

# ANNUAL REPORT 2010-2011

## 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
NORUT .....	National Ordinance Reporting Unusual Transactions
NOIS .....	National Ordinance Identification when rendering Services
PPO .....	Public Prosecutor's Office
STRs .....	Suspicious Transaction Reports
UTRs .....	Unusual Transaction Reports

## MESSAGE OF THE DIRECTOR

I am pleased to report on the work the Financial Intelligence Unit of Sint Maarten carried out during the last three months of 2010 and the year 2011, to help protect the integrity of the financial system of Sint Maarten.

As of October 10<sup>th</sup>, 2010 Sint Maarten became an autonomous country within the Kingdom of the Netherlands. From that moment the branch of the FIU of the Netherlands Antilles which was established on Sint Maarten since 2009, became the Financial Intelligence Unit of Sint Maarten, (FIU Sint Maarten). The FIU started out with an acting Head, assisted by two tactical and operational analysts and an office manager.

The FIU Registry Data base was set up as an USONA project, whereby USONA financed both the hardware – servers, computers, laptops, etc. – and the software, being the registry programme.

This report details our activities and our contributions in the fight against money laundering and terrorism financing for the period of fifteen months, which will be indicated as: 2010/2011 in this annual report.

In its first year of operation, the FIU of Sint Maarten received a total of 8010 reports totaling ANG 1,193,732,725.00. The Bank sector reported the majority of reports, being 6237 reports of unusual transactions amounting to ANG 527,739,939.00. These figures exclude the credit card transactions reported by the Bank sector, being 713 transactions with a value of ANG 8,589,747.00. Customs followed with 573 reports sent to the FIU, regarding persons entering or leaving Sint Maarten with ANG. 20,000 or more in whatever currency. These cross borders transactions amounted to ANG. 645,328,493.00

After analysis 1447 transactions with a value of ANG. 142,192,124.00 were disseminated to the Public Prosecutor's Office as transactions with a reasonable suspicion of money laundering.

It is our continuing goal as FIU Sint Maarten, to help combat and prevent money laundering and the financing of terrorism to ensure the integrity of the financial and non-financial sectors in Sint Maarten and we do hope to continue getting the necessary support and cooperation from all actors in the reporting chain to carry out this mission.

Ligia Stella MSc  
Acting Head FIU Sint Maarten



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

When preparing an annual report regarding the activities of a Financial Intelligence Unit, it is important to indicate to the reader which dates will be taken into account when dealing with tasks of the FIU.

FIU Sint Maarten will use 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 police departments or the PPO.

The Minister of Justice requested the acting Secretary General of Justice to coordinate and supervise the work of the FIU as an acting Head. The Head of the FIU is charged with the responsibility of performing the duties and activities mentioned in the National Ordinance Reporting of Unusual Transactions, (the NORUT).

In this reporting year the acting Head of FIU was assisted by a staff of 3 persons, namely two tactical and operational analysts (with one of the analysts functioning as IT-analyst) and an office manager.

One of the main issues to be dealt with by the FIU will be the establishment of the Supervision Department. With the amendment of the NORUT and the National Ordinance Identification when rendering Services (NOIS) in 2009, the FIU has been indicated as the supervisory authority for all Designated Non Financial Businesses and Professions (DNFBP), except the casinos and the trust companies. The supervision department will be the authority in charge of monitoring the compliance to the NORUT and the NOIS of the DNFBP.

In the following organizational chart, the supervision department is indicated with a broken line, meaning that it is in the process of being established.

## Financial Intelligence Unit Sint Maarten

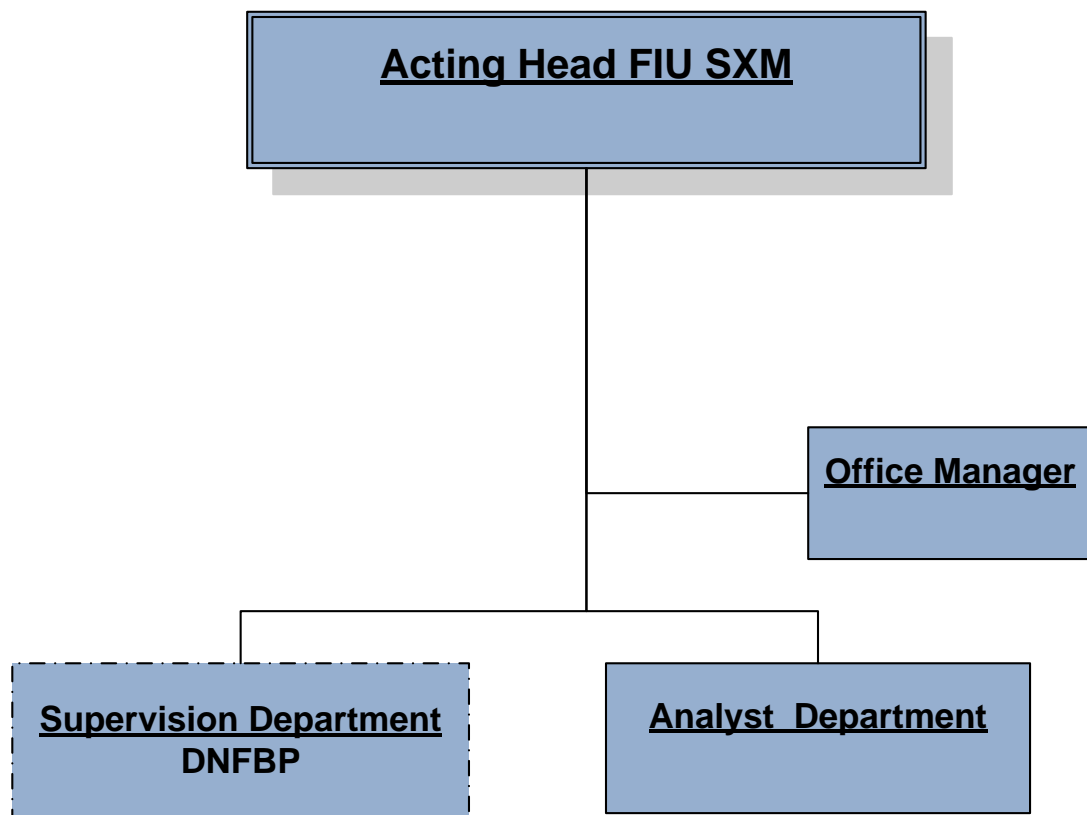


Figure 1. Organizational Structure FIU Sint Maarten 2010/2011

## 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 2010/2011, its first year of operation, the FIU of Sint Maarten received and analyzed a number of 8010 reports of unusual transactions (UTRs). No reports were received from lawyers, notaries, the administration offices and the Central Bank. Of these reports 6950 were received from the bank sector, while the second largest reporting sector was Customs with 573 reports and the money remitting sector, which sent 442 reports of unusual transactions to the FIU, was the third largest reporting sector.

Of the reports sent to the FIU the majority, 96 %, was based on objective indicators and only 4% was based on subjective indicators. The FIU's objective in the coming years will be to train the reporting entities with regard to the reporting of transactions based on the subjective indicator regarding a suspicion of money laundering/terrorism financing.

The reports were sent to the FIU by making use of the MOT voor Melders reporting system, or were brought in person to the FIU.

The FIU is in the process of instituting a new reporting system, whereby all reports are sent electronically to the FIU.

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

FIU Sint Maarten after analysis disseminated 1447 transactions to the PPO. The disseminated transactions a number were the result of 9 (nine) requests for information received from the PPO. This reporting period there were no disseminated transactions based on own investigations by the Analyst department of the FIU.

The FIU received 2 requests for information from international FIUs and sent in its turn no international requests for information. The requests were from two Caribbean countries.

Based on its analytical work and on requests for information received, the FIU sent 12 requests for additional information to the reporting entities.

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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)



- 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 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.

During its first year of operation the FIU received in house trainings with regard to the fight against money laundering and terrorism financing.

- 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.

In this reporting year The FIU organized an anti money laundering/counter terrorism financing (AML/CTF) informative session for the financial reporting entities. The FIU also had meetings with the PPO and the LEA.

- 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 2011 the FIU participated in the Caribbean Financial Action Task Force (CFATF) meeting in Honduras, where Sint Maarten was accepted as a full-fledged member of the CFATF.

In its first reporting year the FIU signed 5 Memoranda of Understanding (MOUs) with regard to the information exchange with other FIUs.

MOUs were signed with: St. Kitts&Nevis, Grenada, Nigeria, Honduras and Croatia.

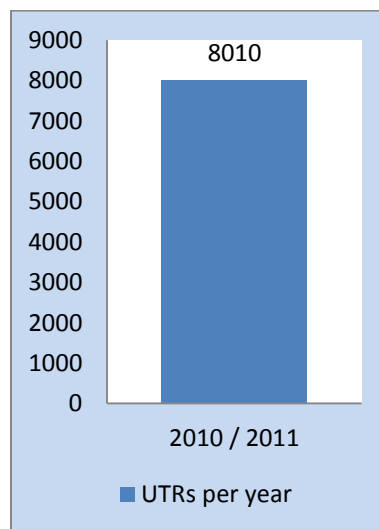
## 2. STATISTICS AND REPORTING TRENDS

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 using 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 period 2010/2011 a total of 8010 unusual transactions were received from the reporting entities with a value of ANG. 1,193,732,725.00 As mentioned previously, this reporting period covers the last three months of 2010, being October, November and December and the whole of 2011.



**Figure 2. Total Reports of 2010/2011**

In the following diagrams an overview is given of the UTRs received on a monthly basis. It is noticeable that the months of August and September 2011 showed a peak in UTRs received. The reason being two banks forwarding reports of UTRs which were overdue.

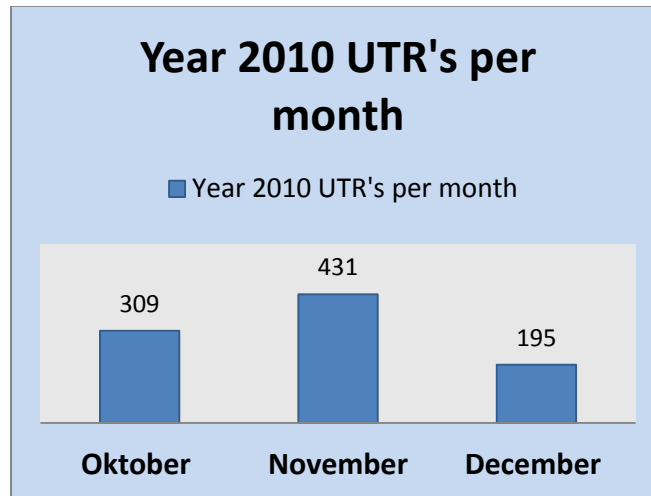


Figure 3. Total of UTRs per month of 2010

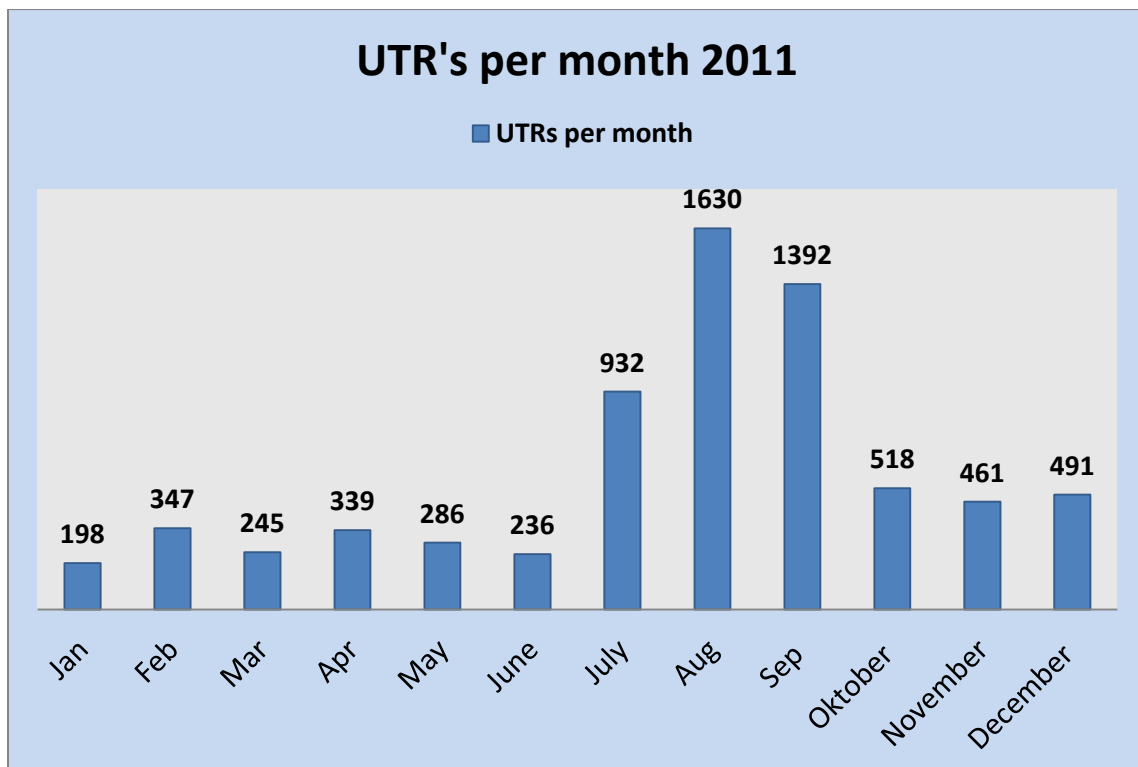
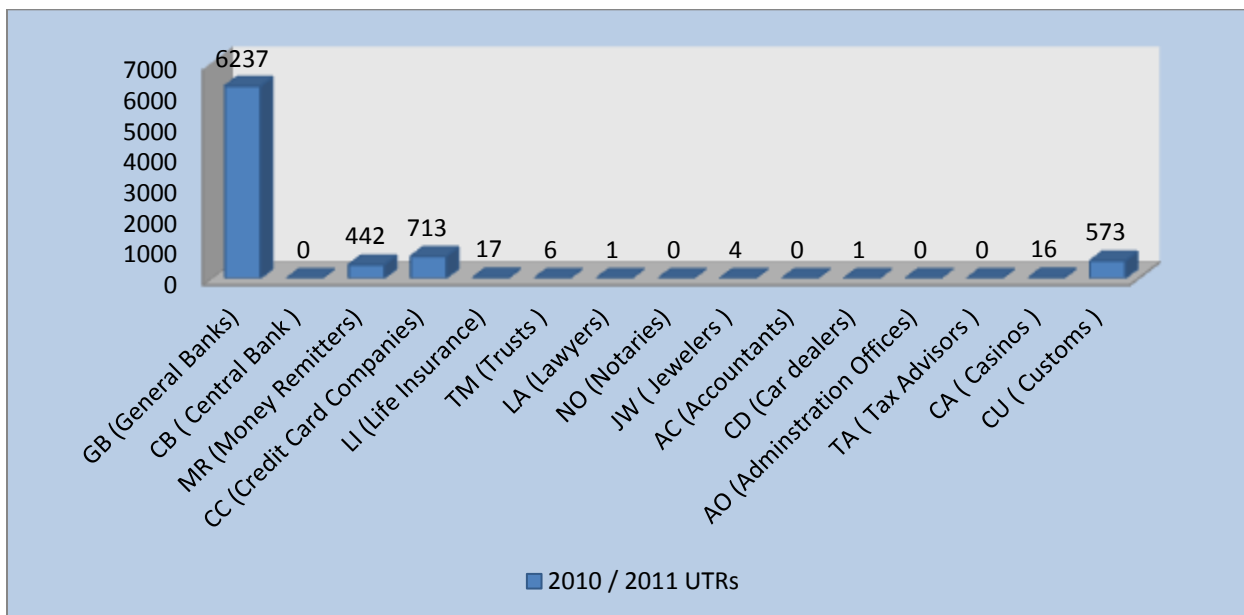


Figure 4. Total of UTRs per month of 2011

The following table makes it clear that the bank sector is reporting the most unusual transactions to the FIU. This is due to the fact that this sector has the most reporting indicators, especially objective indicators. The second largest reporting sector is Customs followed by the money remitting sector.

<u>Sector</u>	<b>2010 / 2011</b>	
	<b>UTRs</b>	<b>ANG</b>
GB (General Banks)	6237	527,739,939.00
CB ( Central Bank )	0	-
MR (Money Remitters)	442	3,448,625.00
CC (Credit Card transactions)	713	8,589,647
LI (Life Insurance)	17	3,726,844.00
TM (Trusts )	6	2,578,553.00
LA (Lawyers)	1	437,812.00
NO (Notaries)	0	-
JW ( Jewelers )	4	434,340.00
AC (Accountants)	0	-
CD (Car dealers)	1	97,200.00
AO (Administration Offices)	0	-
TA ( Tax Advisors )	0	-
CA ( Casinos )	16	1,351,272.00
CU ( Customs )	573	645,328,493.00
<b>Total all sectors</b>	<b>8010</b>	<b>1,193,732,725.00</b>

**Table 1. Total of UTRs per year per sector for 2010 / 2011**



**Figure 5. Total of UTRs per year per sector of 2010/2011**

### 2.1.1. Intended and Executed Transactions.

During the provision of the requested service, a client may decide, for whatever reason, to discontinue the transaction. Maybe the client just changed his mind, 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.

2010/ 2011	number	Value Ang
<b>Executed</b>	<b>7971</b>	<b>1,192,326,601.00</b>
<b>Intended</b>	<b>39</b>	<b>1,406,124.00</b>
<b>Total</b>	<b>8010</b>	<b>1,193,732,725.00</b>

**Table 2. Total Executed and Intended transactions of 2010 / 2011**

### 2.1.2. Indicators

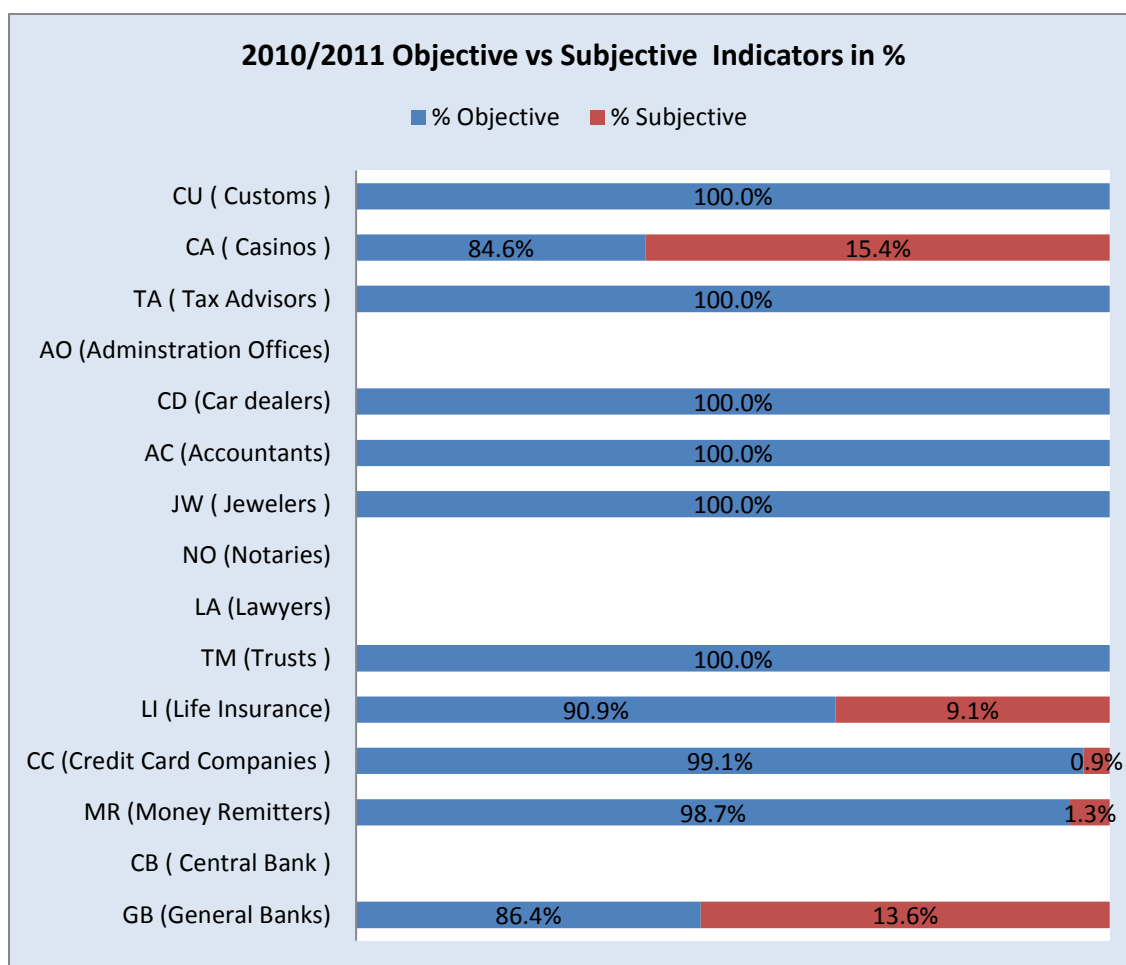
When reporting unusual transactions to the FIU, the reporting entities make use of indicators. Indicators have been established to make the term “unusual transaction” workable, manageable, or operational. The term “unusual transaction” is a legal term and may sometimes differ from what is known as “unusual”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



**Figure 6. Objective vs Subjective reports in % of 2010/2011**

<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 2010/2011 after analysis by the Analyst Department of the FIU, 1447 transactions were disseminated to the PPO, as transactions having a reasonable suspicion of being involved with money laundering and/or terrorism financing. 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 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 figures show the relation between the unusual transactions and the suspicious transactions, which have been disseminated to the PPO in the reporting period 2010/2011.

### Total Unusual transactions vs Suspicious transactions in 2010/2011

Year	UTR per year	STR per year	Value UTR ANG	Value STR ANG
2010/2011	8010	1447	1,193,732,725.00	142,192,124.00

Table 3. UTRs vs. STRs

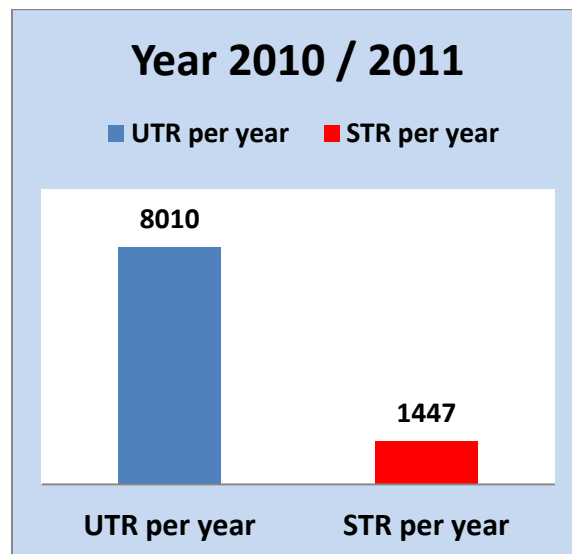
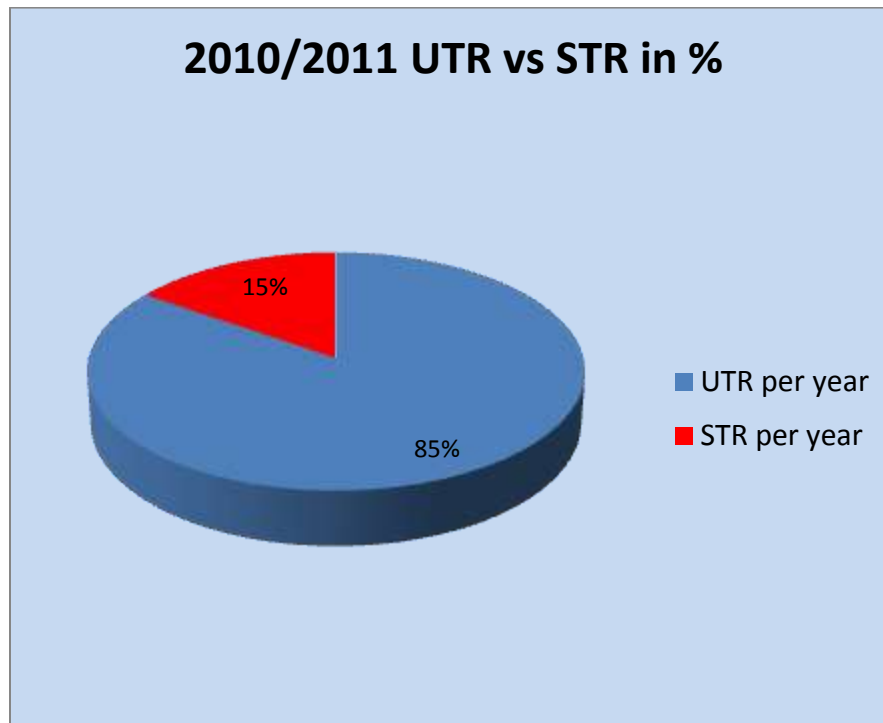


Figure 7. UTRs vs. STRs in 2010/2011



**Figure 8. UTRs vs. STRs in 2010/2011**

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 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>
8010	8010	185	6370	1447	8

**Table 4. Table of actions taken on UTRs in 2010 / 2011**



## 2.3. Financial Reporting Entities

### 2.3.1. Banks

The bank sector reports the majority of the unusual transactions to the FIU. The reason being the many objective indicators which have been stipulated for banks. The FIU received 6950 reports of unusual transactions from the local banks.

#### General Banks

Number of UTRs reports

Year	UTRs reports	ANG
2010/2011	6237	527,739,939.00

Table 5. UTRs General Banks of 2010/2011

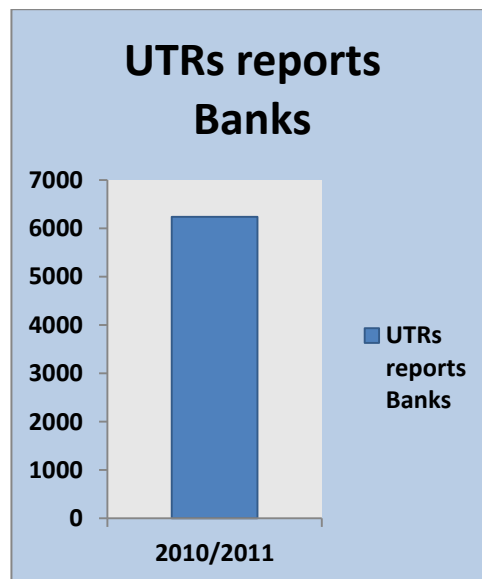


Figure 9. UTRs on General Banks of 2010/2011

### 2.3.2. Money Remitters

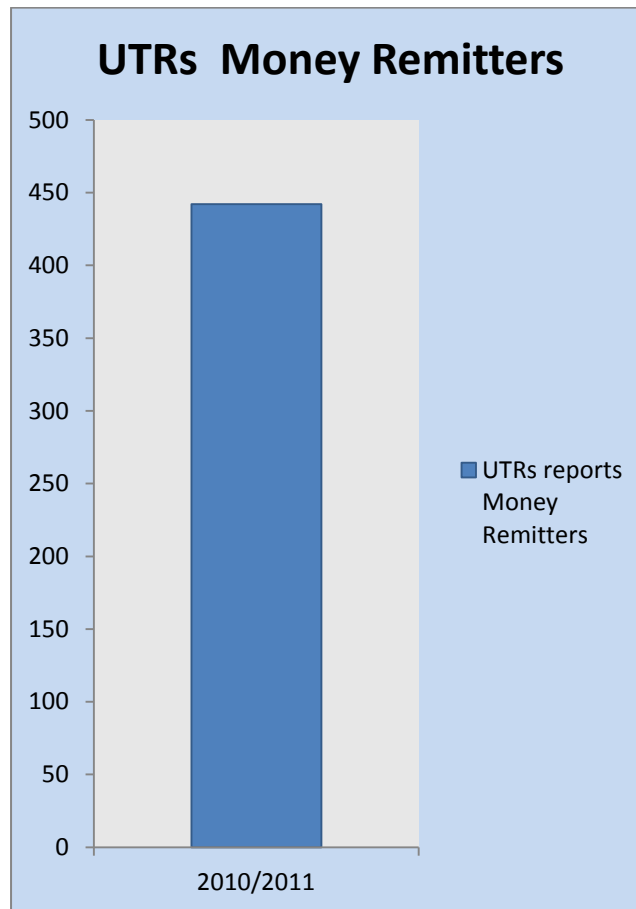
The third largest reporting group is the money remitting sector. From this sector 442 unusual transaction reports were received in this reporting period.

#### Money Remitters

**Number of UTR reports**

Year	UTRs	ANG
2010/2011	442	3,448,625.00

**Table 6. UTRs money remitters of 2010/2011**



**Figure 10. UTRs on Money Remitters of 2010/2011**

### 2.3.3. Credit Card Companies and Credit Institutions

With regard to credit card transactions the FIU received 713 transactions from banks. There are no credit card companies in Sint Maarten.

Year	UTRs	ANG
2010/2011	713	8,589,647,00

Table 7. UTRs Credit Card Companies of 2010/2011

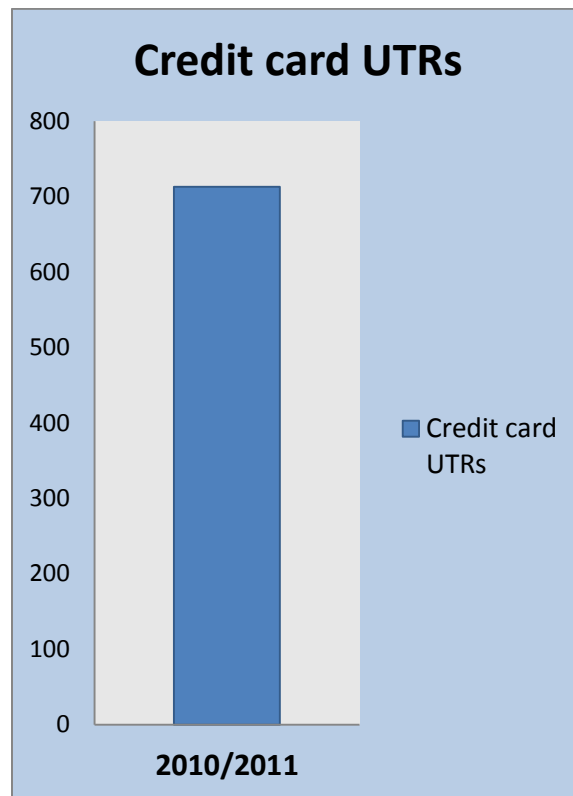


Figure 11. UTRs on Credit Cards of 2010/2011

### 2.3.4 Life Insurance Companies

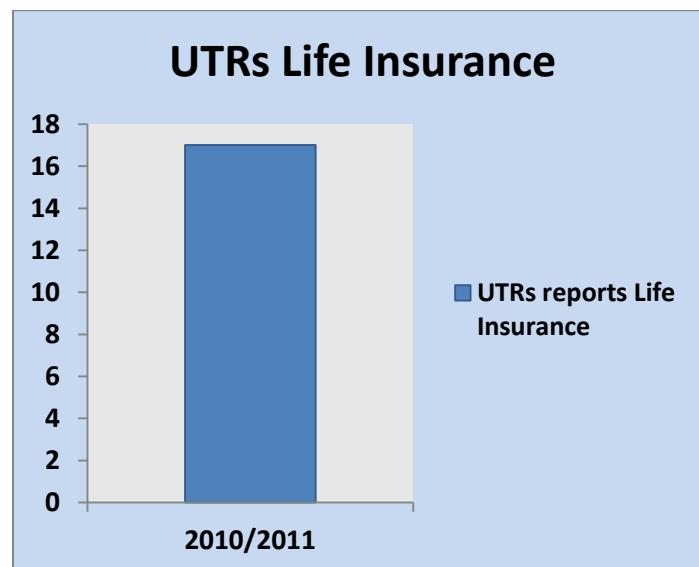
The life insurance sector, including the life insurance brokers, reported 17 unusual transactions to the FIU in this reporting period.

#### Life Insurance

**Number of UTRs**

Year	UTRs	ANG
2010/2011	17	3,726,844.00

**Table 8. UTRs Life Insurance of 2010/2011**



**Figure 12. UTRs on Life Insurance Companies of 2010/2011**

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

With the amendment of the NORUT in 2010 the Designated Non Financial Businesses and Professions (DNFBP) became obligated to report unusual transactions to the FIU. Pursuant to the amended National Ordinance Identification when rendering Services (NOIS), these businesses and professions now falls under the supervisory authority of the FIU.

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.

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

Officially Trust companies and Casinos also are indicated as DNFBP. However for Sint Maarten the trust companies fall under the supervisory authority of the Central Bank of Curacao and Sint Maarten and the casinos have no anti-money laundering/terrorism financing supervisory authority at the moment.

For the reporting period 2010/2011, the FIU received 28 reports from the DNFBP, divided over: the lawyers' sector, the car dealers, the jeweler sector, the trust sector and the casino sector.

No reports of unusual transactions were received from: notaries, lawyers, accountants, tax advisors and the administration offices.

For the coming years, the FIU will be contacting all DNFBP with regard to their obligations under the anti money laundering and terrorism financing legislation of Sint Maarten.

## Reports per year per DNFBP sector

<u>Sector</u>	2010 / 2011	
	UTR	ANG
LA (Lawyers)	1	437,812.00
NO (Notaries)	0	-
JW ( Jewelers )	4	434,340.00
AC (Accountants)	0	-
CD (Car dealers)	1	97,200.00
AO (Administration Offices)	0	-
TA ( Tax Advisors )	0	-
TM (Trusts )	6	2,578,553.00
CA ( Casinos )	16	1,351,272.00
<b>Total all sectors</b>	<b>28</b>	<b>4,899,177.00</b>

Table 9. UTRs DNFBP of 2010/2011

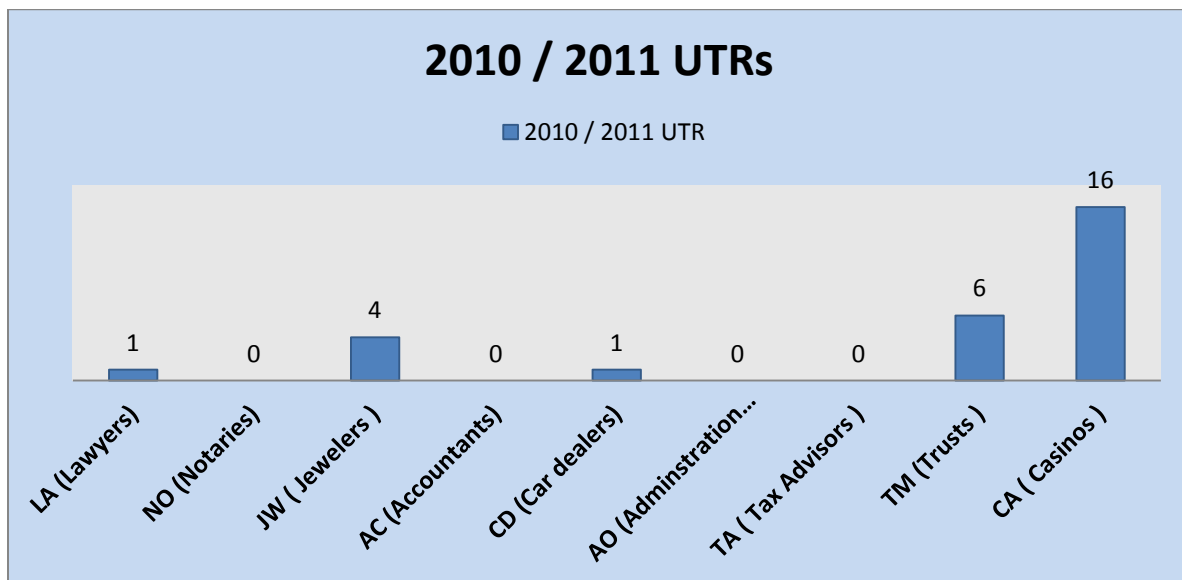


Figure 13. UTRs DNFBP of 2010/2011

### 2.4.1. Trust Companies

During the reporting period 6 reports of unusual transactions have been received from the Trust sector of Sint Maarten.

#### Trust

##### Number of UTRs

Year	UTRs Trust Companies	ANG
2010/2011	6	2,578,553.00

Table 10.UTRs Trust Companies of 2010/2011

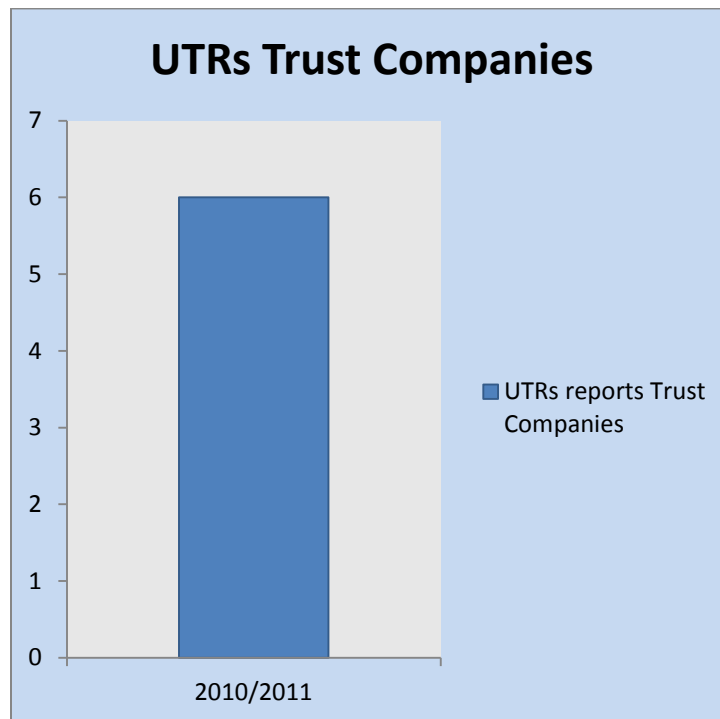


Figure 14. UTRs on Trust Companies of 2010/2011

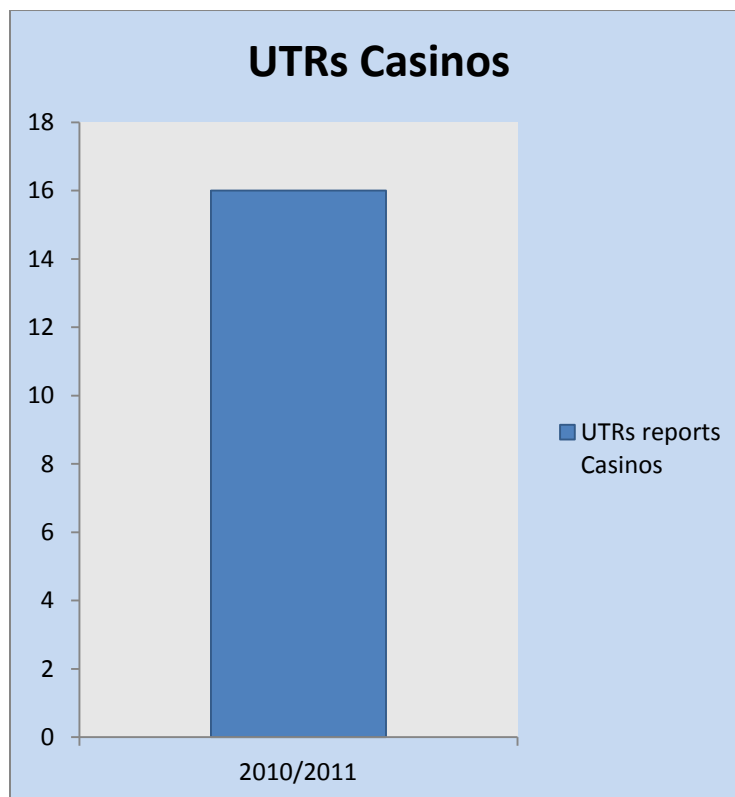
## 2.4.2. Casinos

The fourteen (14) casinos established on Sint Maarten, sent 16 reports of unusual transactions with a value of ANG. 1,351,272.00 to the FIU during this reporting period. These reports originated from 3 casinos.

### Casinos Number of UTRs

Year	UTRs Casinos	ANG
2010/2011	16	1,351,272.00

**Table 11. UTRs Casinos of 2010/2011**



**Figure 15. UTRs on Casinos of 2010/2011**



## 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 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, 1447 transactions, with a value of NAF. 142,192, 124.= 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.

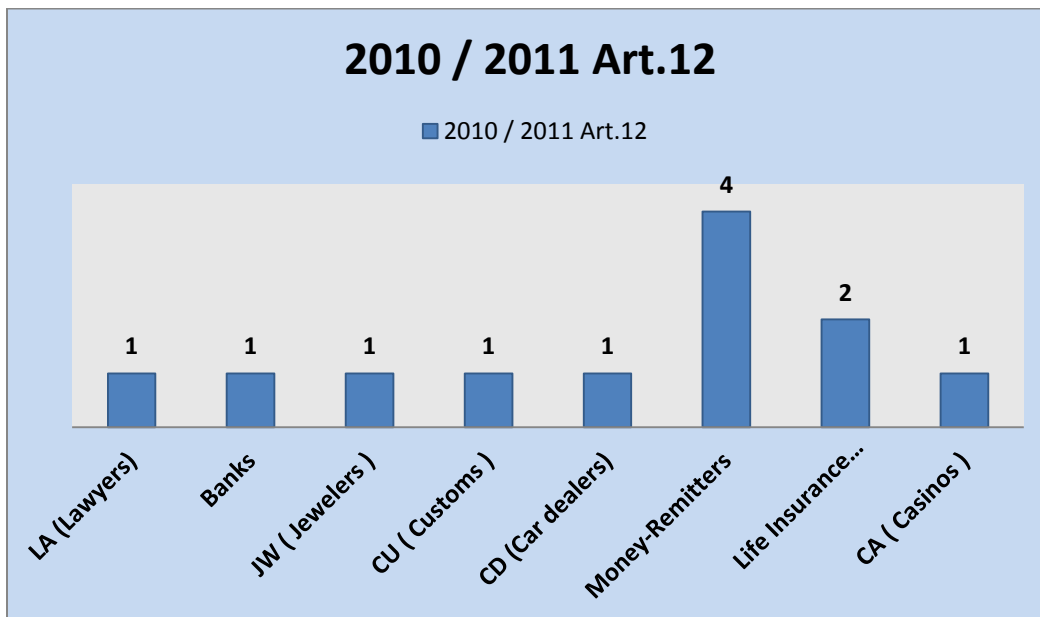
The reporting entity which has received a request for additional information from the FIU is required by law to provide these to the FIU, in writing or orally - in cases considered urgent in the opinion of the FIU – within the time period indicated by the FIU.

In the reporting period 12 requests for additional information were sent to reporting entities. The requests were sent to the following sectors: car dealers, banks, casinos, customs, jewelers, life insurance company, money remitter and lawyers.

### Art.12 requests

<u>Sector</u>	2010 / 2011 Art.12
LA (Lawyers)	1
Banks	1
JW ( Jewelers )	1
CU ( Customs )	1
CD (Car dealers)	1
Money-Remitters	4
Life Insurance Companies	2
CA ( Casinos )	1
<b>Total all sectors</b>	<b>12</b>

**Table 12. Art 12 Requests to the respective sectors of 2010/2011**



**Figure 16. Art12 Requests to the respective sectors**

### 3. 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 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.

Of the 8010 transactions received by the FIU in this reporting year, a total of 7982 transactions were from the financial sector. Of these transactions, 1447 transactions were disseminated to the PPO. Of the DNFBP sector no transactions were disseminated to the PPO.

#### Total Unusual transactions vs Suspicious transactions

Year	UTRs per year	STRs per year	Value UTRs ANG	Value STRs ANG
2010 / 2011	8010	1447	1,193,732,725.00	142,192,124.00

Table 13. UTRs vs. STRs of 2010 / 2011

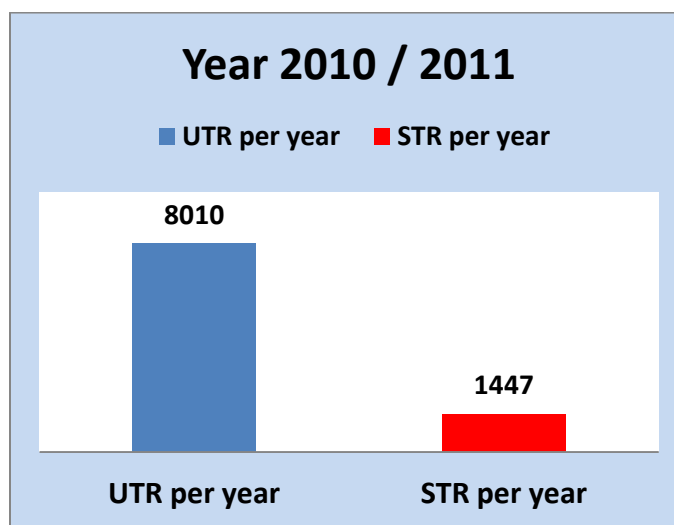


Figure 17. UTRs vs. STRs per Actions taken on UTRs of 2010/2011

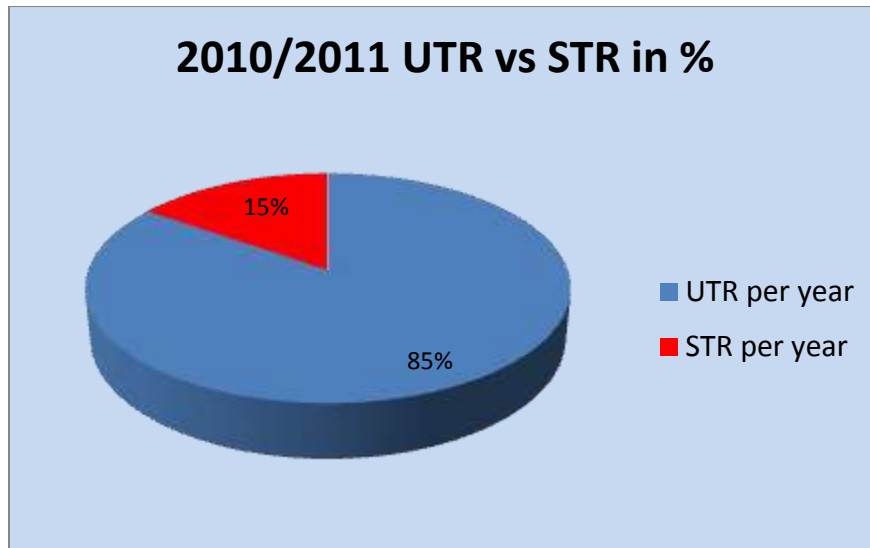


Figure 18. UTRs vs. STRs per Actions taken on UTRs of 2010/2011

### Total Unusual vs Suspicious transactions reports per year of the DNFBP

Year	UTRs per year	STRs per year	Value UTRs ANG	Value STRs in ANG
2010 / 2011	28	0	4,899,177.00	0

Table 14. Unusual versus suspicious transactions in 2010 / 2011

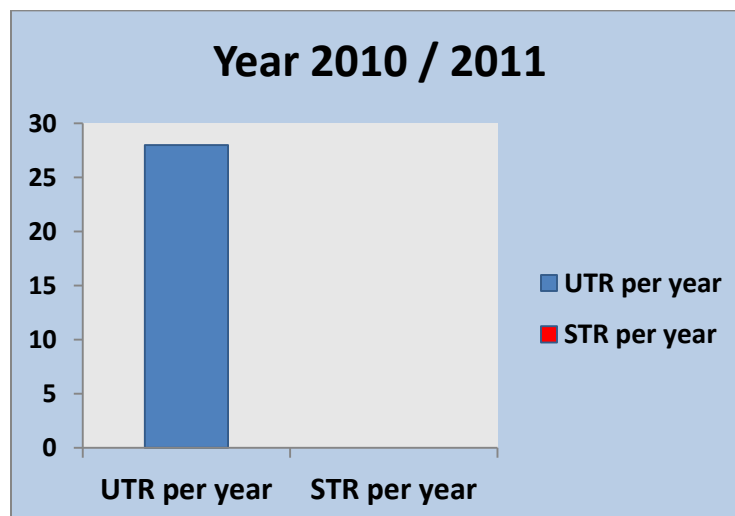


Figure 19. Unusual versus suspicious transactions of 2010/2011

### 3.1 National Requests for Information

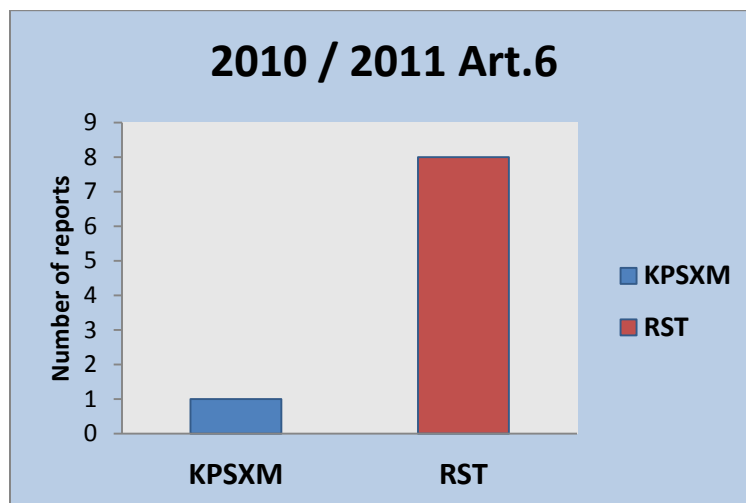
Dissemination of information by the FIU takes place based on requests received from the law enforcement agencies (by way of the PPO), based on own investigations, based on update-disseminations (when certain transactions have previously been disseminated) and when a foreign FIU requests the FIU authorization to furnish the data received to their public prosecutor and/or law enforcement agencies. In this reporting period, there were no disseminations based on own investigations of the FIU. The reason being that the FIU was recently established and did not have enough experienced staff.

During the reporting period the FIU received 9 requests for information pursuant to article 6 NORUT. These requests regarded 1,447 transactions with a value of NAF. 142,192,124.=

#### Art.6 requests per year from KPSXM and RST sector

<u>Sector</u>	2010 / 2011		
	Requests	UTRs	UTRs in ANG
KPSXM	1	108	55,898,503.00
RST	8	1339	86,293,621.00
<b>Total all sectors</b>	<b>9</b>	<b>1447</b>	<b>142,192,124.00</b>

**Table 15. Art.6 requests from KPSXM and RST of 2010/2011**



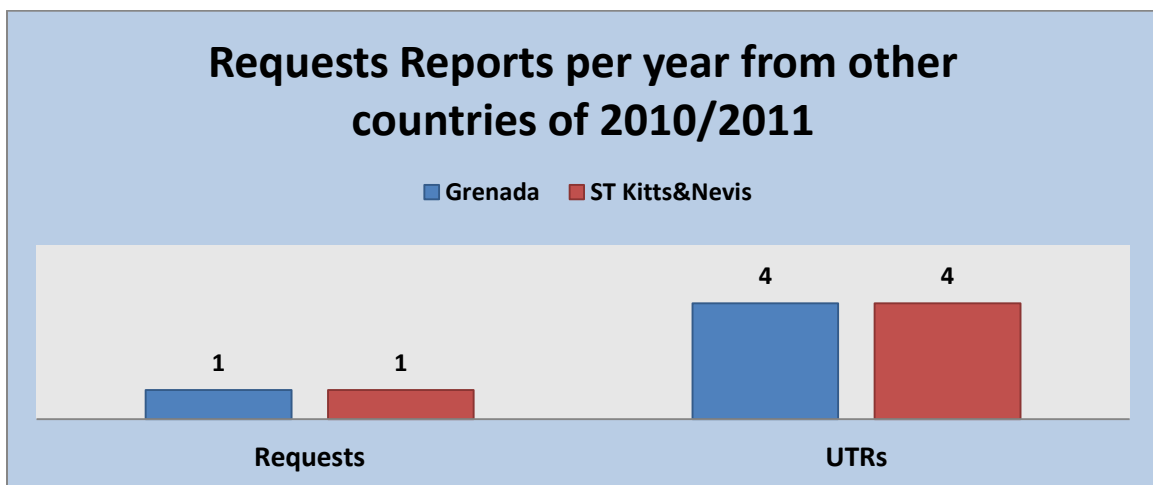
**Figure 20. Art.6 requests from KPSXM and RST of 2010/2011**

### 3.2 International Requests from other countries

Two requests for information were received pursuant to article 7 NORUT from other Egmont FIUs.

<u>Sector</u>	2010 / 2011		
	Requests	UTRs	UTRs in ANG
Grenada	1	4	191,313.00
ST Kitts&Nevis	1	4	288,207.00
Total all countries	2	8	479,520.00

**Table 16. Requests from Grenada and St.Kitts&Nevis of 2010/2011**



**Figure 21. Requests from Grenada and St. Kitts&Nevis of 2010/2011**

### 3.3 The Processing of UTRs and STRs

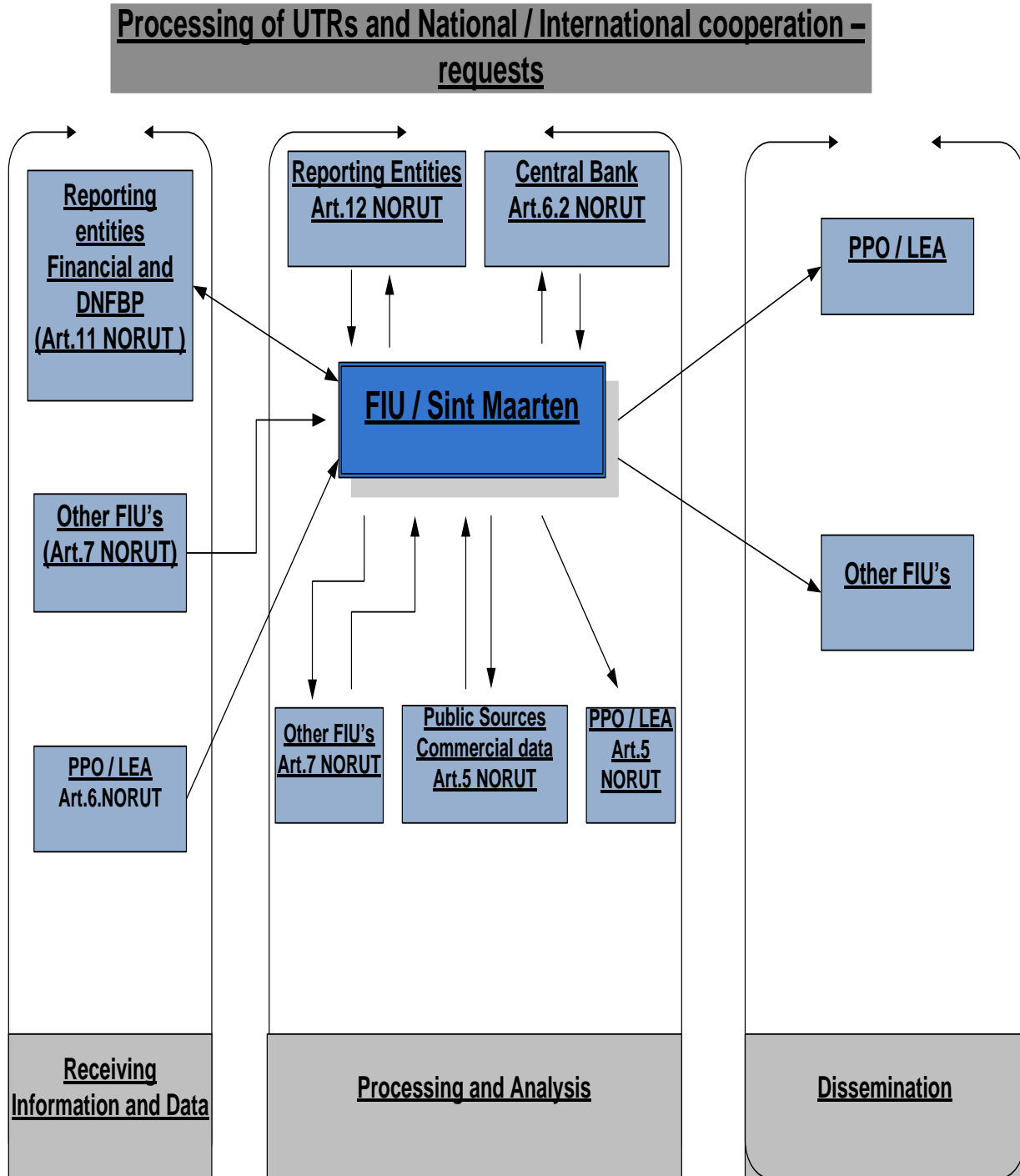


Figure 22. Processing, Analysis, and Dissemination of UTRs

## **4. 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.

In the year 2010 Sint Maarten became an autonomous country within the Kingdom of the Netherlands.

During this reporting period FIU Sint Maarten was in the process of developing its organization. Several meetings were held with the Minister of Justice, the PPO, the Advocate General and the Prosecutor General.

### **4.1. The Reporting Entities**

In the years leading to the new constitutional structure of Sint Maarten in 2010, all reporting entities, both financial and DNFBP, had received AML/CTF informative sessions and trainings from the FIU of the Netherlands Antilles.

During the reporting period at hand, no informative sessions were organized because FIU Sint Maarten was in the process of organizing itself.

### **4.2. Law Enforcement Agencies and the PPO**

In this reporting period the FIU met monthly with the Minister of Justice, the PPO, the Advocate General and the Prosecutor General to discuss law enforcement issues in general, with special attention to the FIU.

FIU Sint Maarten attended a training course regarding money laundering and terrorism financing organized by the Recherche Samenwerkings Team (RST) in Curacao.



### **4.3. 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 centered around organizational matters. Especially with regard to the finalization of the establishment of the FIU. The acting Secretary General of the Ministry of Justice, was requested to deal with all matters regarding the FIU and the search for adequate housing.

### **4.4. Consultations with FIU Curacao**

During the former constitutional situation in which the Netherlands Antilles still existed, the FIU was established on the island of Curacao. It follows that FIU Curacao had more experience in matters pertaining to FIUs and their work. This is the reason that in the reporting period at hand, FIU Sint Maarten was in frequent contact with its colleague, FIU Curacao, for assistance in its organizational and technical matters.

## **5. 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.

### **5.1. 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 MOUs were signed with St. Kitts&Nevis, Grenada, Honduras, Nigeria and Croatia.

During the reporting period the FIU received 2 requests for information from the FIU of St. Kitts&Nevis and the FIU of Grenada. The requests for information regarded frequent money transfers via a money remitter and money transactions whereby the subjects tried to obscure the origin or source of the monies. With regard to the 2 requests, 8 transactions representing a value of NAF. 340,000 were disseminated to the requesting FIUs.

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.

### **5.2. Cooperation in The Kingdom**

In March 2011 FIU Sint Maarten attended the Koninkrijksseminar in Aruba which was organized by the FIUs of Aruba and the Netherlands.

The Koninkrijksseminar was organized for the first time in 2007 in Curaçao in view of the 10th Anniversary of the FIU. The participants decided then that every two years the seminar would be organized in another country of the Kingdom. Due to the preparations of FIU Aruba and the FIU of the Netherlands for their evaluations by respectively FATF and IMF the second Koninkrijksseminar was organized until 2011.

The Koninkrijksseminar's aim is to bring together the FIUs in the Kingdom and promote and develop the cooperation between the FIUs in the Kingdom and also their cooperation with Law Enforcement.

The seminar in Aruba was attended by the Heads of FIUs in the Kingdom and some staff members and analysts, Public Prosecutors, Law Enforcement Agencies, and other invited guests. FIU Sint Maarten was represented by the IT-Analyst who gave a speech with regard to the start-up and further development of FIU Sint Maarten.

### 5.3. 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.



Sint Maarten became a member of CFATF in May 2011 in Honduras during the CFATF Plenary XXXIII, where the Minister of Justice represented the country Sint Maarten in the signing ceremony. In Annex 1 a copy of the MOU which was signed by the Minister of Justice can be reviewed.

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.

## 5.4. 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 2011 Sint Maarten started the procedure to become an Egmont member. FIU Aruba and the FIU of the British Virgin Islands offered to act as the sponsors for Sint Maarten. Sponsorship entailed that the mentioned FIUs would give FIU Sint Maarten guidance with regard to the prerequisites to become an Egmont member, advice with regard to the anti money laundering and counter terrorism financing legislation and the effective functioning of the FIU. In the membership procedure Sint Maarten's AML/CTF legislation and the FIU will need to be approved by the relevant Working Groups of the Egmont Group, where after the Plenary of the Egmont Group will then decide whether the FIU of Sint Maarten complies with all prerequisites to become an Egmont Group member.

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

## 6. PRIORITIES FOR THE YEAR 2012

- In March 2012 the evaluation of Sint Maarten by the CFATF will take place. This means that much time and effort will be dedicated in preparing Sint Maarten and its FIU for this event.
- Continue the search for adequate housing for the FIU taking into account Egmont's documents for a safe and secure FIU.
- Establish on-line reporting making it possible to forward reports digitally to the FIU.
- Establish a Website for FIU Sint Maarten.
- Establishing a reporting kiosk for Customs making it possible to forward the Customs report in digital form to the FIU.
- Meetings with LEA and PPO with regard to the feedback regarding disseminated transactions by the FIU.
- Working on membership of the FIU in the Egmont Group.
- Monitoring the inclusion of Terrorism Financing in the Criminal Code of Sint Maarten.

## ANNEX 1 MOU BETWEEN CARIBBEAN FINANCIAL ACTION TASK FORCE AND SINT MAARTEN



### MEMORANDUM OF UNDERSTANDING AMONG MEMBER GOVERNMENTS OF THE CARIBBEAN FINANCIAL ACTION TASK FORCE

Considering the threat posed by the activities of money launderers and those who finance terrorism;

Determined to preserve and maintain social, economic and political stability in the Caribbean Region;

Considering the work since 1990 of the Caribbean Financial Action Task Force (CFATF) and taking into account the interest of Caribbean countries and territories in formalising this organisation and securing the participation of other countries and territories in the study, formulation and implementation of recommendations to improve the prevention, suppression and control of money laundering and terrorist financing;

Conscious of the benefit to countries and territories of the Caribbean Region of continued work in the study and the effective implementation of mechanisms to prevent and control money laundering and terrorist financing;

Acknowledging the need for expertise and training to ensure the effective implementation of money laundering and terrorist financing countermeasures and the support of the FATF members and international organisations in sustaining such training programmes; and,

Acknowledging that international co-operation is critical in the fight against money laundering and terrorist financing and reaffirming their commitment given in various *fora* to adopt and implement effectively the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 UN Convention Against Transnational Organized Crime and the 1999 UN Convention for the Suppression of Terrorist Financing, the 40 FATF and the 9 Special Recommendations on Terrorist Financing, (the Recommendations), the obligations expressed in the Kingston Declaration and, where applicable, the 1995 Plan of Action of the Summit of the Americas, and the Inter American Convention Against Terrorism 2002.

The Governments party to this memorandum have reached the following understanding:

#### I - Objectives

Members agree to adopt and implement effectively the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 UN Convention Against Transnational Organized Crime and the 1999 UN Convention for the Suppression of Terrorist



Financing, endorse and implement the Recommendations, fulfil the obligations expressed in the Kingston Declaration and, where applicable, the 1995 Plan of Action of the Summit of the Americas, the Inter American Convention Against Terrorism 2002 and to adopt and implement any other measures for the prevention, suppression and control of the laundering of the proceeds of all serious crimes and terrorist financing as defined by the laws of each Member.

Members agree to adopt and effectively implement where applicable the March 2002 Washington Statement of the Black Market Peso Exchange System Multilateral Working Group and the October 2002 CFATF Money Laundering Prevention Guidelines for CFATF Member Governments, Free Trade Zone Authorities and Merchants.

Members agree to facilitate, implement and participate in such technical assistance and training programmes and typology exercises, which contribute to the enactment and effective implementation of policies, legislation and regulations in accordance with all applicable international conventions and agreements for the prevention, suppression and control of the laundering of the proceeds of all serious crimes and terrorist financing.

## **II - Members**

1. Members are those countries or territories within the Caribbean Basin and Central America who have agreed to subscribe to this Memorandum.
2. The Council of Ministers is the body which will approve applications for membership by new Members.
3. Applications should indicate that the country commits to paying annual membership dues, agrees to submit to mutual evaluation in keeping with the Mutual Evaluation Programme, and attend Plenary and Council of Ministers Meetings on a regular basis.
4. Applications will be considered by the Council within 12 months of receipt. Countries or territories will be admitted as Members upon approval of their application by two thirds of the Members.

## **III - Structure**

5. The Caribbean Financial Task Force comprises:
  - i. The Council of Ministers (the Council);
  - ii. The Plenary of Senior Officials (the Plenary);
  - iii. The Steering Group; and
  - iv. The Secretariat.



#### **IV - Co-operating and Supporting Nations**

6. Co-operating and Supporting Nations are countries or territories which have expressed their support for the objectives of the CFATF and have been approved by the Council of Ministers.
7. Co-operating and Supporting Nations are committed to the mutual evaluation of their progress in implementing the 40 Recommendations of the FATF and the 9 Special Recommendations on Terrorist Financing of the FATF and will make such contributions to the work and/or resources of the CFATF as are permitted by their respective national laws and policies.
8. Nations requesting to become Co-operating and Supporting Nations must express their commitment to the support of the CFATF and have undergone a positive mutual evaluation by the FATF or an FATF-approved regional body.
9. Countries or territories may apply in writing to the Secretariat to become Co-operating and Supporting Nations. Applications will be considered by the Council within 12 months of receipt. A country or territory will be considered a Co-operating and Supporting Nation upon approval of their application by two thirds of the Members.

#### **V – Observers**

10. Observers are:
  - i. Such countries, territories and organizations as are approved by the Council of Ministers as outlined in the attached schedule and include regional, multilateral and hemispheric organizations as approved by the Council of Ministers.
  - ii. Organisations which actively support or otherwise are interested in the objectives of the CFATF, as approved by the Council of Ministers;
  - iii. Countries or territories which have applied to become a Member or Cooperating and Supporting Nation, as approved by the Council of Ministers; and
  - iv. Any other country or organisation invited by the Chair to a specific meeting and to which no Member objects.
11. Only governmental or those organisations acting in the public interest are eligible to become Observers.





12. An organisation, country, or territory may apply in writing to the Secretariat to become an Observer. Applications will be considered by the Council within 12 months of receipt.
13. Organisations, countries, or territories will be admitted as Observers upon approval by two thirds of the Members present at a meeting of the Council and will hold such status at the Council's discretion.

#### **VI - Invitees**

14. The Chair and the Secretariat may invite non-governmental entities to observe special meetings on the discussion and analysis of typologies on money laundering and other offences relating to transnational crime and terrorism.
15. The Chair and the Secretariat may co-ordinate meetings in the jurisdictions of the Members in order to:
  - (a) Ensure that the private sector is fully aware of the obligations of the jurisdictions;
  - (b) Identify problems in regulation and supervision; and
  - (c) Revise standards and practices in order to ensure conformity with the best standards and practices of the international community.

#### **VII- Funding**

16. The activities of the CFATF are funded by annual contributions from all Members as decided by the Council, by contributions from Co-operating and Supporting Nations or/and by any other source approved by the Council.
17. Sanctions for non-payment will be decided by each Plenary, as required, and where sanctions are agreed, they will be communicated in a letter from the Chair immediately after the conclusion of the Plenary
  - Level 1 Sanctions: No member with arrears shall occupy a leadership position – Chair, Deputy Chair or member of Steering Group
  - Level 2 Sanctions: No member with arrears for two consecutive Plenary meetings shall participate in Working Groups or organization-funded training activities of the CFATF or shall vote on key issues during Plenary or Ministerial discussions.
  - Level 3 Sanctions: Where non-payment is a persistent issue, namely where non payment is outstanding for three or more Plenaries, the CFATF shall request the Member in question to send a high-level delegation to the Plenary to provide an



explanation and to seek a high level commitment to liquidate the outstanding sum. If payment is not made within 30 days of the high-level delegation, and/or the Member does not attend the Plenary, then Plenary shall recommend the suspension of CFATF membership to Ministers and referring the jurisdiction to the FATF/ICRG process. Where payment is made the sanctions will be lifted automatically.

Where the decision for suspension is made at the May Plenary the consideration and approval of the recommendation by Ministers should be undertaken through the Round Robin process and where relevant the Chair should write a letter to the FATF President.

18. Members will bear the cost of their participation in the activities of the CFATF.

#### **VIII - The Council**

19. The Council is the supreme authority within the CFATF and consists of one ministerial representative or duly authorised alternate proposed in writing from each Member.
20. The Council will meet at least once annually and where urgent circumstances dictate, may make decisions in respect of its functions and duties by a two thirds majority using a procedure by which the Secretariat will circulate to each Member in writing (in electronic or other form) the proposed recommendation for their individual consideration and approval or otherwise within ten (10) days of receipt of the proposed recommendation, which approval or otherwise will be communicated to the Secretariat for tabulation and dissemination.
21. The functions and duties of the Council are the following:
  - (a) Examine, modify, approve or reject:
    - i. The items of the Council Meetings;
    - ii. The Annual Reports of the Organisation
    - iii. The audited Financial Reports for the previous financial year;
    - iv. The Work Programme for the following year;
    - v. The Budget for the following year;
    - vi. The Mutual Evaluation Reports on Members;
    - vii. The Country Reports on Members;
    - viii. The Technical Assistance and Training Reports on Members
    - ix. The Typology Reports on money laundering and terrorist financing trends in the Region;



- x. The admission of new Members, Co-operating and Supporting Nations and Observers, the removal of membership from admitted Members and Co-operating and Supporting Nations and the withdrawal of status from Observers.;
  - xi. The appointment of the Executive Director and the Deputy Executive Director(s) of the Secretariat.
  - xii. The temporary or permanent location of the Secretariat.
  - xiii. The date and place of the next Council meeting.
  - xiv. Any other business to be submitted to the Secretariat, with at least one (1) month prior notice; or within a reasonable time frame prior to the next Council Meeting following its receipt at the Secretariat;
  - xv. Policy matters, including the adoption of the Recommendations.
- (b) Elect a Deputy Chair.
  - (c) Appoint an Accountant and an independent Auditor;
  - (d) Take appropriate action with respect to Members that do not comply with this Memorandum and the Recommendations, including the suspension from its membership; and
  - (e) Reinstatement of a suspended Member.

#### **IX – The Chairman**

- 22. The Deputy Chair elected by Council shall assume the Chair at the next annual meeting of Council.
- 23. The Member holding the Chair will appoint a Minister or Senior Official who will hold office until the next Council Meeting.
- 24. The functions and duties of the Chairman are the following:
  - i. Preside over meetings of the Council and the Plenary and be responsible in the latter case to brief the Members on the activities of the CFATF;
  - ii. Represent the CFATF at FATF meetings and other fora determined by the Council;
  - iii. Carry out activities assigned by the Council and any other activities consistent with his mandate;



- iv. Discuss and defend before the international community the positions and initiatives of the jurisdictions, in relation to the CFATF mandate;
- v. Supervise the execution of the Work Programme for the period and any other issue approved by the Council;
- vi. Receive quarterly reports and other reports prepared by the Secretariat, on the implementation of the Work Programme, the budget and any other activities being carried out;
- vii. Delegate his representation or assign specific responsibilities to the Deputy Chair, the Executive Director or the Steering Group on any pertinent matters; and
- viii. Supervise processes for the resolution of disputes as may arise from time to time.

#### **X - The Deputy Chair**

25. Once each year the Council shall elect a Member to be Deputy Chair by a majority of Members.
26. The Deputy Chair will undertake such functions as may be delegated by the Chair.
27. Members who aspire to the position of Deputy Chair may present their written nomination to the Secretariat, supported by two (2) other Member countries, at least sixty (60) days before the meeting in which the election will be conducted.
28. Any Member who is not current with its financial obligations in the CFATF and/or is judged by the Council as not making sufficient efforts to implement and carry out the Recommendations, shall not be eligible for nomination for the Deputy Chair of the organization.

#### **XI - The Plenary**

29. Each Member will be represented by at least one senior official in the Plenary.
30. The Plenary will meet at least twice annually.
31. The Chair and Deputy Chair of the Council will be respectively Chair and Deputy Chair of the Plenary.
32. The functions and duties of the Plenary are the following:



To review, analyze, modify and make recommendations on:

- i. the draft Agenda;
  - ii. the draft Annual Report;
  - iii. the audited Financial Reports;
  - iv. the budget and proposals for funding;
  - v. recommendations regarding the appointment of the Accountant and an Independent Auditor;
  - vi. the Mutual Evaluation Reports on Members;
  - vii. the Country Reports on Members;
  - viii. the implementation of the approved Work Programme;
  - ix. the Technical Assistance and Training Reports on Members;
  - x. the Typology Reports on money laundering and terrorist financing trends in the Region;
  - xi. the admission of new Members, Co-operating and Supporting Nations, and Observers;
  - xii. the positions of Executive Director and Deputy Executive Director (s) of the Secretariat.
  - xiii. policy matters, including the adoption of any revised Recommendations; and
  - xiv. instances of failure to comply with this Memorandum and the Recommendations by a Member; and
  - xv. The reinstatement of suspended Members.
32. The Plenary may establish working groups to undertake specific tasks. The election, composition, reporting process and life of such working groups will be at the discretion of the Plenary.

#### **XII - Procedures at Meetings**

33. A validly constituted quorum for a meeting will exist when at least one half of the voting Members is present.
34. All Members, Co-operating and Supporting Nations and Observers participate in meetings. Members of the FATF/FSRBs/OGBS participate in meetings with delegations comprising the Presidents and Secretariats of the organisations and on the basis of reciprocity a representative from up to five member jurisdictions who will participate and take the floor on behalf of but under the umbrella of the FATF/FSRBs/OGBS and under the coordination of the FATF/FSRBs/OGBS President or the Secretariat.
35. Only Members present have the right to vote.
36. Resolutions will be adopted by a two-thirds majority of the Members present.



### **XIII - The Steering Group**

37. The Steering Group which is chaired by the Chairman, is a consulting advisory group, to the Plenary and the Council on a variety of policy matters and issues and also to the Secretariat on any matter related to the administration of the Secretariat or policies which for practical reasons cannot be dealt with by all Members.
38. The Steering Group is comprised of the Chairman, the Deputy Chairman, the outgoing Chairman, the Executive and Deputy Executive Director(s), (hereinafter referred to as the “ex officio members” and each an “ex officio member”), three Members chosen by simple majority of the Council of Ministers and by one (1) representative of the COSUNs Group. Where an ex officio member is unable or unwilling to assume membership of the Steering Group, the Council of Ministers may elect another member in its stead.
39. The organization and the procedures for the functioning of the Group will be prepared by the Executive Director and presented for approval by the other Members.

### **XIV - The Secretariat**

40. The Secretariat will perform technical and administrative functions under the direction of the Executive Director and the Deputy Executive Director (s).
41. The Secretariat shall be headed by an Executive Director who will have responsibility for the proper execution of its technical and administrative functions. He shall be assisted by the Deputy Executive Director(s).
42. Member countries will select and appoint the Executive Director and Deputy Executive Director(s), and indicate their terms of office, at a Council Meeting by the decision of a two-thirds majority of the Members present.
43. The functions and duties of the Secretariat are the following :  
The Secretariat will:
  - i. Provide periodic reports to the Chair regarding its activities;
  - ii. Have prepared and present the Annual Report, the audited financial statements and any other related report on the activities of the CFATF to the Plenary;
  - iii. Prepare under the guidance of and present at the request of the Chairman, the Work Programme for the following year;



- iv. Prepare and present the annual budget and funding sources for the following year;
- v. Administer and implement the budget approved by the Council;
- vi. Prepare quarterly reports on the activities carried out and the budget implemented by the Chairman;
- vii. Represent the Chairman or Deputy Chairman in activities expressly delegated;
- viii. Coordinate, organise, supervise and participate in the Mutual Evaluation of the Members;
- ix. Prepare Mutual Evaluation Reports and assure the timely distribution of Mutual Evaluation Reports to Members, COSUNs, Observers/FATF/FSRBs/OGBS which will be presented to the Plenary for review and subsequently to the Council for approval;
- x. Prepare and present before the Plenary and Council indicators, methodologies and procedures to assess the efforts of Members in the implementation of measures and Recommendations against money laundering and the financing of terrorism;
- xi. Organize typology studies to examine money laundering and terrorist financing activities and trends in the Region;
- xii. Keep Members informed as to relevant developments and activities on anti – money laundering and anti- terrorist financing;
- xiii. Channel and respond to communications received by the Secretariat and keep Members informed as to relevant developments and activities on anti – money laundering and anti – terrorist financing by the FATF and other relevant bodies;
- xiv. Discharge any other responsibility assigned by the Council, the Chair or the Plenary;
- xv. Receive applications on behalf of the Chair; and
- xvi. Receive notices of intention to withdraw and notify Members accordingly.



#### **XV- Technical Assistance and Training**

44. In pursuance of the extension of the organization's mandate to facilitate and implement the technical assistance and training needs of all Members, the Secretariat under the direction of the Chairman and the Steering Group should:
- Coordinate and participate in the activities of the Technical Assistance and Training Working Group;
  - Provide progress reports on technical assistance and training activities and programmes to the Chairman, Steering Group, Plenary and Council Meetings;
  - Act as technical assistance and training liaison between the CFATF and other similar organizations and countries as well as the regional and international donor community;
  - Assess and quantify the training and technical assistance needs of members to combat money laundering and the financing of terrorism; and
  - Ensure that the mandate of the CFATF to act as implementing agency for technical assistance and training programmes approved by the Council of Ministers is efficiently discharged.

#### **XVI - National Committees**

45. Members will, in accordance with applicable domestic law, establish Standing Anti-Money Laundering and the Financing of Terrorism Committees or similar entities, comprising senior representatives of relevant disciplines: Legal and Judicial, Financial Supervision, and Law Enforcement.

#### **XVII - Self Assessment**

46. Members agree to participate in an ongoing Self – Assessment Programme co-ordinated by the Secretariat.

#### **XVIII - Mutual Evaluation**

47. Members agree to participate in a programme of mutual evaluation conducted in accordance with Mutual Evaluation Procedures approved by the Council and to allow Examiners from the FATF/FSRBs/OGBS/World Bank to participate as appropriate in the CFATF Mutual Evaluation Mission Teams on a reciprocal basis.





#### **XIX - Languages and Authentic Text**

48. The official languages of the CFATF are English and Spanish. The English and Spanish texts of this Memorandum of Understanding are equally valid and authentic.

#### **XX - Accounting Period and Financial Reports**

49. The financial year will be from the first (1<sup>st</sup>) day of January to the thirty first (31<sup>st</sup>) day of December.
50. The Accountant will prepare and present to the Secretariat quarterly financial statements comprising a balance sheet, income and expenditure statement, cash flow and source of funds statements to the period ending December 31<sup>st</sup> each year.
51. The Auditor will carry out an annual audit of the books and accounts of the CFATF.
52. The Secretariat will prepare and submit a report to the Members at least two (2) months prior to the Council Meeting.

#### **XXI - Withdrawal**

53. A withdrawal by a Member or a Co-operating and Supporting Nation will be effective three (3) months after receipt by the Secretariat of written notice of intention to withdraw.

#### **XXII - Suspension**

54. Any Member may be suspended from Membership by decision of the Council, with a favourable vote of three quarters ( $\frac{3}{4}$ ) of the Members.

#### **XXIII- Reinstatement**

55. A suspension shall terminate upon the breach being remedied and upon the Council confirming rectification and reinstatement of a Member Country.

#### **XXIV – Dissolution**

56. The CFATF will remain established for an indefinite period of time and will only be dissolved by decision of a three fourths majority of the Members taken at a Council Meeting.



#### **XXV – Amendment of this Memorandum**

57. This Memorandum may only be amended by approval of two-thirds of the Members present at a meeting of the Council.

#### **XXVI- Entry into Force**

58. Each Member agrees to carry out the terms of this Memorandum as of the date of signature of that Member.

### **SCHEDULE TO THE MEMORANDUM OF UNDERSTANDING**

#### **(A) INTERPRETATION**

**Recommendations:** Any reference within this Memorandum of Understanding to the Recommendations will mean the FATF 40 Recommendations and the Eight Special Recommendations on Combating the Financing of Terrorism.

#### **(B) PROCEDURES FOR FAILURE TO COMPLY WITH THE MEMORANDUM OF UNDERSTANDING AND THE RECOMMENDATIONS**

With regard to any instance by a Member of failure to comply with the Memorandum of Understanding and the Recommendations, the Plenary shall:

- a) Invite the Member to report to the Plenary its position regarding the alleged non-compliance and its proposed remedial actions or, in the case of a negative Mutual Evaluation Report, to provide a status report regarding any corrective action(s) it may have taken.
- b) Upon a negative assessment of this report, and depending upon the severity of the deficiency in question, the Plenary may determine that the Member in question should provide a further status report at the next Plenary or Council of the CFATF.



- c) If these reports are made before the Plenary, the Plenary should forward its findings and its recommended course of action to the Council which will also receive the problem Member's report.

The Council of Ministers shall:

- (i) Receive and consider a Status Report and recommendations from the Plenary on the alleged non-compliance by a Member and its proposed remedial action(s), any corrective action(s) that may have been taken, or lack of corrective action.
- (ii) Determine such steps as it feels necessary in light of the Status Report which in the case of a negative assessment by the Plenary could include sending a Diplomatic Note through its Secretariat to the Government in question, expressing its concern and requesting a response.
- (iii) In the event of an unsatisfactory or no response, the Council should form a high-level delegation to be led by the Chairman in a visit to appropriate officials of the Member in question. This visit should be treated as a diplomatic demarche in which the CFATF speaking through the Council expresses its concern with the problems which are the subject of the visit and requests of the visited Government indications of its intentions.
- (iv) In the event of an unsatisfactory response as determined by the Council, the Council should then authorise a letter to the government in question. This letter, to be issued under the Chairman's signature, should express the Council's concern with specific failings of the government in question, show how these are indicative of non-compliance with specifically identified obligations embodied by the MOU, and urge rapid and effective corrective measures proposed by the Council in order to avoid further action by the Council.
- (v) In the event of an unsatisfactory response to the Council, the Government in question should be advised that the failure to take corrective action within a specified period as determined by the Council having regard to the nature of the non-compliance may result in corrective action which might include expulsion from membership.

C. **SUSPENSION**

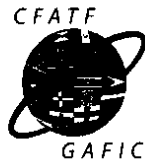
- (i) The submission of a request for suspension by the Chairman or a Member should have the support of at least another Member;



- (ii) A copy of the request for suspension should have been received by the Member whose suspension is requested at least thirty (30) days before the meeting where such request will be reviewed, and with written evidence in the Secretariat of its receipt by the Members.
- (iii) The request for suspension will be established when the Members do not comply with the objectives and obligations set forth in this Memorandum of Understanding and/or with the financial commitments of the CFATF.
- (iv) A Member will only be suspended on receipt of official and written notice of the breach in question from the Chairman if he has failed to rectify such breach within an agreed timeframe.

#### **4. THE CHAIRMAN, DEPUTY CHAIRMAN AND STEERING GROUP:**

- i. The Chairman will be a member of the Steering Group for the one-year period following his election as Chairman and for a further one-year period when he is designated as outgoing Chairman.
- ii. The Deputy Chairman will be a member of the Steering Group for the one year period following election as Deputy Chair;  
  
for the one year period following election as Chair.  
for the one year period when designated outgoing Chairman.
- iii. The three members chosen by simple majority of the Council of Ministers will be members of the Steering Group for the one-year period following such election. Should any of these three members be elected to the Deputy Chair, then the procedure in (ii) and (i) above will apply.
- iv. Whilst every effort will be made to ensure that all CFATF Members are given the opportunity to serve on the Steering Committee, nothing will preclude the election of any Member to serve for any consecutive period as the Council of Ministers decide.
- v. The Steering Group will be elected for a period of one (1) year and will meet on a regular basis as the interests of the organization require, as well as before each Plenary Meeting.
- vi. The Chairman who has the authority to call upon all past Chairmen to share their expertise and experiences in the conduct of all aspects of the organization's affairs or the Executive Director will determine the mechanisms for the functioning of the Group.



(E)

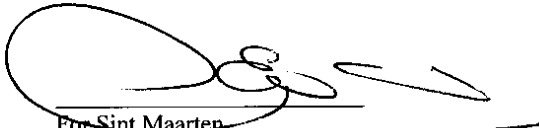
**OBSERVERS**

- Asia Pacific Group Secretariat
- Association of Caribbean Commissioners of Police
- Caribbean Customs Law Enforcement Council
- Caribbean Development Bank
- CARIFORUM
- Caribbean Regional Technical Assistance Centre
- CARICOM Secretariat
- Commonwealth Secretariat
- Eastern Caribbean Central Bank
- Eastern and Southern Africa Anti Money Laundering Group
- EGMONT Group
- European Union
- Federal Republic of Germany
- Financial Action Task Force
- Financial Action Task Force of South America
- Inter American Development Bank
- International Monetary Fund
- Interpol
- Moneyval
- Offshore Group of Banking Supervisors
- Organization of American States/CICAD
- Organization of Eastern Caribbean States Secretariat
- United Nations Office of Drugs Control and Crime Prevention
- The World Bank Group
- World Customs Organization



**MEMORANDUM OF UNDERSTANDING**  
**AMONG MEMBER GOVERNMENTS OF**  
**THE CARIBBEAN FINANCIAL ACTION TASK FORCE**

In witness whereof the below duly authorised signatories subscribe this Memorandum. Done in the city of San Pedro Sula, Honduras in one English and one Spanish original the nineteen day of May, two thousand and eleven.



For Sint Maarten  
Honourable Roland E. Duncan  
The Minister of Justice



## ANNEX 2 NORUT

[For regulations, see overheid.nl](#)

Did you observe an error in this regulation? [Report it on regelgeving@overheid.nl](mailto:regelgeving@overheid.nl)

Sint Maarten

### National Ordinance Reporting Unusual Transactions in Financial Services

#### Legal-technical information

##### Details of the regulation

Government organisation	Sint Maarten
Official name of the regulation	National Ordinance Reporting Unusual Transactions in Financial Services
Short title	National Ordinance Reporting Unusual Transactions
Adopted by	the government and the Parliament jointly
Topic	finance and economy

##### Own subject

#### Comments relating to the regulation

The resolutions and regulations applicable pursuant to this national ordinance remain in force, until the time these resolutions and regulations have been brought into line with the amendments adopted in AB 2014, no. 51.

The original regulation was signed on 10 February 1996, published in P.B. 1996, no. 21, and took effect on 1 October 1997.

See [www.overheid.nl](http://www.overheid.nl) for the history of this regulation prior to 10-10-10 via local regulations and perform an advanced search stating Netherlands Antilles, with search date 09-10-2010.

#### Regulations based on this regulation (delegated regulations)

National decree containing general measures implementing Article 7 (1) of the National Ordinance Reporting Unusual Transactions

Regulation on Indicators of Unusual Transactions

Regulations for the Register of the Office for the Reporting of Unusual Transactions

Ministerial Regulation Implementing the National Ordinance Reporting Unusual Transactions

**Overview of amendments incorporated in the text**

<b>Date of entry into force</b>	<b>With retroactive effect until</b>	<b>Date when effect ceases</b>	<b>Concerning</b>	<b>Date signed</b>	<b>Source in which published</b>	<b>Reference of proposal</b>
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 immovable 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;

o 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;

o 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:

o a.

request all information;

o 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;

o c.

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

o d.

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

o e.

investigate vessels, stationary vehicles and the cargo of these;

o 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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