authority of the FIU.

Intensive interactive technical assistance was also given to the Analyst department.

The FIU organized AML/CTF informative/training sessions for the financial reporting entities and for the DNFBP



During the Kingdom Seminar for FIUs in the Kingdom which was organized in Bonaire, FIU Sint Maarten strengthened the ties with its colleagues in Curacao, Aruba and the Netherlands.

Via news media the Head of FIU informed the general public with regard to the work of the FIU.

The FIU met with LEA and PPO with regard to feedback regarding disseminated transactions by the FIU and other relevant issues.

The FIU continued monitoring the approval by Parliament of the Criminal Code of Sint Maarten in which Terrorism Financing is criminalized.

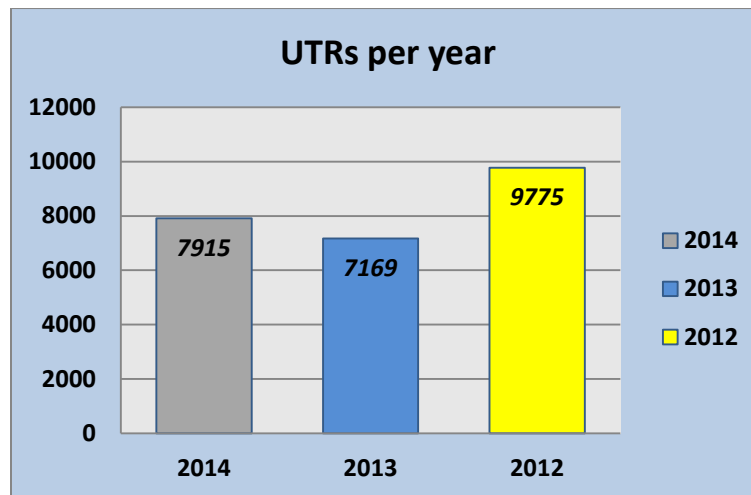
## **2. STATISTICS AND REPORTING BEHAVIOR**

In this chapter the total number of reports of unusual transactions received in this reporting year will be dealt with, per individual reporting sector. An idea will also be given with regard to the trend in reporting by comparing reports received this year to the previous year, suspicious transactions disseminated to the PPO, the typologies of ML/TF detected in the disseminated reports and the use objective and/or subjective indicators. For the coming years it will be a priority for the FIU to train the reporting entities in sending more reports based on subjective indicators to the FIU.

The transactions which have been disseminated to the PPO and the division of the transactions received, in executed and intended transactions, can be reviewed in this chapter. We will first review the statistics of the financial sector and thereafter the Designated Non-Financial Businesses and Professions, the DNFBP.

### **2.1. Registering, processing and analyzing financial information**

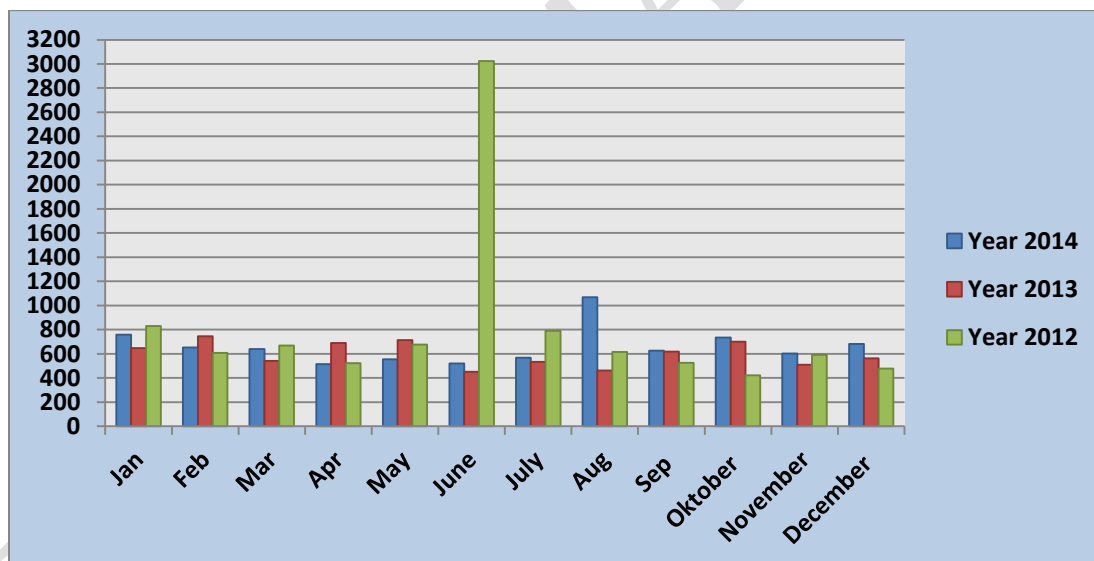
In the reporting period 2014 a total of 7915 unusual transactions reports were received from the reporting entities with a value of ANG. 3,882,014,631.00 This is an increase in reports received of 10.4% compared to the previous reporting period, when a number of 7169 UTRs was reported to the FIU.



**Figure 2. Total Reports over the years**

### 2.1.1 UTRs 2014 on a Monthly Basis

In the following diagram an overview is given of the UTRs received on a monthly basis. The overview for 2014 indicates that in august more transactions were received.



**Figure 3. Total of UTRs per month**

The following table shows that the bank sector is the sector reporting the most unusual transactions to the FIU. This, among other things, is due to the fact that this sector has the most reporting indicators, especially objective indicators.

## Reports per sector

	<u>Sector</u>	2014		2013		2012	
		UTRs	ANG	UTRs	ANG	UTRs	ANG
Financial sector	GB (General Banks)	4761	789,908,362.00	4080	388,810,951.00	5375	570,105,388.00
	CB (Central Bank)	0	-	0	-	0	-
	MR (Money Remitters)	2189	15,033,945.00	2534	17,604,109.00	3479	22,228,483.00
	CC (Credit Card transactions banks)	333	7,056,847.00	330	4,427,049.00	381	4,616,818.00
DNFBP	LI (Life Insurance)	0		1	228,737.00	6	378,005.00
	TM (Trusts)	106	31,827,990.00	52	3,836,811.00	27	5,240,773.00
	LA (Lawyers)	2	238,526.00	1	1,613,700.00	3	715,725.00
	NO (Notaries)	0		0	-	0	-
	JW (Jewelers)	0		0	-	2	52,740.00
	AC (Accountants)	0		0	-	0	-
	CD (Car dealers)	11	432,675.00	17	910,525.00	1	60,840.00
	AO (Administration Offices)	0		0	-	0	-
	Real Estate agents	1		0	-	0	
	TA (Tax Advisors)	0		0	-	0	-
	CA (Casinos)	7	1,596,643.00	11	743,745.00	18	1,082,388.00
	CU (Customs)	505	3,035,919,643.00	143	155,689,102.00	483	466,921,989.00
	Total all sectors	7915	3,882,014,631.00	7169	573,864,729.00	9775	1,071,403,149.00

Table 1. Total of UTRs per year per sector

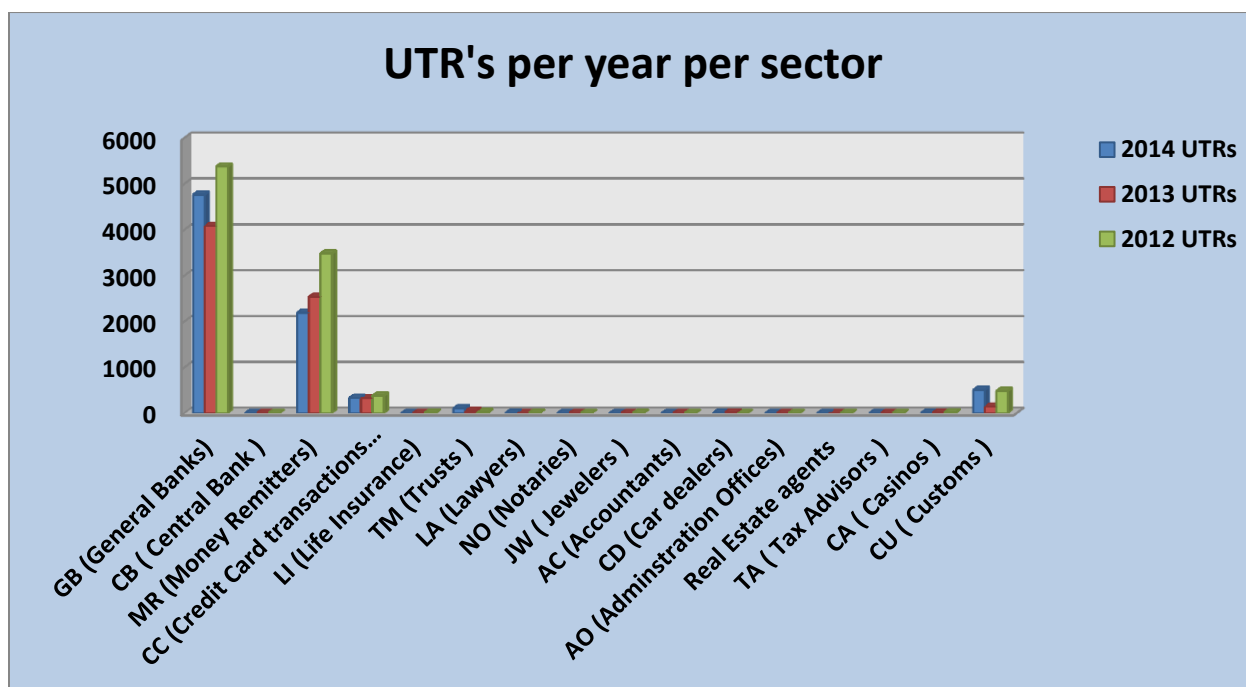


Figure 4. Total of UTRs per sector

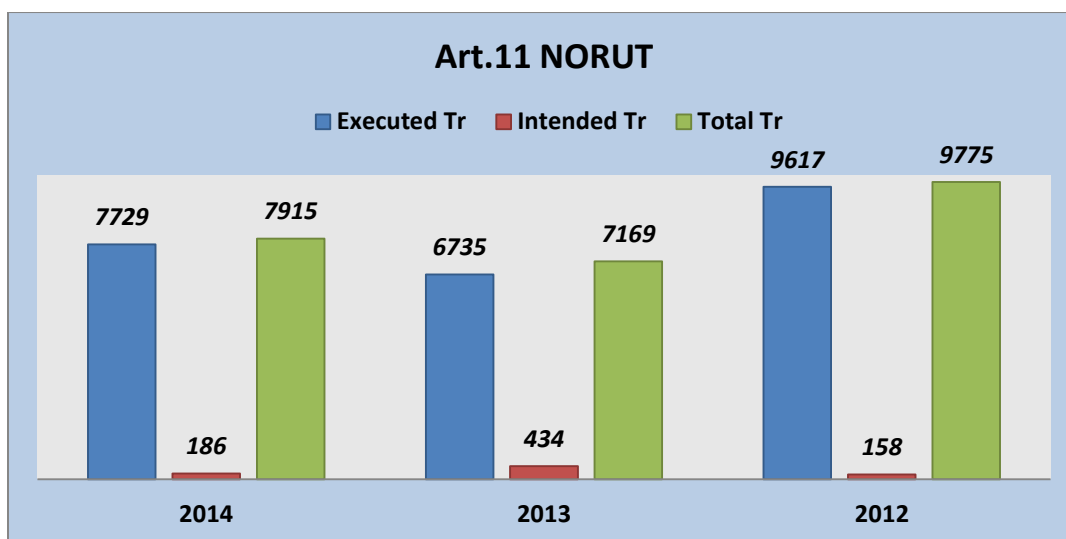
### 2.1.2. Intended and Executed Transactions.

During the provision of the requested service, a client may decide, for whatever reason, to discontinue the transaction. This can be because the client just changed his mind, and/or did not like all the questions being asked, etc. In that case even though the transaction was not executed, this is considered an intended transaction and the reporting entity is then obliged by law to report these intended transactions to the FIU. These intended transactions are important in investigations done by the FIU. In the following table an idea is given of the relation between the intended and executed transactions.

### Art.11 NORUT

	Number		Number		Number	
	2014	Value Ang	2013	Value Ang	2012	Value Ang
Executed Tr	7729	3,833,803,700.00	6735	569,105,073.00	9617	1,069,764,439.00
Intended Tr	186	48,210,931.00	434	4,759,656.00	158	1,638,710.00
Total Tr	7915	3,882,014,631.00	7169	573,864,729.00	9775	1,071,403,149.00

Table 2. Total Executed and Intended transactions



**Figure 5. Total Executed and Intended transactions**

### 2.1.3. Indicators

When reporting unusual transactions to the FIU, the reporting entities make use of indicators. Indicators have been established to make the term “unusual transaction” workable, manageable, or operational. The term “unusual transaction” is a legal term and may sometimes differ from what is known as “unusual” in the spoken language.

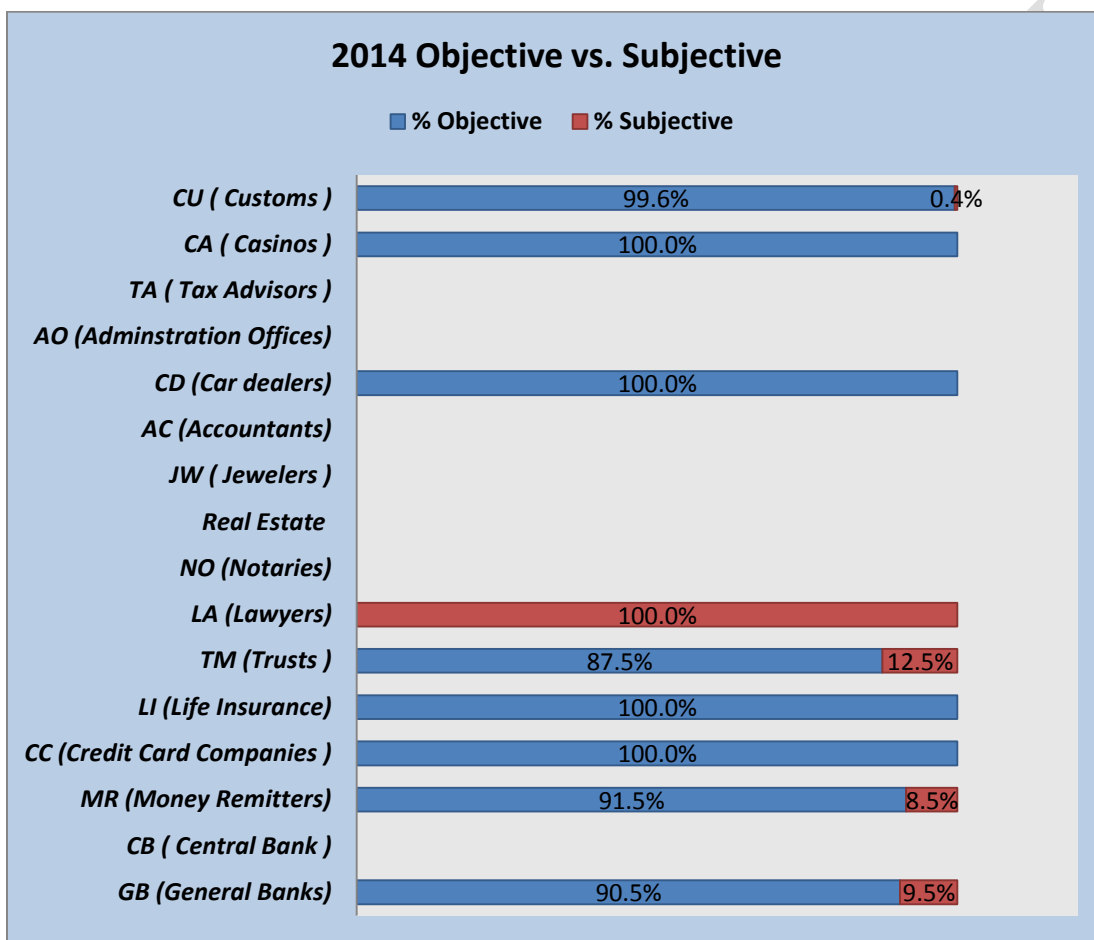
Indicators come in two sorts: the objective indicators and the subjective indicators. The objective indicators state explicitly when a reporting entity should send a report to the FIU. Everyone, whoever that person might be and whatever function they might have, who executes a transaction, which falls under an objective indicator, will be reported to the FIU. This does not mean that the client has now become a criminal. It only means that for the law an unusual transaction has been executed. Together with other information, from local and/or international sources, these objective reports might lead to a suspicion of money laundering and/or terrorism financing or not. If there is a suspicion, the FIU will disseminate them to the PPO. If there is no suspicion, then they will remain for at least five (5) years in the database of the FIU, after which they will be removed and destroyed.

When on the other hand, a reporting entity reports to the FIU, making use of a subjective indicator, this means that for the reporting entity there is a suspicion of money laundering and/or terrorism financing. This might be based on the specific situation of the client, the attitude of the client, whether client is trying to avoid being reported, etc.

In these so called subjective reports, the reporting entity should elaborate over the reason of its suspicion. If after analysis, there is also a suspicion of money laundering and/or terrorism financing for the FIU, the transactions will be sent to the PPO. These subjective reports are very important for the analytical work of the FIU. They are based on the suspicion of money laundering/terrorism financing. In this reporting period 96% of the

reports received were based on an objective indicator. The FIU will continue to stress the importance of reporting subjectively.<sup>2</sup>

The following diagram shows the percentage of objective vs. subjective indicators, where it can be seen that work needs to be done in training the reporting entities to report more using the subjective indicators.



**Figure 6. Objective vs Subjective reports in % of 2014**

<sup>2</sup> The indicators list can be viewed on the website of the FIU: [www.fiu-sxm.net](http://www.fiu-sxm.net)



## 2.2. Suspicious Transactions

In 2014 after analysis by the Analyst Department of the FIU, 844 transactions were disseminated to the PPO, as transactions having a reasonable suspicion of being involved with money laundering and/or terrorism financing. This is a decrease of 59.2% compared to the previous year. At the FIU, these transactions are indicated as suspicious transactions. The FIU of Sint Maarten, being an administrative FIU and as such a buffer between the LEA/PPO and the reporting entities, pursuant to article 5 of the NORUT, may only disseminate transactions for which the FIU has a reasonable suspicion of money laundering and/or terrorism financing

The following table and graph show the relation between the unusual transactions and the suspicious transactions, which have been disseminated to the PPO in the respective reporting periods.

### Total unusual transactions vs suspicious transactions all sectors

Year	UTR per year	STR per year	Value UTR ANG	Value STR ANG
2014	7915	844	3,882,014,631.00	430,679,644.00
2013	7169	2068	573,864,729.00	239,183,741.00
2012	9775	3949	1,071,403,149.00	424,867,287.00

Table 3. UTRs vs. STRs

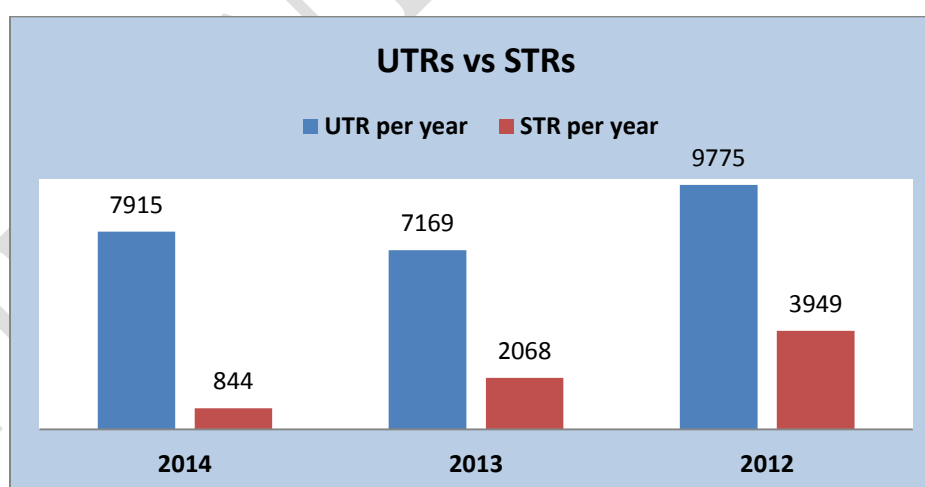
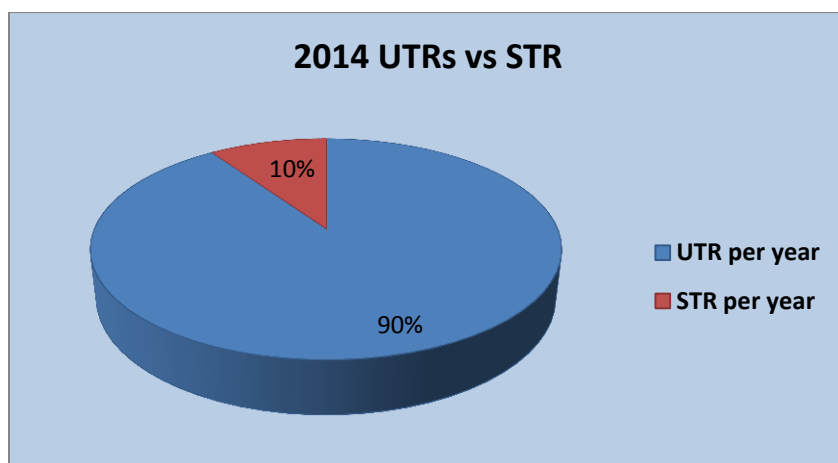


Figure 7. UTRs vs. STRs



**Figure 8. UTRs vs. STRs in 2014**

Transactions which are received at the FIU are analyzed to check whether these transactions have a suspicion of money laundering/terrorism financing.

After analysis the transactions which gave rise to a suspicion of money laundering/terrorism financing, are disseminated to the PPO. The other transactions remain in the database for at least five years for ongoing analytical work.

The following table gives an indication of the actions taken on the UTRs received in this reporting period.

<u>Received</u>	<u>Feedback on reports to Rep. Entities</u>	<u>Transactions with no suspicion ML/TF after analysis</u>	<u>Ongoing Analysis</u>	<u>Disseminated to PPO</u>	<u>Disseminated to other FIU's</u>
7915	7915	2900	4171	844	90

**Table 4. Table of actions taken on UTRs in 2014**

## 2.3. Financial Reporting Entities

### 2.3.1. Banks

The bank sector reports the majority of the unusual transactions to the FIU. A reason can be the many objective indicators which have been stipulated for banks. The FIU received 4761 reports of unusual transactions from the local banks. This is excluding 333 credit card transactions which were also reported by banks. Compared to the previous reporting period, the reports received from banks increased with 16.7 %

General Banks		
Number of UTRs reports		
Year	UTRs reports Banks	ANG
2014	4761	789,908,362.00
2013	4080	388,810,951.00
2012	5375	570,105,388.00

Table 5. UTRs General Banks

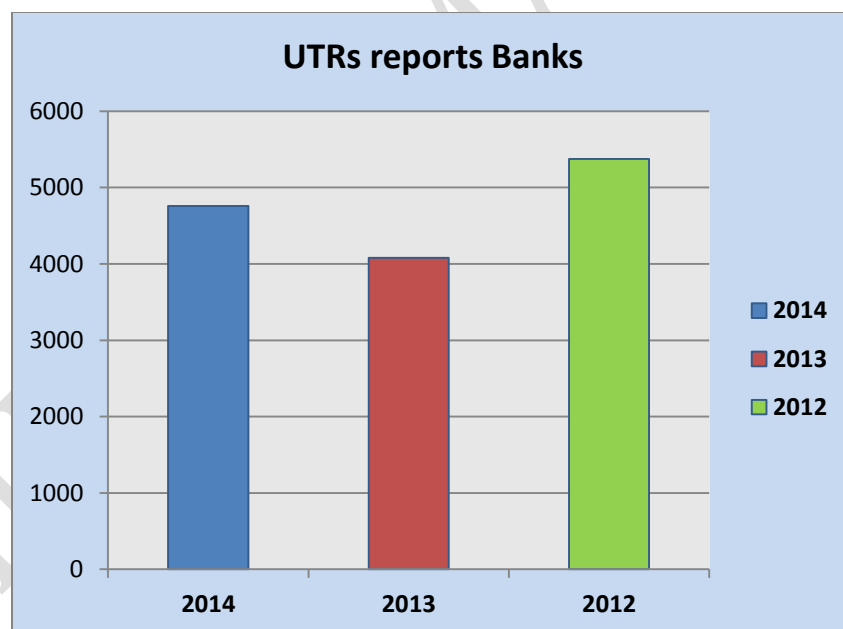


Figure 9. UTRs on General Banks

### 2.3.2. Money Remitters

The second largest reporting group this year is the money remitting sector. From this sector 2189 unusual transaction reports were received in this reporting period. Compared to the previous reporting period in which 2534 unusual transaction reports were received, this indicates a decrease of 13.6% in the reports of this sector.

#### Money Remitters

##### Number of UTRs reports

Year	UTRs Money Remitters	ANG
2014	2189	15,033,945.00
2013	2534	17,604,109.00
2012	3479	22,228,483.00

Table 6. UTRs money remitters

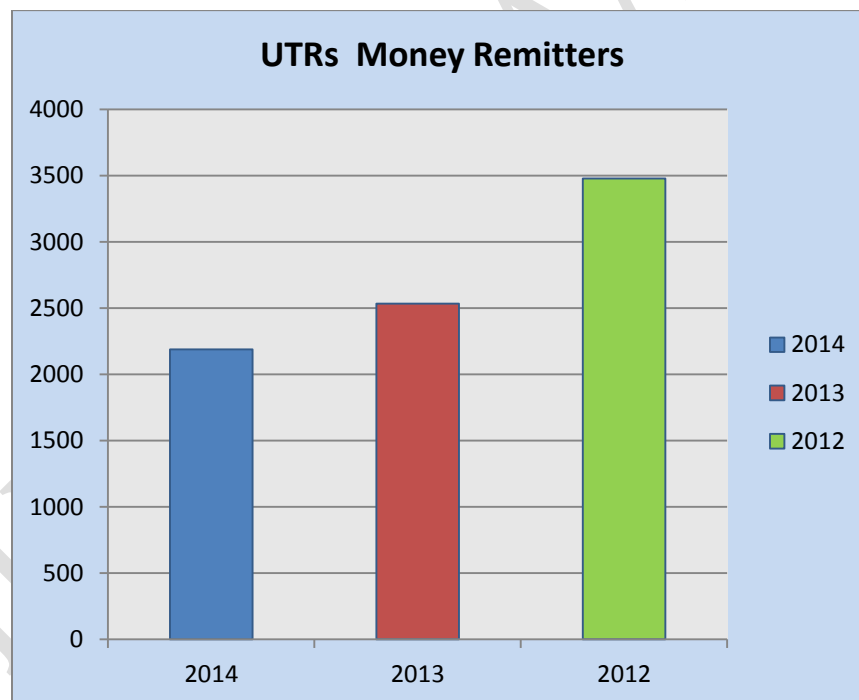


Figure 10. UTRs of Money Remitters

### 2.3.3. Credit Card Companies and Credit Institutions

With regard to credit card transactions the FIU received 333 transactions from banks. This is an increase of 3 reports, being 1% compared to 2013.

Number of UTRs reports		
Year	UTRs Credit card Companies	ANG
2014	333	7,056,847.00
2013	330	4,427,049.00
2012	381	4,616,818.00

Table 7. UTRs Credit Card transactions

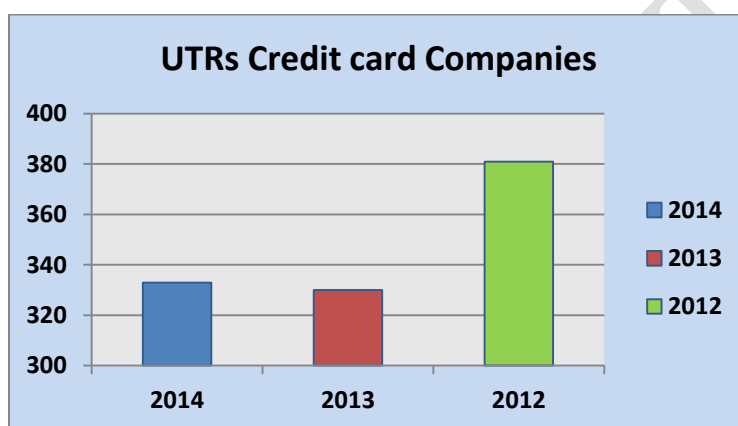


Figure 11. UTRs of Credit Cards

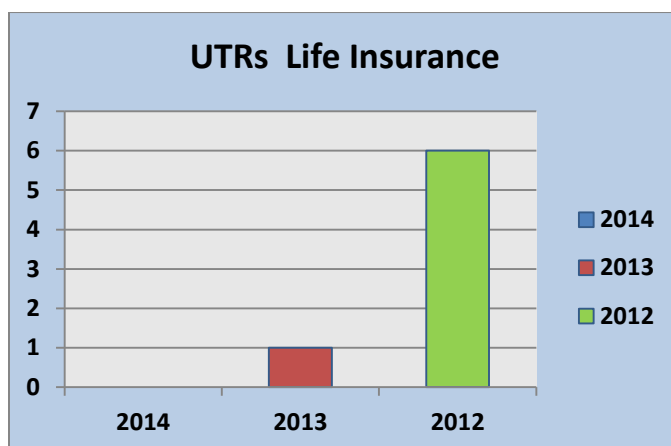
### 2.3.4 Life Insurance Companies

There are 11 life insurance companies and life insurance brokers registered at the FIU. While the life insurance sector reported 1 unusual transaction in 2013, this reporting year this sector sent zero reports to the FIU. The FIU has also contacted the Central Bank (being the supervisory authority of this sector) with regard to this issue.

The FIU has met with the Central Bank, among other things regarding the reporting behavior of this sector and is also in talks with the Public Prosecutor's Office regarding possible legal sanctions against all reporting entities that do not comply with their legal obligation to report to the FIU.

Number of UTRs reports		
Year	UTRs Life Insurance	ANG
2014	0	-
2013	1	228,737.00
2012	6	378,005.00

Table 8. UTRs Life Insurance



**Figure 12. UTRs of Life Insurance Companies**

## 2.4. Designated Non-Financial Businesses and Professions (DNFBP)

The group of DNFBP in Sint Maarten comprises: lawyers, real estate agents, notaries and candidate notaries, tax advisors, accountants, administration offices, jewelers and car dealers.

Officially Trust companies and Casinos also are indicated as DNFBP. However, the trust companies fall under the supervisory authority of the Central Bank of Curacao and Sint Maarten while the casinos have no anti-money laundering/terrorism financing supervisory authority at the moment. This was an issue that the CFATF evaluators negatively evaluated.

By law, the FIU has the authority to give instructions to the DNFBP with regard to issues of their obligations under the NORUT and the NOIS and audit their compliance with the aforementioned laws.

In 2014, the FIU received 127 UTRs from the DNFBP with a value of ANG. 34,095,834.00 divided over: the lawyers' sector, the car dealers, real estate sector, the trust sector and the casino sector. Most reports were received from the Trust sector, being 106 reports with a value of ANG. 31,827,990.00. In the previous reporting period the Trust sector reported a number of 34 unusual transactions to the FIU.

No reports of unusual transactions were received from: notaries, accountants, tax advisors, jewelers and the administration offices. As will be seen in a later chapter, the FIU has organized meetings with the PPO in order to stipulate the procedure for sanctioning non-compliant reporting entities. The FIU has contacted all DNFBP with regard to their legal obligations under the anti-money laundering and terrorism financing legislation of Sint Maarten. In the letter they received they were informed that noncompliance with the National Ordinance Reporting Unusual Transactions can be considered a criminal act, punishable with up to 4 years' imprisonment and/or ANG. 500,000 in administrative fines.



## Reports per sector DNFBP

<u>Sector</u>	2014 UTR		2013 UTR	ANG	2012 UTR	ANG
LA (Lawyers)	2	238,526.00	1	1,613,700.00	3	715,725.00
NO (Notaries)						-
JW (Jewelers)					2	52,740.00
AC (Accountants)						-
CD (Car dealers)	11	432,675.00	17	910,525.00	1	60,840.00
Real Estate agents	1	-				-
AO (Administration Offices)						-
TA (Tax Advisors)						-
TM (Trusts)	106	31,827,990.00	34	2,646,735.00	27	5,240,773.00
CA (Casinos)	7	1,596,643.00	11	743,745.00	18	1,082,388.00
Total all sectors	127	34,095,834.00	63	5,914,705.00	51	7,152,466.00

Table 9. UTRs DNFBP

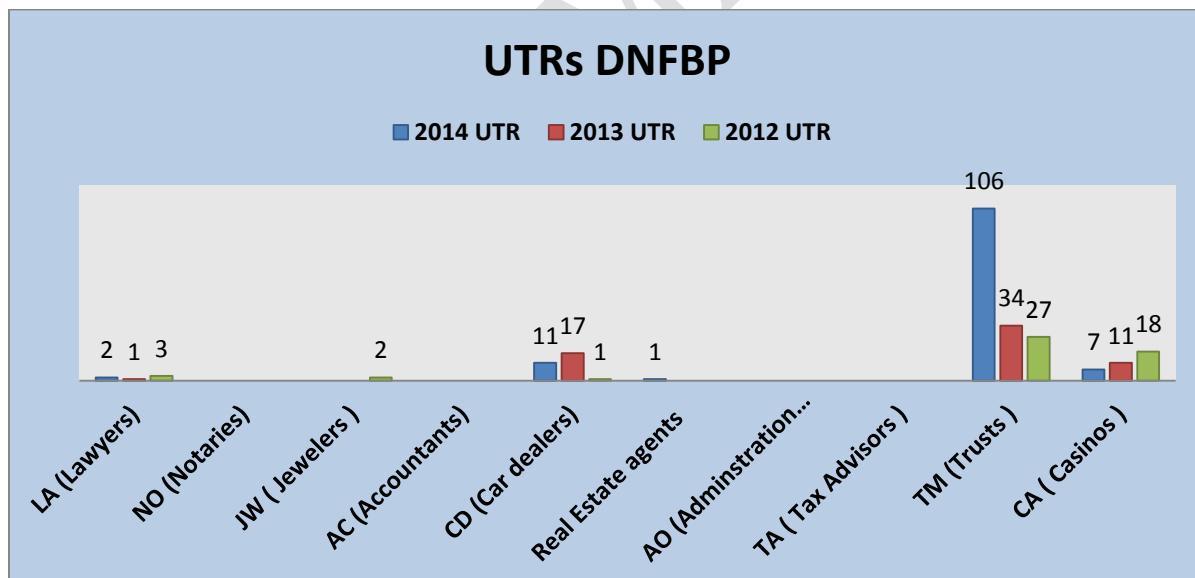


Figure 13. UTRs DNFBP

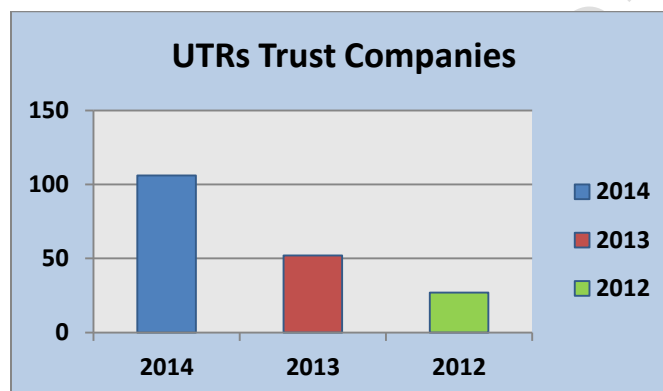
### 2.4.1. Trust Companies

During this reporting period 106 reports of unusual transactions have been received from the Trust sector of Sint Maarten. An increase of 54 reports compared to last year.

**Number of UTRs reports**

Year	UTRs Trust Companies	ANG
2014	106	31,827,990.00
2013	52	3,836,811.00
2012	27	5,240,773.00

**Table 10. UTRs Trust Companies**



**Figure 14. UTRs of Trust Companies**

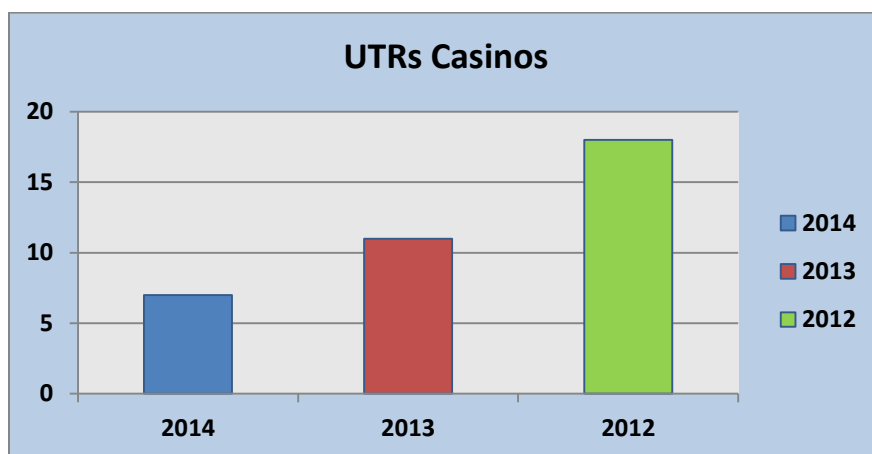
### 2.4.2. Casinos

The casino sector reported 7 transactions as unusual transactions with a value of ANG. 1,596,643.00 to the FIU during this reporting period. This is a decrease in reports, compared to 11 reports sent in the previous reporting period. These 7 reports originated from one casino. There are 14 casinos (stand alone and hotel based) in Sint Maarten. The FIU is planning informative/training sessions for casinos where among other things their non-compliance with the law will pass the revue.

**Number of UTRs reports**

Year	UTRs Casinos	ANG
2014	7	1,596,643.00
2013	11	743,745.00
2012	18	1,082,388.00

**Table 11. UTRs Casinos**



**Figure 15. UTRs of Casinos**

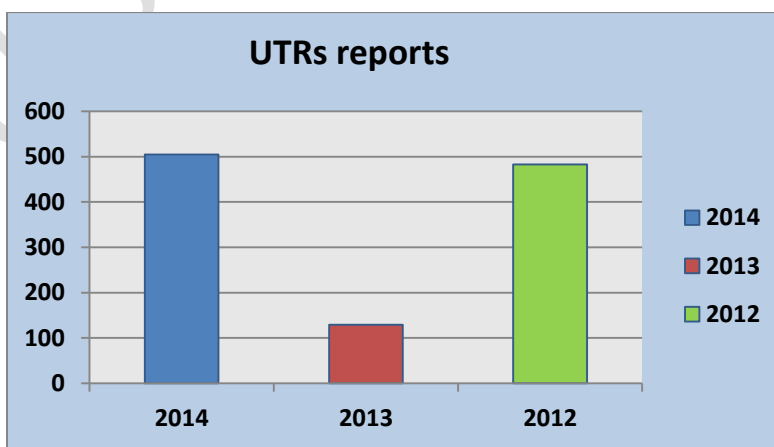
### 2.4.3 Customs

Customs sent 505 reports of persons travelling (entering or leaving Sint Maarten via plane or boat) with an amount equal to or more than ANG. 20,000. This is a increase from last year when 129 reports were sent to the FIU by Customs. The value of the reports sent amounted to ANG. 3,035,919,643.00. This amount is based on huge transports of money by several Money Transporting Companies including a backlog of reports of the year before.

**Number of UTRs reports**

Year	UTRs reports	ANG
2014	505	3,035,919,643.00
2013	129	143,715,291.00
2012	483	466,921,989.00

**Table 12. UTRs Customs**



**Figure 16. UTRs on Customs**

## 2.5. Feedback to Reporting Entities

The FIU gives feedback to all reporting entities that have sent reports of unusual transactions to the FIU. This feedback can be categorized in the following areas:

- Feedback with regard to compliance with the correct way of reporting. The FIU assists the reporting entities in improving the quality of their submitted reports and at the same time their compliance with their regulatory obligations. The reporting entities are notified if their submitted reports include deficiencies which need to be corrected. After the necessary corrections have been executed, the respective reporting entity will receive a confirmation letter indicating that their submitted reports were received by the FIU.
- Feedback by making available its annual reports with statistics and ML/TF cases and Typologies
- Feedback by organizing informative sessions for the reporting entities.
- Feedback with regard to transactions which have been disseminated to the PPO.
- Feedback to reporting entities also include notification of important events on the website of the FIU.

In the reporting period under review, all reporting entities received their letters of confirmation regarding their submitted reports. With regard to deficiencies in the submitted reports, letters requesting the reports to be corrected were sent to the reporting entities.

During this reporting period, 2068 transactions, with a value of ANG. 573,864,729.00 were disseminated to the PPO. The respective reporting entities were also given feedback and informed of this fact.

## 2.6. Article 12 Requests for Additional Information

Pursuant to article 12 of the NORUT all reporting entities are obliged to furnish additional information upon request of the FIU.

This article makes it possible for the FIU to request further information or data from the reporting entities who have made a report, in order to assess whether data or information collected by the FIU is of interest for the performance of its duties with regard to the dissemination of information to the PPO and/or other FIUs.

The reporting entity which has received a request for additional information from the FIU is required by law to provide these to the FIU, in writing or orally - in cases considered urgent in the opinion of the FIU – within the time period indicated by the FIU.

In the year 2014 a number of 32 requests for additional information were sent to reporting entities. Most requests were sent to the banks, followed by the money remitting sector, car dealers, trust offices and casinos.

## Art.12 NORUT requests sent to sectors

### Sector

	2014	2013	2012
LA (Lawyers)		1	
Banks	14	54	38
JW (Jewelers)			1
CU (Customs)			
CD (Car dealers)	4		
Real Estate agents			
Money-Remitters	4	7	10
Life Insurance Companies			
TM (Trusts)	3		1
CA (Casinos)	7		
<b>Total all sectors</b>	<b>32</b>	<b>62</b>	<b>50</b>

Table 13. Art 12 Requests to the respective sectors

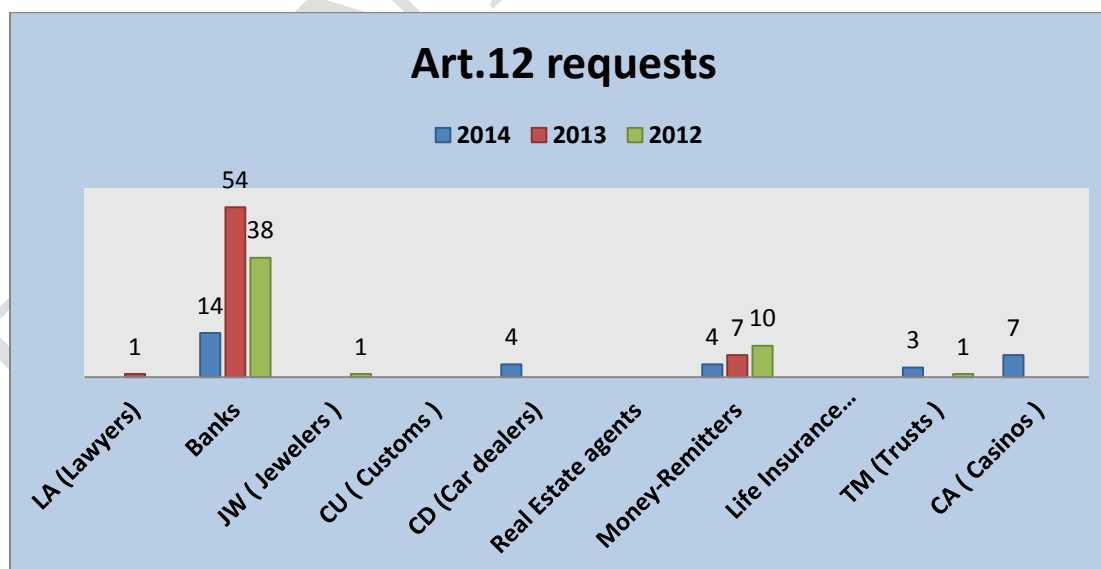


Figure 17. Art12 Requests to the respective sectors

### 3. ANALYSIS OF UNUSUAL TRANSACTIONS RECEIVED

The Analyst department of FIU Sint Maarten in 2014 comprised 2 tactical and operational analysts responsible for registering, processing and analyzing the information received, either through unusual transaction reports made by the reporting entities subject to the NORUT, or through information sharing with other national supervisory authorities or foreign counterpart FIUs.

#### 3.1. Receipt of UTRs

Reporting can be sent to the FIU manually (must be delivered in person) or by using the SERT (Sint Maarten Electronic Reporting Tool) Portal. The SERT Portal is a web application which allows users (the reporting entities) to easily and securely report unusual transactions via a regular web browser with an internet connection.

All reporting entities are required to register with the FIU; their business and the person or persons responsible for reporting to the FIU. Upon receipt of the respective form, unique login credentials are created for the reporting/compliance officer(s) at the reporting entity.

The reporting entities report through SERT Portal and receive a letter of confirmation (feedback) that the specific transactions were received by the FIU.

SERT Portal is highly secured. The portal utilizes a two factor authentication with Virtual Tokens and the transmission is protected through an encrypted certificate.

If reports are sent manually, these have to be delivered in person to the FIU.

##### 3.1.1. Analysis

The FIU received 7915 reports of unusual transactions in 2014. All reports received are checked to verify whether the report has been correctly completed. If that is the case the FIU forwards a letter of confirmation to the respective reporting entity.

If a report was not completed correctly, the analysts contact the respective compliance officer to correct the report.

Analysis of these transactions take place among other by reviewing the so called “alerts” which are sent out daily by the reporting system, by reviewing reports based on subjective indicators, based on information received from LEA and/or the PPO, from information received from foreign FIUs and via own investigations of the FIU, making use of queries into the database where certain terms such as money laundering, terrorism financing, criminal, fraud, corruption, etc. are used. Also by reviewing reports based on objective indicators of subjects which have been reported previously to the PPO.



## 3.2. Methods and Trends (Typologies)

The method and trend analysis is based firstly on the transactions disseminated to the judicial authorities in this reporting year and secondly on the receipt of suspicious transactions reports from the reporting entities. After analysis these transactions gave rise to suspicion of money laundering/terrorism financing. This is a prerequisite for disseminating transactions to the PPO and/or LEA.

In 2014 a number of 844 of the afore-mentioned suspicious transactions were disseminated to the PPO. Review of these disseminated transactions shows that the methods used for possible money laundering included: tax evasion, skimming ATM machines, human trafficking and drugs trade.

## 3.3 Trends

Reporting entities report threshold transactions and transactions based on the so called 211 indicators, which are the real suspicious transactions. Over the year the following could be seen with regard to these reports of suspicious transactions.

Most reports of suspicious transactions came from Banks, Money remitting companies and to a lesser extent from credit card transactions. The banks over the last 3 years reported suspicious transactions regarding investigations of LEA into ML, fraud and other illegal activities.

The money remitting sector reported suspicious transactions regarding the use of laymen, clients not wanting to disclose the source of funds and disparities between the monies sent and clients' occupation. Not wanting to disclose the source of funds and identification problems seem to be the red thread in these suspicious transactions.

Reporting Entity	Suspicious transactions 2014	Suspicious transactions 2013	Suspicious transactions 2012
Banks	- Large scale Investigations into fraud, ML, tax evasion	- Large scale Investigations into fraud, ML, tax evasion	- Large scale Investigations into fraud, ML, tax evasion
Money Remitters	- Problems with identification - Non completion of source of funds - Occupation client doesn't coincide with activity - Use of laymen	- High amount of cash suspicious. - ID problems - Use of laymen - Not wanting to fill in source of funds	- Clients acting as laymen - Not completing source of funds - Monies sent to suspicious countries - Monies sent to different cities.

**Table 14. Trends suspicious transactions reports**

### 3.4 Own Investigations

The trend analysis is based on the files disseminate to the judicial authorities in 2014. In this reporting year the analyst department of the FIU executed 21 own investigations into money laundering/terrorism financing. Of these investigations 14 investigations resulted in a suspicion of money laundering/terrorism financing for the FIU and were disseminated to the PPO. A number of 237 transactions were involved in these investigations while the amount involved was ANG. 12,862,232.00 The following paragraph will contain some of the cases the FIU worked on in 2014. Due to the smallness of the islands, all cases have been anonymized and somewhat amended to avoid recognition.

### 3.5 Cases

#### **Case 1: Multiple companies**

Businessman X, with double nationality (American and Colombian) has many contacts on the island. Always to be seen the company of government figures. He has established 6 legal entities on Sint Maarten and one in the Cayman Islands. The main objective of one of his Sint Maarten businesses is the sale of vehicles. Two others are involved in building projects. On a regular basis money is being sent to the Cayman Islands, to the USA and to Colombia. To different addressees with no business links to X and the money comes from a savings account with no links to the business accounts of X.

Analyses in the database of the FIU showed several reports from 4 banks and a money remitter. Money was being sent on a regular basis to Colombia and certain American cities. The reports were of several money deposits each time of more than US\$20,000 and regular wire transfers to Colombia of US\$3,000.

When executing the different transactions, X uses 5 different identification documents: a Sint Maarten driver's license, a Sint Maarten ID, an American passport, a Colombian passport and an American ID.

One day the FIU receives reports of suspicious transactions from banks, whereby all income from one of the construction businesses is transferred on a non-resident bank account of the business in the Cayman Islands with no links with the businesses in Sint Maarten.

#### **Typologies:**

- Potential money laundering via Trade Based Money laundering making use of shell companies
- Potential money laundering via wire transfers to third party accounts
- Potential money laundering via tax evasion

- Potential money laundering via money deposits on third party accounts
- Potential money laundering by establishing legal entities in several jurisdictions.

**Indicators:**

- ✓ Use of 5 different identification documents.
- ✓ Wire transfers to persons with no apparent links to business.
- ✓ Frequent deposits on accounts of third parties with no links with businesses.

**Case 2: The wire transfer merry go round**

Subject Y, European nationality and residing on the French part of Sint Maarten opens a non-resident bank account on Dutch Sint Maarten. The bank reports many transactions to the non-resident account regarding deposits of money and cheques. Even though Y has opened a non-resident account, there is no link or tie between Y and Dutch Sint Maarten, a prerequisite when opening a non-resident bank account.

The FIU requests information from a colleague FIU and is informed that subject Y had been a managing director in a company based in a European country. He had been fired because of alleged corruption and money laundering. He had not been prosecuted in court.

More reports were received by banks regarding huge amounts being wire transferred from the afore-mentioned European country. Several transactions were also reported of many transactions of subject and his wife to 5 other Caribbean islands with which there was no commercial link. These transactions averaged US\$300,000 per transaction and totaled approximately US\$2,500,000.

**Typologies:**

- Potential money laundering by making use of the banking system
- Potential money laundering by transferring money to countries with no commercial links

**Indicators:**

- ✓ Large deposits and wire transfers with no links to commercial activity.
- ✓ Large wire transfers without link to commercial activity to several other Caribbean islands.
- ✓ Alleged corruption and money laundering and his dismissal as managing director.

### **Case 3: The convict**

The FIU received reports from banks and from a car dealer with regard to a local subject with unusual transactions. These transactions were deposits of more than US\$ 15,000 per transaction. As source of the funds subject indicated work in construction, however when asked, could not supply the name and address of the respective company. The subject and his partner also bought a couple of cars paying cash amounts of US\$80,000 and US\$ 40,000. Subject did not want to divulge what the source of the funds was. Thereafter subject indicated that the money was from relatives in a nearby Caribbean country. The FIU contacted its colleague in the nearby Caribbean country and was informed that it was highly improbable that the respective family member could have sent those amounts of money because their income could not support that.

Information of the police indicated that subject had been involved in several illegal activities in the past and even had been convicted.

#### **Typologies:**

- Potential money laundering via deposits using bank system
- Potential money laundering via use of shell company
- Potential money laundering via trade in cars

#### **Indicators:**

- ✓ Cash amounts whereby the source of funds would not be divulged freely.
- ✓ Possible incorrect information re source of funds.
- ✓ Subject did not know name and address of his own company.
- ✓ Conviction of subject for criminal activities.

**NOTE: Due to Sint Maarten being a small community, the above-mentioned cases have all been duly sanitized.**

## 4. DISSEMINATION OF INFORMATION TO THE PPO AND NATIONAL AND INTERNATIONAL REQUESTS FOR INFORMATION.

One of the objectives of the analysis of the unusual transactions received by the FIU is to reach a conclusion of whether the analysis leads to a reasonable suspicion of ML/TF. After reaching that conclusion, these then suspicious transactions are disseminated to the PPO. The suspicious transactions of the different reporting entities altogether that were disseminated to the PPO are indicated in the following table.

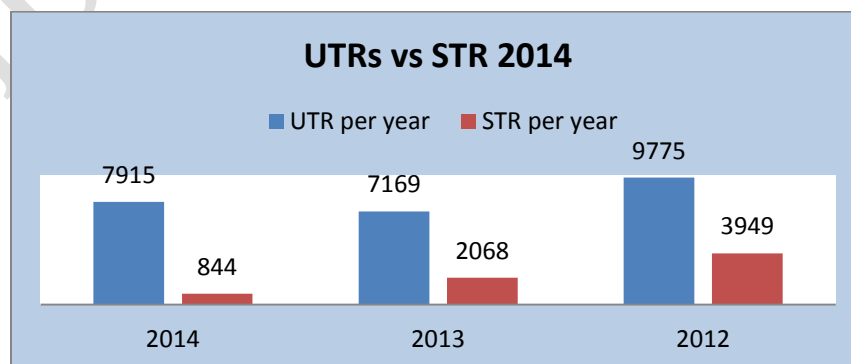
The PPO is at the head of all criminal investigations. That is why previously it was agreed with the PPO that the requests for information from the different law enforcement agencies, are sent to the FIU, via the PPO. This year in 2014, the PPO in a meeting with the FIU, requested the FIU to send all requests for information and disseminations directly to the law enforcement agencies concerned, copying the PPO.

Of the 7915 transactions received by the FIU in this reporting year, 844 transactions were disseminated to the PPO. The afore-mentioned suspicious transactions included 4 transactions regarding the DNFBP sector. The decrease in number of transactions disseminated to the PPO in 2014, compared with the year 2013, had to do with different reasons. Firstly, the follow up work the FIU needed to do with regard to the CFATF evaluation demanded a lot of the FIU staff. Secondly the requests for information received from the PPO, regarded less transactions and finally the own investigations that the FIU performed in 2014 also regarded cases with less unusual transactions.

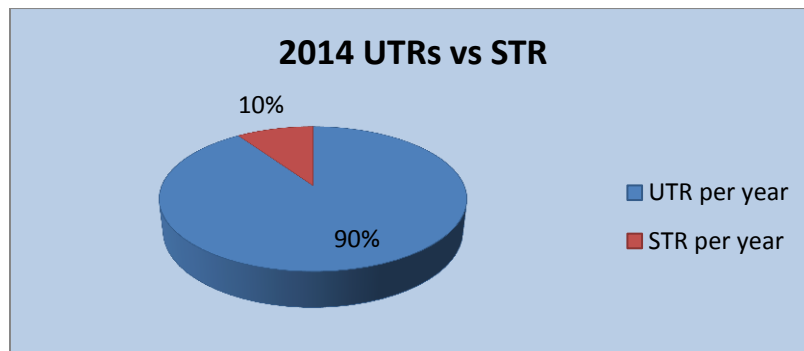
**Total unusual transactions vs suspicious transactions**

Year	UTR per year	STR per year	Value UTR ANG	Value STR ANG
2014	7915	844	3,882,014,631.00	430,679,644.00
2013	7169	2068	573,864,729.00	239,183,741.00
2012	9775	3949	1,071,403,149.00	424,867,287.00

**Table 15. UTRs vs. STRs**



**Figure 18. UTRs vs. STRs per Actions taken of UTRs**



**Figure 19.UTRs vs. STRs**

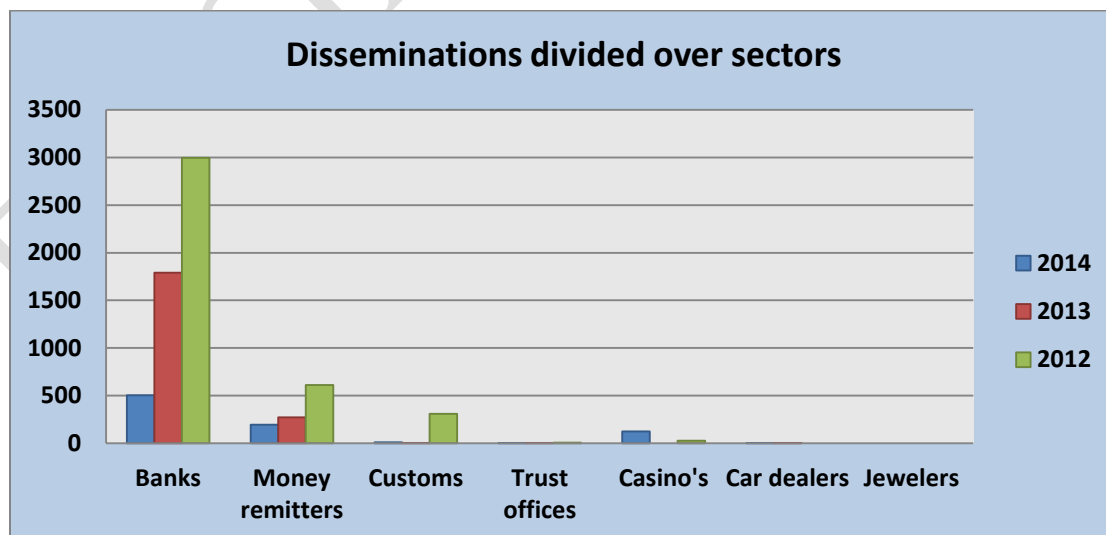
The following tables give an indication of the disseminated transactions divided over the several sectors.

### Disseminations divided over sectors

#### Sectors

	2014	2013	2012
Banks	504	1789	2996
Money remitters	194	271	610
Customs	11	4	308
Trust offices	5	1	8
Casino's	126	0	27
Car dealers	4	3	0
Jewelers	0	0	0
<b>Total all sectors</b>	<b>844</b>	<b>2068</b>	<b>3949</b>

**Table 16.Disseminations over the different sectors**



**Figure 20. Disseminations over the different sectors**

The disseminated transactions underwent a large decrease since 2012. This can be explained by among other things the requests for information received from LEA, which were positively (transactions were disseminated to LEA) and negatively (transactions were not disseminated to LEA) answered. Also depending on the investigation, certain requests for information generate more transactions than others.

The number of disseminated transactions also has to do with own investigations done by the FIU and the transactions these own investigations involved. Some investigations involve more transactions than others. In the following table an overview is given of the number of requests for information received from LEA and how many resulted in a positive result and a negative result.

### Art. 6 NORUT requests

Requests for information received from LEA with results

	2014	2013	2012
<i>Incoming</i>	19	18	14
<i>Positive result</i>	11	16	8
<i>Negative result</i>	8	2	6

Table 17. Art. 6 NORUT requests

The following tables indicate the STRs of the DNFBP

### Unusual transactions vs suspicious transactions DNFBP

Year	UTR per year	STR per year	Value UTR ANG	Value STR ANG
2014	127	4	34,095,834.00	171,996.00
2013	63	3	5,914,705.00	169,700.00
2012	51	27	7,152,466.00	1,895,770.00

Table 18. Unusual versus suspicious transactions

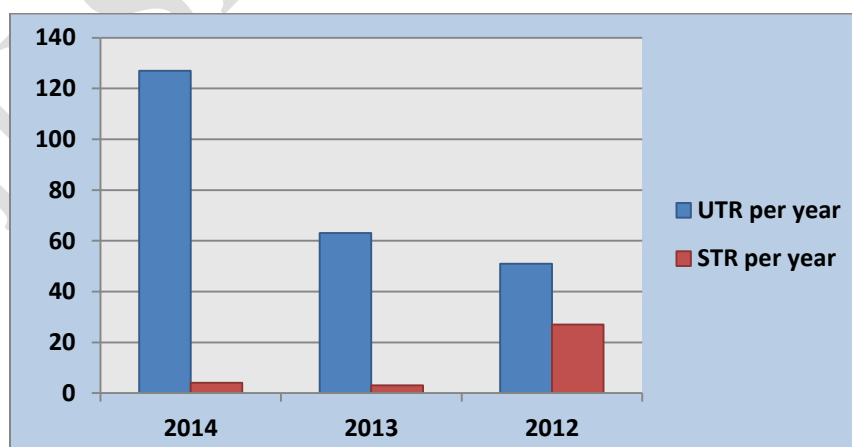


Figure 21. Unusual versus suspicious transactions DNFBP

## 4.1 National Requests for Information

Dissemination of information by the FIU takes place based on requests received from LEA (by way of the PPO); from non LEA; based on own investigations; based on update-disseminations (when certain transactions have previously been disseminated) and when a foreign FIU requests the FIU authorization to furnish the data received to their public prosecutor and/or law enforcement agencies.

During this reporting period the FIU received 19 requests for information pursuant to article 6 and 7 NORUT. These requests regarded 607 transactions with a value of ANG. 417,817,412.00. Comparison with 2013 shows that even though then the number of transactions disseminated was larger, the amount involved was much lower.

### Art.6 and 7 NORUT requests from LEA and non LEA

<u>Sector</u>	2014			2013			2012		
	UTRs		in ANG	UTRs		in ANG	UTRs		in ANG
	Req	UTRs		Req	UTRs		Req	UTRs	
Tax Office	0	0	-	0	0	-	1	51	1,982,968.00
KPSXM	11	26	270,710.00	5	30	463,073.00	6	62	463,073.00
RST	3	534	415,089,628.00	1	25	870,526.00	1	30	285,628.00
PPO	1	21	545,001.00	1	0	-	2		
Lndsrecherche	2	12	438,361.00	5	64	1,081,180.00	0	0	-
VDSXM	2	14	1,473,712.00	6	1210	84,033,350.00	4	272	5,143,302.00
<b>Total all sectors</b>	<b>19</b>	<b>607</b>	<b>417,817,412.00</b>	<b>18</b>	<b>1329</b>	<b>86,448,129.00</b>	<b>14</b>	<b>415</b>	<b>748,701.00</b>

Table 19. Requests from LEA and non LEA



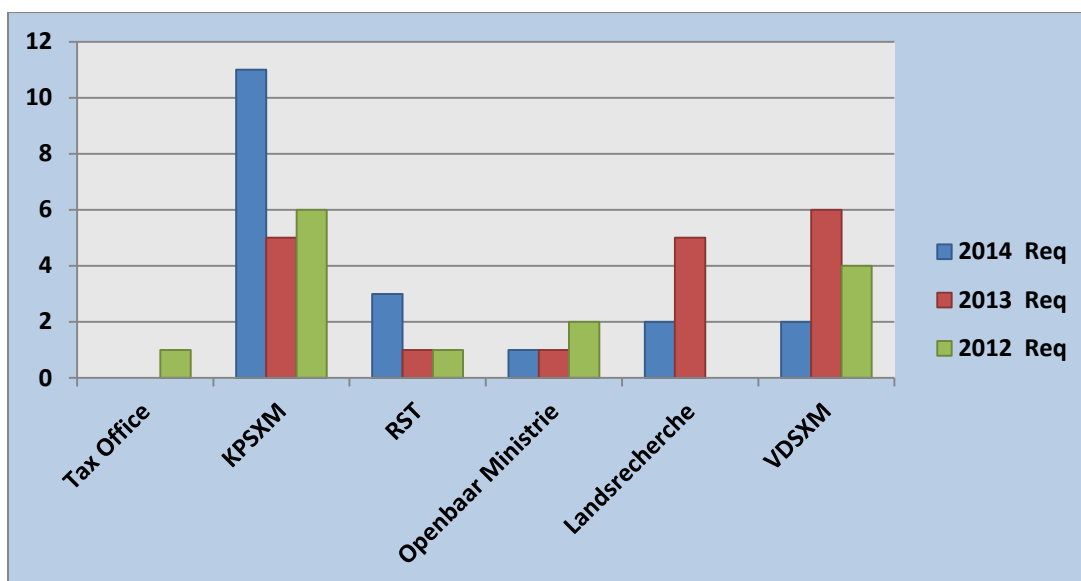


Figure 22. Requests from LEA and non LEA

## 4.2 Article 5 NORUT request from the FIU to different instances

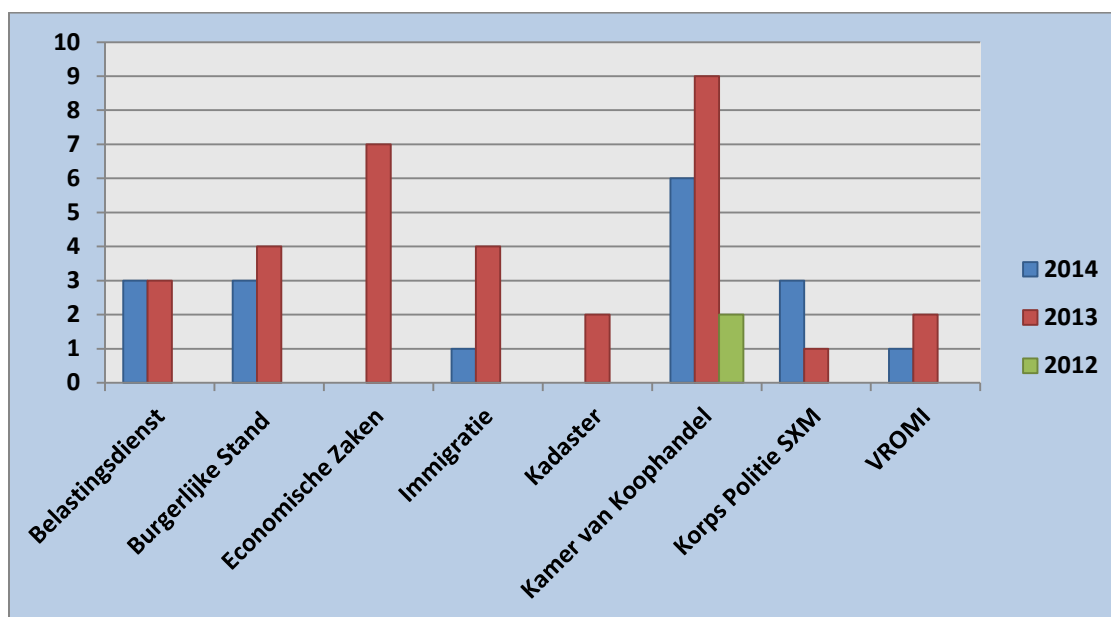
In 2014 the FIU sent out 17 requests for information with regard to its work. These requests were sent to: The Tax Office, Civil Registry, Immigration, Chamber of Commerce, law enforcement agencies and the Department of Housing, Planning and Environment. This is a decrease in requests compared to the year 2013 when 32 requests for information were sent out by the FIU.

### Art.5 NORUT requests from FIU to different instances

#### Dienst

	2014	2013	2012
Tax Office	3	3	
Civil Registry	3	4	
Economic Affairs	0	7	
Immigration	1	4	
Kadaster/Land registry	0	2	
Chamber of Commerce	6	9	2
Police Corps SXM	3	1	
VROMI	1	2	
<b>Total all sectors</b>	<b>17</b>	<b>32</b>	<b>2</b>

Table 20. Art.5 requests from FIU to different instances



**Figure 23. Art.5 requests from FIU to different instances**

## 4.3 International Requests to and from other countries

### 4.3.1. MOUs

Pursuant to the second paragraph of article 7 of the NORUT, the provision of data to authorities outside the Kingdom shall take place only on the basis of a treaty or administrative agreement, unless it is an authority recognized by the Egmont Group as a member and which, pursuant to its national legislation, is not required to conclude a written agreement for the exchange of data with other authorities recognized by the Egmont Group as members.

This year FIU Sint Maarten signed MOUs with 11 international FIUs.

MOUs were signed with the FIUs of: Taiwan, Cyprus, Guernsey, Lebanon, San Marino, Japan, Belize, Denmark, Haiti, Poland and Surinam.

### 4.3.2. International exchange of information

Thirteen (13) requests for information were received pursuant to article 7 NORUT from other Egmont FIUs and FIU Sint Maarten sent out 10 requests for information to other FIUs.

The reactions from the FIUs which were requested information, regarded information on the subjects and their business. FIU Sint Maarten did not receive transactions in these reactions.

### Incoming Art.7 NORUT Requests from other countries 2014

<u>Country</u>	Requests	UTRs	UTRs in ANG
Anguilla	4	13	1,380,747.00
Belize	1	47	2,394,399.00
Curacao	3	14	120,296.00
Frankrijk	2	6	183,717.00
Nederland	2	6	270,470.00
St. Vincent & grenadines	1	4	20,764.00
Total all sectors	13	90	4,370,393.00

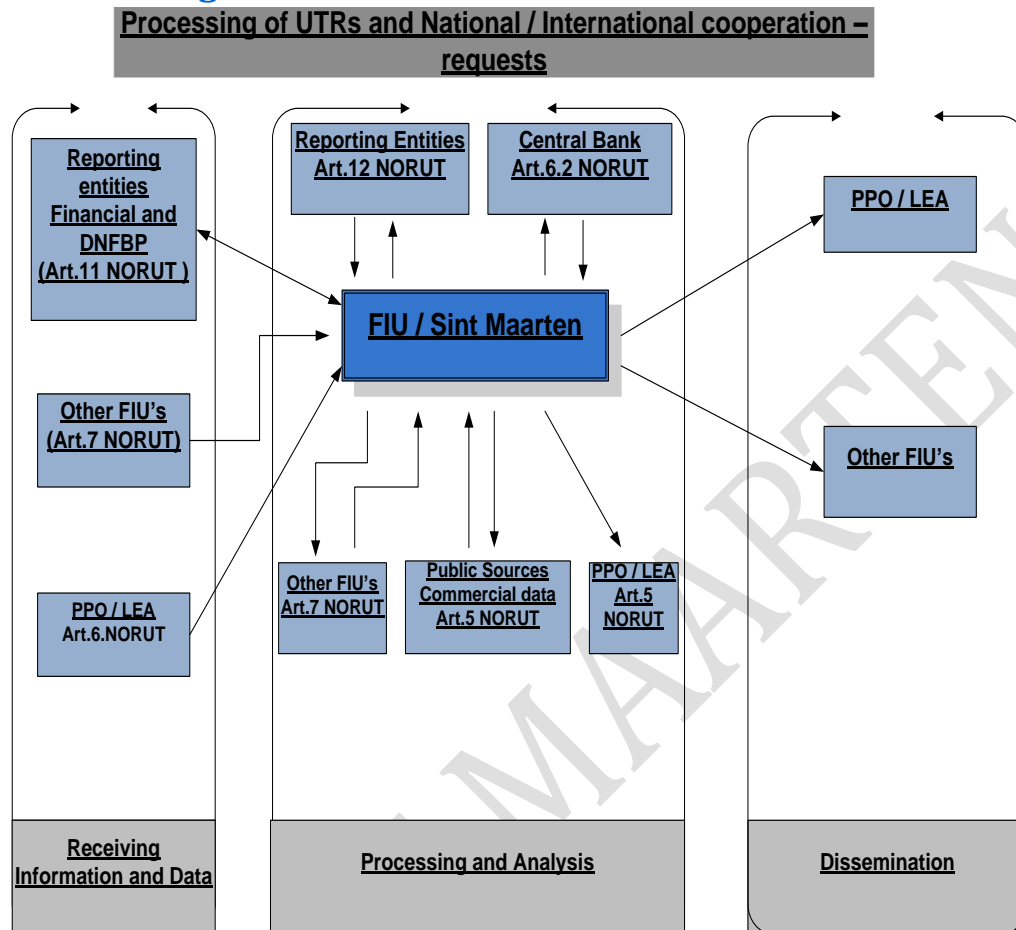
Table 21. Incoming international requests for info.

### Outgoing Art.7 Requests to other FIUs 2014

<u>Country</u>	Requests
Anguilla	1
Aruba	2
Curacao	2
Frankrijk	3
Panama	1
Verenigde Staten	1
Total all sectors	10

Table 22. Outgoing international requests

## 4.4 The Processing of UTRs and STRs



**Figure 24. Processing, Analysis, and Dissemination of UTRs**

## 5. SUPERVISION

The FIU of Sint Maarten is also the AML/CTF supervisory authority for the DNFBP, excluding trust companies and casinos. Pursuant to the NOIS and the NORUT the following DNFBP are supervised by the FIU: accountants, notaries and candidate notaries, jewellers, real estate agents, car dealers, tax advisors, lawyers, accountants and administration offices. As such the supervision department of FIU Sint Maarten has 8 sectors to supervise. In 2014 two legal professionals were appointed as supervisors for the supervision department.

As the supervision department is a relatively young department, it was imperative to first obtain an idea of the number of supervised DNFBP in Sint Maarten.

## 5.1 Total number of Supervised Entities (SE)

In order to get an idea of the number of Supervised Entities (SE), the supervisors used the white and yellow pages in the telephone book, obtained information from the Chamber of Commerce, made use of media services such as newspapers, ads, did internet searches and made use of observations while traversing the island.

The FIU came to an estimated total number of supervised entities in 2014 of 273.

### 5.1.1 Number of SE divided over sectors

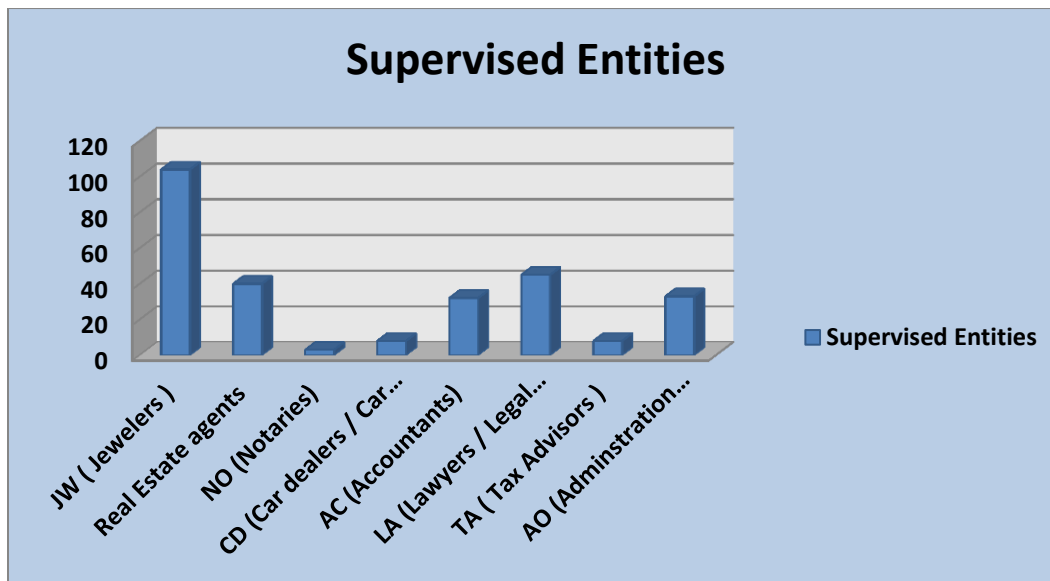
The following table indicates the total number of SE divided over the different sectors.

Many accountants also perform tax advisory and administration services and vice versa. Several lawyers and legal offices also specialize in tax advisory services.

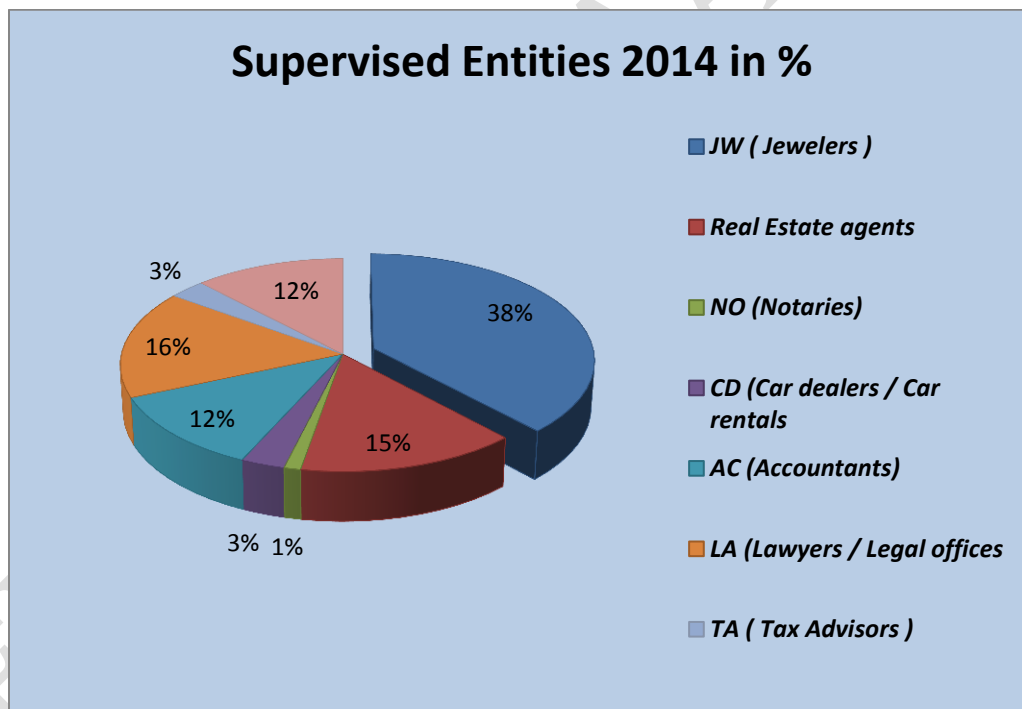
#### Number of Supervised Entities divided over sectors

		Quantity
<u>Supervised Entities</u>		2014
DNFBP	JW (Jewelers)	104
	Real Estate agents	40
	NO (Notaries)	3
	CD (Car dealers)	8
	AC (Accountants)	32
	LA (Lawyers / Legal offices)	45
	TA (Tax Advisors)	8
	AO (Administration Offices)	33
Total all sectors		273

Table 23. Number of Supervised Entities



**Figure 25.Number of Supervised Entities**



**Figure 26.Number of Supervised Entities**

### 5.1.2. Number of SE registered with FIU

With regard to supervised entities with more than one (1) location, each branch (location) is registered separately.

#### Number of SE registered at FIU SXM divided over sectors

<u>Supervised Entities</u>		<u>Registered incl. branches</u>
DNFBP sector	JW (Jewelers)	88
	Real Estate agents	34
	NO (Notaries)	3
	CD Car dealers	0
	Car rentals	0
	AC (Accountants)	0
	<b>Total all sectors</b>	<b>125</b>

Table 24. Number of registered Supervised Entities

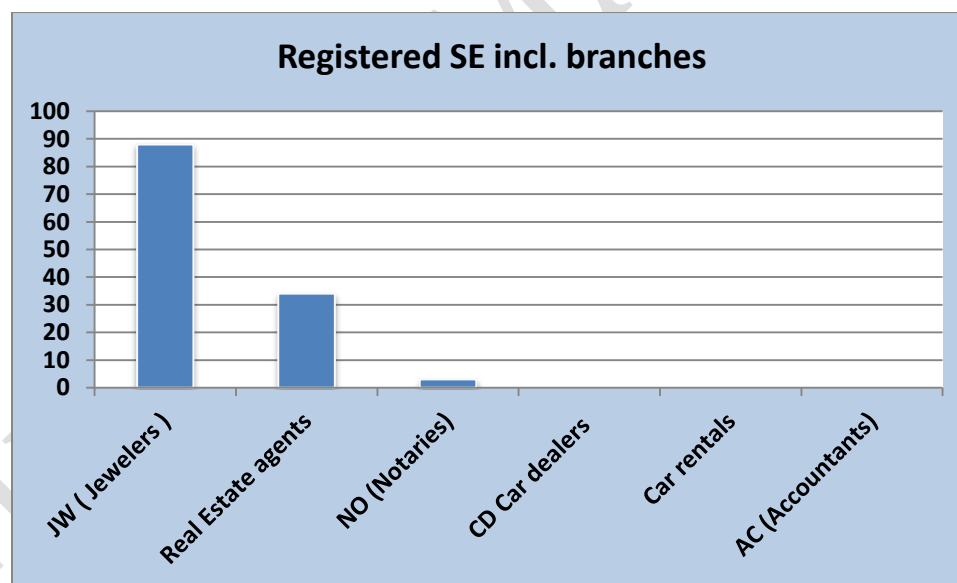


Figure 27. Number of registered Supervised Entities

## 5.2. Contacts with the SE

The first sectors to be contacted were the jewellers, real estate agents and notaries. The Supervisory department organized 3 informative/training sessions for these sectors which were attended by nearly all of the respective registered entities. Subjects which passed the revue were among others: the AML/CTF legislation of Sint Maarten, relevant FATF Recommendations, the reporting obligation, client investigation, risk based approach, PEP, Terrorism Financing, cases relevant to the sectors, secrecy clauses and tipping off prohibition, etc.

### 5.2.1 Compliance assessment questionnaire

After the sessions all sectors received a compliance assessment questionnaire. The objective was to be in contact with and get to know the SE better and so determine the status of the knowledge and compliance of the SE with the AML/CTF obligations.

#### Compliance questionnaire and number of reactions

<i>Supervised Entities</i>	<i>Compliance questionnaire sent</i>	<i>Reactions</i>
JW (Jewelers)	74	67
Real Estate agents	59	39
Car dealers	0	0
NO (Notaries)	3	3
<b>Total all sectors</b>	<b>136</b>	<b>109</b>

Table 25. Compliance assessment questionnaire

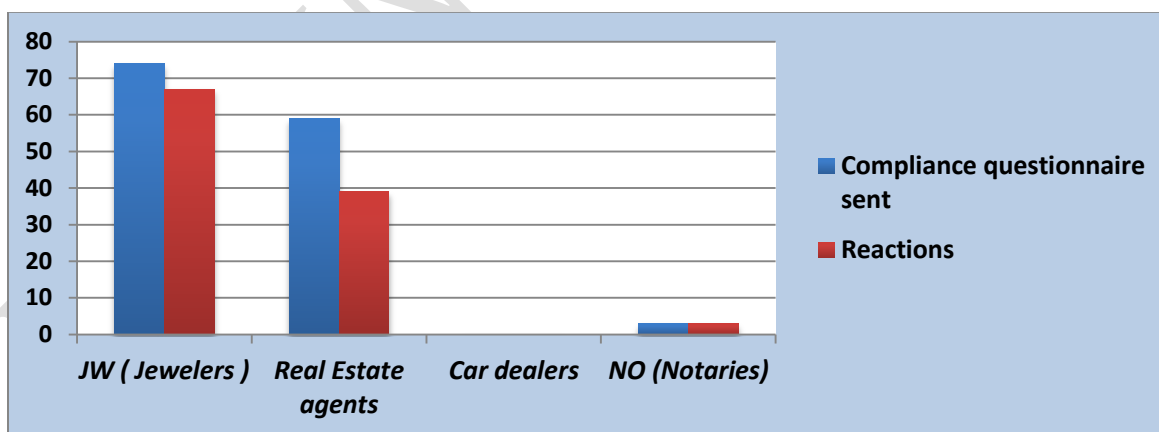


Figure 28. Compliance assessment questionnaire



### 5.2.2. Management compliance meetings per sector Supervised Entities

After completion of the compliance questionnaire the supervised entities were visited for a compliance meeting with the SE. During this meeting during which the FIU used the compliance assessment questionnaire to obtain more relevant information from the respective SE.

In the table below an indication is given of the number of management meetings that have been held.

#### Management meetings per sector Supervised Entities

<u>Supervised Entities</u>	<u>2014</u>
JW (Jewelers)	8
Real Estate agents	8
Car dealers	0
NO (Notaries)	0
<b>Total all sectors</b>	<b>16</b>

Table 26. Management meetings per sector

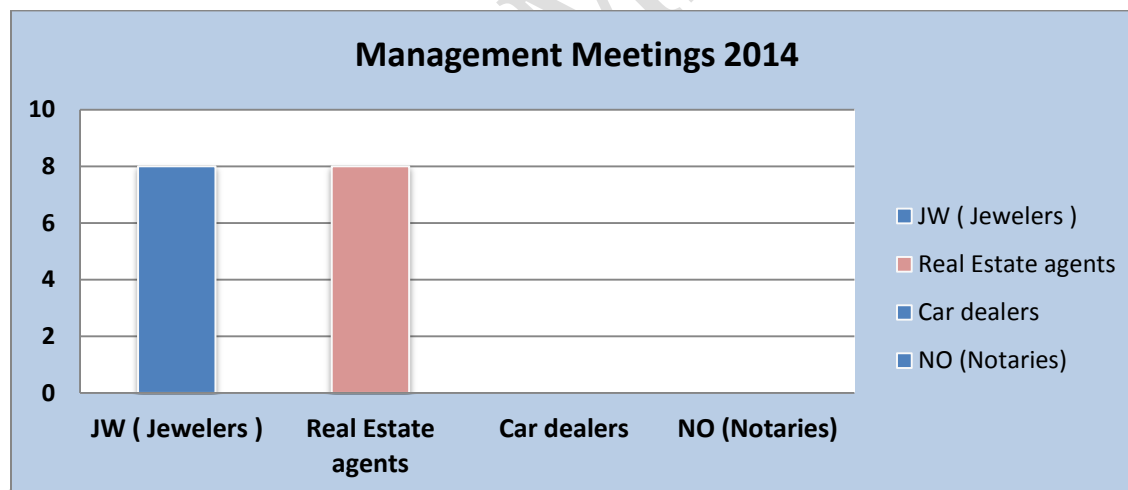


Figure 29. Management meetings per sector

The reason for the low amount of management meetings held in 2014 was because the FIU started planning the management meetings in September 2014 and as such it was not feasible to organize more meetings in this year.

## 6. NATIONAL COOPERATION

It is very important for the FIU to have an efficient cooperation with all the actors in the reporting chain. Good communication, cooperation and an expeditious exchange of information within the reporting chain are very essential. A good interaction between the FIU, the reporting entities, the law enforcement agencies, the office of the Public Prosecutor and supervisory authorities are imperative conditions in the fight against money laundering and terrorism financing.

### 6.1. Reporting Entities

The FIU is aware of the fact that the quality of financial intelligence is influenced directly by the quality of reports it receives from the reporting entities. If they are to produce insightful and relevant reports of superior quality, it is of utmost importance that they understand and are able to comply with the requirements of the NORUT and the NOIS to which they are subject.

Recognizing the importance of working with both financial service providers and the DNFBP to raise awareness and understanding of their legal obligations under the aforementioned laws, the FIU organizes informative/training sessions for these groups.

In 2014, the FIU of Sint Maarten organized 1 informative/training session for the financial sector for the financial sector of Sint Maarten and three (3) for the DNFBP. These sessions were very well attended, thanks to the organizational work of all the staff of the FIU. The Supervision department of the FIU registered a total of 125 DNFBP in its startup activities. These reporting entities were all contacted via email and/or phone. Compliance assessment questionnaires were sent out and management meetings were organized for some of the DNFBP.

### 6.2. Law Enforcement Agencies and the PPO

In this reporting period the FIU continued its monthly meetings with the Minister of Justice, the PPO, the Advocate General and the Prosecutor General in tri-partite meetings to discuss the evaluation by CFATF and the follow up actions and law enforcement issues in general. The FIU also met several times with the PPO to discuss possible legal sanctions against reporting entities which were not reporting to the FIU. Of the DNFBP sector no reports of unusual transactions were received from the notaries, the jewelers, accountants, administration offices and tax advisors. With regard to the financial sector, the life insurance sector will be monitored with regard to its reporting behavior. The FIU has already had talks with the Central Bank, being the supervisory authority of the life insurance sector, regarding this issue.

The FIU met with the PPO and the law enforcement agencies from the police and tax department with regard to issues pertaining to the work of the FIU and the cooperation between these instances.

### **6.3. Meetings with the Minister of Justice**

The Minister of Justice is the directly responsible minister for the FIU. During this reporting period the weekly meetings with the Minister of Justice the work of the FIU, updates on the draft Penal Code, the CFATF evaluation and organizational matters of the FIU.

### **6.4. Consultations with the Central Bank**

The Central Bank met with the FIU on several occasions with regard to the reporting behavior of certain reporting sectors including the life insurance sector.

## **7. INTERNATIONAL COOPERATION**

Money laundering and terrorism and the financing thereof are global in nature, and as such international cooperation constitutes an essential component in the fight against these criminal activities.

### **7.1. International Exchange of Information**

Pursuant to Article 7 of the NORUT the international exchange of information shall only take place on the strength of a treaty or an administrative agreement, e.g. a memorandum of understanding (MoU).

When it regards an FIU recognized by the Egmont Group as a member, information exchange can take place without an MOU if the national legislation of the other FIU does not require an MOU.

In this reporting period a total of 11 MOUs were signed. The following FIUs signed an MOU with FIU Sint Maarten: Taiwan, Cyprus, Guernsey, Lebanon, San Marino, Japan, Belize, Denmark, Haiti, Poland and Surinam.

In 2014 FIU Sint Maarten received 13 requests for information from the FIUs Anguilla, Belize, Curacao, France, the Netherlands and St. Vincent & the Grenadines. The requests for information regarded money laundering via the trust sector, suspicious money transactions of a tourist resort to another Caribbean island, a European PEP, the assassination of a Caribbean PEP, dealers in gold. With regard to these 13 requests, a number of 90 transactions representing a value of ANG. 4,370,393.00 were disseminated to the requesting FIUs.

The FIU in its turn, sent out 10 requests for information to the FIUs of Aruba, Anguilla, Curacao, Panama, France and the United States of America.

The information exchanged can only be used for intelligence purposes by the foreign FIU. For other uses the requesting FIU needs the authorization of the requested FIU and in cases involving judicial matters a so called MLAT (Mutual Legal Assistance Treaty) procedure - involving the PPO and judiciary of the respective countries - needs to be started.

## **7.2. Cooperation in The Kingdom**

This Reporting year the FIU attended the Kingdom seminar in Bonaire, which was a forum where all the FIUs in the Kingdom gather, together with law enforcement agencies and other relevant actors in the reporting chain. During the seminar several issues with regard to AML/CTF activities and the cooperation between the actors in the reporting chains is discussed.

## **7.3. Caribbean Financial Action Task Force (CFATF)**

The Caribbean Financial Action Task Force (CFATF) is an organization of twenty-seven states of the Caribbean Basin, which have agreed to implement common countermeasures to address the problem of criminal money laundering. It was established as the result of meetings convened in Aruba in May 1990 and Jamaica in November 1992.

The main objective of the Caribbean Financial Action Task Force is to achieve effective implementation of and compliance with its recommendations to prevent and control money laundering and to combat the financing of terrorism. The Secretariat has been established as a mechanism to monitor and encourage progress to ensure full implementation of the Kingston Ministerial Declaration.

Currently, CFATF Members are: Antigua & Barbuda, Anguilla, Aruba, The Bahamas, Barbados, Belize, Bermuda, The British Virgin Islands, The Cayman Islands, Curacao, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Republic of Haiti, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Maarten, St. Vincent & The Grenadines, Suriname, The Turks & Caicos Islands, Trinidad & Tobago, and Venezuela.

In 2014 FIU Sint Maarten attended the XXXIX Plenary meetings of the CFATF in Miami and Plenary XL in El Salvador.

## 7.4. The Egmont Group

Because of the importance of international cooperation in the fight against money laundering and financing of terrorism, a group of Financial Intelligence Units (FIUs) met in 1995 at the Egmont Arenberg Palace in Brussels, Belgium, and decided to establish an informal network of FIUs for the stimulation of international co-operation. This group is now known as the Egmont Group of Financial Intelligence Units. The Egmont Group FIUs meet regularly to find ways to promote the development of FIUs and to cooperate, especially in the areas of information exchange, training and the sharing of expertise.

The goal of the Egmont Group is to provide a platform for FIUs around the world to improve cooperation in the fight against money laundering and the financing of terrorism and to promote the implementation of domestic programs in this field. This support includes among other things:

- Expanding and systematizing international cooperation in the reciprocal exchange of information;
- increasing the effectiveness of FIUs by offering training and promoting personnel exchanges to improve the expertise and capabilities of personnel employed by FIUs;
- better and secure communication among FIUs through the application of technology, such as the Egmont Secure Web (ESW); and
- promoting the operational autonomy of FIUs.<sup>3</sup>

In 2014 Sint Maarten was endorsed as an Egmont member and became a member of the Egmont Group during the Egmont Plenary in Lima, Peru.

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<sup>3</sup> [www.egmontgroup.org](http://www.egmontgroup.org)

## 8. PRIORITIES FOR THE YEAR 2015

- Continue working on and monitoring of the follow up actions with regard to the evaluation report of the CFATF.
- Continue monitoring and giving guidance to the inclusion of terrorism financing in the Criminal Code of Sint Maarten, pursuant to (C)FATF obligations.
- Continue technical assistance with regard assistance to the Head of FIU, to training for the Analytical and Supervision Department and the drawing up of the annual reports of the FIU.
- Organize informative sessions for the DNFBP and the Financial Sector.
- Inform the general public of the work of the FIU.
- Continue to meet with LEA and PPO with regard to feedback regarding disseminated transactions by the FIU and possible legal sanctions against non-compliant reporting entities.
- With regard to the supervision department continue registering DNFBP, organizing informative/training sessions and compliance assessment management meetings.
- Amending AML/CTF indicators lists making the indicators more effective and efficient.

## ANNEX 1 NORUT

### Overview of amendments incorporated in the text

Date of entry into force	With retroactive effect until	Date when effect ceases	Concerning	Date signed	Source in which published	Reference of proposal
04/09/2014			Article 1, Article 2, Article 3, Article 4, Article 5, Article 6, Article 8, Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 22h, Article 24, Chapter IV, Chapter VI	23/07/2014	AB 2014, GT no. 51	Unknown
10/10/2010		04/09/2014	consolidated text (GT)	19/04/2013	AB 2013, GT no. 479	Unknown

### Text of the regulation

#### Official title

National Ordinance Reporting Unusual Transactions in Financial Services

### Chapter I

#### General provisions

#### Article 1

- 1. In this national ordinance and the provisions based on it, the following terms are defined as follows:
  - a. service: to do the following, in or from Sint Maarten:

1° receive securities, bank notes, coins, government notes, precious metals or other assets for safekeeping;

2° open an account in which a balance in cash, securities, precious metals or other assets can be kept;

3° lease of a safe-deposit box;

4° make a payment in relation to the cashing of coupons or similar documents for bonds or similar valuable papers;

5° conclude an insurance contract as referred to in Article 1 (1) (a) of the National Ordinance on Supervision of the Insurance Industry, as well as broker such a transaction;

6° make a payment under an insurance contract as referred to in 5°;

7° credit or debit or cause the credit or debit of an account in which a balance in cash, securities, precious metals or other assets can be kept;

8° change guilders or foreign currency;

9° enter into an obligation to make payment, for the benefit of the holder of a credit card, to the party that has accepted the showing of that credit card by way of payment, to the extent this does not involve a credit card which can only be used at the company or institution which issues this credit card or at a company or institution that belongs to the same economic entity in which the legal entities and companies are organisationally affiliated;

10° receive, in the context of a money transfer, funds or monetary instruments in order to make these funds or monetary instruments payable elsewhere, whether or not in the same form, or cause these to be made payable elsewhere, or, in the context of a monetary transfer, pay or make payable funds or monetary instruments after these funds or monetary instruments have been made available elsewhere, whether or not in the same form;

11° offer prizes and premiums which can be competed for in exchange for payment of a value which amounts to more than a sum to be stipulated by the Minister of Finance, in the context of:

- a.

the operation of games of chance, casinos and lotteries;

- b.

the operation of offshore games of chance;

12° act as intermediary in relation to the purchase or sale of immovable property and rights to which immovable property are subjected;

13° trade in vehicles, precious stones, precious metals, jewels or other items of great value designated by national decree containing general measures, or broker the trade in such items, in excess of an amount to be stipulated by the Minister of Finance, which amount can differ for the different types of items;

14° grant fiduciary services including: provision of management services, in exchange for payment or otherwise, in or from Sint Maarten for and for the benefit of offshore companies, which in any event includes:

- a.



making natural persons or legal entities available to offshore companies to serve as director, representative, administrator or other officer;

- b.

granting domicile and office facilities for offshore companies;

- c.

establishing or liquidating offshore companies or causing their establishment or liquidation on the instructions of but for the account of third parties;

15° the provision of advice or assistance by the natural person, legal entity or company who independently performs professional activities or activities in a commercial capacity as lawyer, civil-law notary or junior civil-law notary, accountant, tax adviser or expert in a legal, fiscal or administrative area, or in the practice of a similar legal profession or business, in relation to:

- a.

the purchase or sale of immoveable property;

- b.

the management of cash, securities, coins, government notes, precious metals, precious stones or other assets;

- c.

the establishment or management of companies, legal entities or similar bodies;

- d.

the purchase or sale or taking over of businesses;

16° provide other services designated by national decree containing general measures;

- b.

client: the natural person or legal entity to which or for the benefit of which a service is provided, as well as, in the event of a service as referred to in the first sub section, part a, in 5° and 6°, the natural person or legal entity that pays the premium as well as the natural person or legal entity for whose benefit the payment is paid out;

- c.

transaction: an action or set of actions by or for a client in connection with the purchase of one or more services;

◦ d.

unusual transaction: a transaction that is designated as such with reference to the indicators specified pursuant to Article 10;

◦ e.

disclosure: a disclosure as referred to in Article 11;

◦ f.

Bank: the Central Bank of Curacao and Sint Maarten;

◦ g.

Office: the Office referred to in Article 2;

◦ h.

Regulator: the Bank, the supervisory bodies set up for this, as well as the Office, each as it regards the service providers subject to its supervision, according to the distinction made in Article 22h (1);

◦ i.

money laundering: an act made punishable in Title XXXA of the Second Book of the Criminal Code;

◦ j.

financing of terrorism: an act as described in Article 2 of the International Convention for the Suppression of the Financing of Terrorism established in New York on 9 December 1999 (Treaty Series 2000, 12), committed by a natural person, legal entity or company, or by or for the benefit of, or in connection with an organisation, institution, business, person or group of people or population groups;

◦ k.

the minister: the Minister of Justice.

- 2. In relation to actions as referred to in the first sub section, part a, in 10°, the following are not designated as services:

◦ a.

receiving, in the context of a premium payment under an insurance contract, funds or monetary instruments in order to make these funds or monetary instruments payable elsewhere - whether or not in the same form - or causing these to be made payable elsewhere, to an institution to which it is permitted to operate insurance business in Sint Maarten on grounds of the National Ordinance on Supervision of the Insurance Industry;

• b.

paying or making payable, in the context of a payment under an insurance contract, funds or monetary instruments, after these funds or monetary instruments have been made available elsewhere - whether or not in the same form - by an institution to which it is permitted to operate insurance business in Sint Maarten on grounds of the National Ordinance on Supervision of the Insurance Industry.

- 3. The activities referred to in the first sub section, part a, in 15°, which are related to the determination of a client's legal position, its representation at law, the provision of advice before, during and after a court case, or the provision of advice on starting or avoiding a court case, to the extent performed by a lawyer, civil-law notary or junior civil-law notary or accountant, acting as an independent legal adviser, are not considered services.
- 4. In connection with the provision of services as referred to in the first sub section, part a, in 14°, the provisions concerning offshore companies apply in full to companies that have not been established under the law of Sint Maarten.

## Chapter II

### The Office for the Reporting of Unusual Transactions

#### Article 2

- 1. There is an Office for the Reporting of Unusual Transactions autonomously and independently performs the duties and activities imposed on the Office pursuant to this national ordinance.
- 2. The Office is led by a head. The head of the Office is charged with the responsibility of performing the duties and activities referred to in the first sub section.

#### Article 3

The Office performs the following duties and activities:

- a.

to collect, record, process and analyse the data it obtains in order to see whether these data could be important in preventing and investigating money laundering or the financing of terrorism and underlying crimes pursuant to this national ordinance;

- b.

to provide data and information in accordance with the provisions set under or pursuant to this national ordinance;

- c.

to inform persons or authorities who have made a disclosure in accordance with Article 11 with a view to proper compliance with the disclosure obligation about the conclusion of the disclosure. In that case, the party is only informed whether data has been provided in accordance with part b;

- d.

to investigate developments in the areas of money laundering and terrorism financing and investigate improvements in the methods of preventing and tracking down money laundering and terrorism financing;

- e.

to give recommendations, having heard the relevant regulators or professional organisations, for the relevant industries concerning the introduction of appropriate procedures for internal control and communication and other measures to be taken to prevent use of the relevant industries for money laundering or the financing of terrorism;

- f.

to provide information and training to the industries and professional groups, the persons and authorities charged with supervising compliance with this national ordinance, the public prosecution department, the civil servants charged with tracking down criminal offences and the public concerning the manifestations and the prevention and combating of money laundering and the financing of terrorism;

- g.

to independently and autonomously maintain contact with and participate in meetings of international and inter-governmental agencies in the area of the prevention and combating of both money laundering and the financing of terrorism; As well as the independent conclusion of covenants or administrative agreements by the head of the Office as required and within the limits of the laws of the country of Sint Maarten, with regard to the exchange of information and information with foreign agencies which have a similar role as the Office;

- h.

to conduct the national coordination of the activities in the context of the implementation of the recommendations of the Caribbean Financial Action Task Force, as well as the independent liaising with the Egmont Group in the context of compliance with the recommendations issued by these organisations; and

- i.

to issue a report annually on its activities and its plans for the coming year to the minister.

#### Article 4

- 1. The Office keeps and manages a register for the collection, processing and analysing of data and information obtained pursuant to this national ordinance.
- 2. The minister, having consulted with the Office, will establish a set of regulations for the management of the register referred to in the first sub section.
- 3. No data and information are provided from the register unless this provision is provided for by rules set under or pursuant to this national ordinance.

#### **Article 5**

- 1. For the proper performance of its duties and activities, the Office is authorised to consult all public sources of information, relevant data or information held by or on behalf of other authorities, as well as commercially collected data and information.
- 2. The data and information holders mentioned in the first sub section are required to permit the Office to consult the registers as referred to in the first sub section.

#### **Article 6**

- 1. Upon request or on its own initiative, the Office is required to provide the following data to the law enforcement authorities and civil servants charged with tracking down and prosecuting criminal offences:

○ a.

data which give rise to a reasonable suspicion that a particular person has committed money laundering or an underlying crime or has financed terrorism;

○ b.

data which can be reasonably presumed to be important in preventing and tracking down money laundering or an underlying crime or the financing of terrorism;

○ c.

data which can be reasonably presumed to be important in preventing or tracking down future crimes which could underlie money laundering or the financing of terrorism and which, given their seriousness or frequency or the organised context in which they will be committed, constitute a serious breach of legal order.

- 2. The Office is authorised to provide information concerning the reporting behaviour of the reporting institutions to persons and institutions which are charged with supervision of compliance with this national ordinance.

#### **Article 7**

- 1. Rules on the provision of data from the Office's register and the conditions under which this can take place with government-appointed law enforcement and non-law enforcement authorities inside or outside the Kingdom which have a duty similar to that of the Office and with authorities in the Kingdom whose duties have interfaces with the Office's activities shall be laid down in a national decree containing general measures.
- 2. The provision of data to authorities outside the Kingdom shall take place only on the basis of a treaty or administrative agreement, unless it is an authority recognised by the Egmont Group as a member and which, pursuant to its national legislation, is not required to conclude a written agreement for the exchange of data with other authorities recognised by the Egmont Group as members.

#### Article 8

- 1. The appointment, suspension and dismissal of the head and the other personnel of the Office shall take place pursuant to national decree.
- 2. The head of the Office is appointed for a term of at most five years. After it has expired, this term may be renewed each time for at most five years. The first sub section applies *mutatis mutandis* to the renewal of the appointment.
- 3. The head and personnel of the Office that perform activities in the context of the application of this national ordinance are not liable for damage caused in the normal performance of their duties on grounds of this national ordinance, unless the damage can be attributed to intent or wilful recklessness.

#### Article 9

Having heard the Office, the minister determines the budget and headcount of the Office.

### Chapter III

#### The reporting obligation

#### Article 10

After consultation with the Office, the minister shall determine the indicators, if necessary by categories of transactions to be distinguished, with reference to which it is decided whether a transaction must be regarded as an unusual transaction.

#### Article 11

- 1. Any party that provides a service as referred to in Article 1 (1) (a) in a professional or commercial capacity is required to immediately report to the Office any unusual transaction performed or proposed during such activity.

- 2. A disclosure shall contain the following data, as far as possible:

- a.

the client's identity;

- b.

the type and number of the client's proof of identification;

- c.

the nature, time and place of the transaction;

- d.

the size, destination and origin of the funds, securities, precious metals or other assets involved in the transaction;

- e.

the circumstances on the basis of which the transaction is considered unusual.

#### **Article 12**

- 1. The Office is authorised to request further data or information from the persons and authorities who have made a report in order to assess whether the data or information collected by the Office may be of interest for the performance of its duties, as referred to in Article 3 (b).
- 2. The party that has been asked for these data or information in accordance with the first sub section is required to provide these to the Office in writing, or orally in cases considered urgent in the Office's opinion, within the time period stipulated by the Office.

#### **Article 13**

Further rules on how a report must be made or on how data and information requested on the basis of Article 12 (1) must be provided may be laid down by national decree containing general measures.

#### **Article 14**

- 1. Data or information that has been provided in accordance with Articles 11 or 12 (2) cannot serve as the basis for or for the benefit of a criminal investigation or prosecution on account of suspicion of or as evidence in relation to charges on account of money laundering or an underlying crime or the financing of terrorism by the party that provided these data or information.

- 2. Data or information that has been provided under the reasonable assumption that effect is given to Articles 11 or 12 cannot serve as the basis for or for the benefit of a criminal investigation or prosecution on account of suspicion of or as evidence in relation to charges on account of violation of the Articles 285 and 286 of the Criminal Code.
- 3. The first sub section applies mutatis mutandis to the person who works for the party that provided the data or information or cooperated with that provision in accordance with Articles 11 or 12 (2).

#### **Article 15**

- 1. The party that has proceeded to make a report on the basis of Article 11 or that has provided data or information on the basis of Article 12 (2) under the reasonable assumption that effect is given to these Articles is not liable for damage suffered by a client or third party as a result of this, unless this damage was caused by intent or wilful recklessness on the part of the person or authority who made the disclosure.
- 2. The first sub section applies mutatis mutandis to the person who works for the party that proceeded to make a report or provided the data or information referred to in the first sub section.

### **Chapter IV**

[expired]

### **Chapter V**

#### **Secrecy**

#### **Article 20**

- 1. Data and information that has been provided or received pursuant to the provisions stipulated under or pursuant to this national ordinance are secret. Any person that provides or receives such data or information, as well as the person that makes a report pursuant to Article 11 (1), is required to observe secrecy in relation to the data or information.
- 2. Any person that performs or has performed any duty in relation to application of this national ordinance or pursuant to resolutions adopted pursuant to this national ordinance is prohibited from making further or other use of the data or information provided or received pursuant to this national ordinance and from making these data or information known to further or other parties beyond what is required for the performance of his duty or by this national ordinance.
- 3. In deviation from the first and second sub sections and from any other applicable statutory secrecy provisions, the Regulator is authorised to notify the Office if, in performing its duty, facts come to light which could possibly point to money laundering or the financing of terrorism.



- 4. In deviation from the first and second sub sections, the Office is authorised to:

◦ a.

provide data and information, *inter alia* on the reporting behaviour of the reporting institutions, obtained in the performance of the duties imposed on it pursuant to this national ordinance, to the Regulator;

◦ b.

make statements and publish statistics, provided these cannot be traced back to individual service providers, using data and information obtained in the performance of the duties imposed on it pursuant to this national ordinance.

#### **Article 21**

In deviation from Article 20 (1) and (2), and with due observance of the provisions of Article 7, the Office is authorised to provide data and information obtained in the performance of its duties imposed pursuant to this national ordinance to foreign law enforcement and non-law enforcement authorities that have a duty similar to that of the Office and to authorities in the Kingdom whose duties have interfaces with the Office's activities.

#### **Chapter VI**

[expired]

### **Chapter VI a**

#### **Administrative sanctions**

##### **Article 22a**

- 1. The Regulator can impose an order subject to a penalty on a service provider that fails to comply, or fails to comply on time, with the obligations imposed under or pursuant to Articles 11, 12 (2), 13, 20 (2), 22h (3) of this national ordinance.
- 2. The height of the penalty for the various violations will be determined pursuant to a national decree containing general measures.
- 3. The decision imposing an order subject to a penalty will give a time period in which the offender can carry out the order without incurring a penalty.
- 4. The Regulator can collect the amount owed, increased with the costs owed on the collection, by way of writ of execution.
- 5. The writ of execution will be served by bailiff's notification at the offender's expense and constitutes entitlement to enforcement.

- 6. The authority to collect amounts owed expires by the passage of one year from the day on which they were incurred.

#### Article 22b

- 1. The Regulator can impose a fine on a service provider that fails to comply, or fails to comply on time, with the obligations imposed under or pursuant to Articles 11, 12 (2), 13, 20 (2), 22h (3) of this national ordinance for every day which it is in default.
- 2. The height of the fine for the various violations and to whom this penalty must be paid will be determined pursuant to national decree containing general measures.
- 3. Before imposing a fine, the Regulator will notify the particular service provider in writing about the intention to impose the fine with reference to the grounds on which the intention is based and give it the opportunity to remedy the default within a reasonable period of time.

#### Article 22c

- 1. The fine must be paid within four weeks from the date of the decision by which it was imposed.
- 2. The fine is increased with the statutory interest calculated from the day on which the time period referred to in the first sub section expired.
- 3. If the fine is not paid within the time period given, the Regulator will send a written reminder that the fine must yet be paid within ten days from the date of the reminder, increased with the costs of the reminder. The reminder will contain the notice that the fine will be collected in accordance with the fourth sub section if it is not paid within the time period given.
- 4. If payment is not made on time, the Regulator can collect the fine, increased with the costs of the reminder and the collection, by way of writ of execution.
- 5. The writ of execution will be served by bailiff's notification at the offender's expense and constitutes entitlement to enforcement.

#### Article 22d

- 1. The authority to impose a fine expires if criminal prosecution has been started against the offender in relation to the violation on grounds of which the fine can be imposed and the court hearings have started, or the right to prosecute has lapsed pursuant to Article 76 of the Criminal Code.
- 2. The right to prosecute in relation to a violation of the Articles mentioned in Article 22b (1) expires if the Regulator has already imposed a fine for that violation.
- 3. The authority to impose a fine expires one year from the day on which the violation was committed.

- 4. The time period referred to in the third sub section is interrupted by the announcement of the decision by which a fine is imposed.

#### **Article 22e**

- 1. The Regulator can, in order to promote compliance with this national ordinance, make public the offence in relation to which an order subject to a penalty or a fine has been imposed, the regulation that was violated, as well as the name and address of the party on whom the order subject to a penalty or administrative fine has been imposed.
- 2. The authority to make an offence public expires if criminal prosecution has been started against the offender in relation to the offence and the court hearings have started, or the right to prosecute has lapsed pursuant to Article 76 of the Criminal Code.
- 3. The right to prosecute in relation to an offence as referred to in the first sub section expires if the Regulator has already made the offence public.
- 4. The authority to make an offence public expires one year from the day on which the offence occurred.
- 5. The time period referred to in the fourth sub section is interrupted by the announcement of the decision by which the fact is made public.

#### **Article 22f**

- 1. The activities in connection with the imposing of a penalty or of a fine are performed by persons who were not involved in ascertaining the violation or in the investigation preceding that.
- 2. The activities in connection with making an offence public are performed by persons who were not involved in ascertaining the offence or in the investigation preceding that.

#### **Article 22g**

The minister may lay down rules for the exercise of the power referred to in Articles 22a (1), 22b (1) and 22e (1).

## **Chapter VI b**

### **Supervision and investigation**

#### **Article 22h**

- 1. The following are charged with supervising compliance with the provisions laid down under or pursuant to this national ordinance:

• a.

the officers of the Bank designated for this purpose by the President of the Bank, to the extent providers of services as referred to in Article 1 (1) (a) (1°) to (10°) inclusive and (14°) are concerned;

○ b.

the supervisory bodies designated for this purpose or authorities charged with this by the minister, to the extent providers of services as referred to in Article 1 (1) (a) (11°) (a) and (b) are concerned;

○ c.

the head of the Office as well as the officers of the Office appointed for this purpose by the head, to the extent providers of services as referred to in Article 1 (1) (a) (12°), (13°) and (15°) are concerned.

Such appointments will be announced in the Official Gazette.

- 2. If other services are designated by national decree with application of Article 1 (1) (a) (16°), that national decree will also provide for the supervision.
- 3. The Regulator is authorised, in order to promote compliance with this national ordinance, to give guidelines to the service providers subject to its supervision as referred to in the first sub section.
- 4. The officers referred to in the first sub section are authorised, exclusively to the extent reasonably necessary for the performance of their duty, to:

○ a.

request all information;

○ b.

request access to all accounts, documents and other information carriers, such as electronic files, and take copies of these or temporarily take these with them;

○ c.

subject goods to inspection and examination, temporarily take these with them for that purpose and take samples from them;

○ d.

enter all locations, with the exception of private residences without the explicit permission of the occupant, accompanied by persons designated by them;

○ e.

investigate vessels, stationary vehicles and the cargo of these;

◦ f.

enter private residences or parts of vessels intended as a residence without the explicit permission of the occupant.

- 5. If necessary, access to a place as referred to in the fourth sub section, part d, will be gained with the help of police.
- 6. Title X of the Third Book of the Code of Criminal Procedure applies *mutatis mutandis* to the entering of private residences or to parts of vessels intended as a private residence as referred to in the fourth sub section, part f, with the exception of Articles 155 (4), 156 (2), 157 (2) and (3), 158 (1), last clause, and 160 (1) and on the understanding that the authorisation is granted by the Attorney-General.
- 7. Rules relating to how the persons designated pursuant to the first sub section perform their duty may be laid down by national decree containing general measures.
- 8. Every person is required to lend the persons designated pursuant to the first and second sub sections all the cooperation demanded on grounds of the fourth sub section.

#### **Article 22i**

- 1. In addition to the officers referred to in Article 184 of the Code of Criminal Procedure, the persons designated for this purpose by national decree are charged with tracking down the offences made punishable in Article 23. Such an appointment will be announced in the Official Gazette.
- 2. Rules on the requirements which the persons designated pursuant to the first sub section must satisfy may be laid down by national decree containing general measures.

## **Chapter VII**

### **Penalty provisions**

#### **Article 23**

- 1. Violation or breach of the provisions in Articles 11, 12 (2), 20 (1) and (2) or pursuant to the Articles 13 and 22h (3) and (8) is a crime if committed intentionally and is punished either by a prison sentence of at most four years or by a fine of at most five hundred thousand guilders or by both penalties.
- 2. Violation of the provisions referred to in the first sub section is a violation if not committed intentionally and is punished either by short-term imprisonment of at most one year or by a fine of at most two hundred fifty thousand guilders or by both penalties.

## **Chapter VII a**

#### **Statistics**

##### **Article 24**

The minister may lay down regulations with a view to keeping track of statistics relating to money laundering or underlying crimes and the financing of terrorism.

### **Chapter VIII**

#### **Final provisions**

##### **Article 25**

[provides for the coming into force]

##### **Article 26**

This national ordinance may be cited as: National Ordinance Reporting Unusual Transactions

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