



**FINANCIAL REPORTING  
AUTHORITY (CAYFIN)**

CAYMAN ISLANDS GOVERNMENT

**PORTFOLIO OF LEGAL AFFAIRS**



**ANNUAL REPORT 2013/2014**



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## MESSAGE FROM THE DIRECTOR

This year, 2013/2014, marks the eleventh reporting period for the FRA. The year has seen a significant increase in the number of suspicious activity reports (SARs) when compared to the previous year. There were 558 cases reported, and admittedly, such large numbers posed an uphill challenge to the analytical staff. However, it is nonetheless gratifying to note that the vigilance of the reporting entities has not waned and this creates a hostile environment for those who are desirous of using our jurisdiction for their criminal activities and enrichment.

Our success can only be achieved by maintaining a harmonious relationship and effective collaboration with those who are obligated to report suspicious activities. As a result, we engaged in outreach programmes with a number of our reporting entities. These programmes are geared towards developing a deeper understanding of our respective roles, as well as the sharing of information and to provide insights into how we can complement each other.

Of the 558 cases received, 319 were completed with 239 in progress at various stages. Our activities, therefore, involved interactions with a wide cross section of Cayman's business community and 32 countries around the world.

This brings into sharp focus the importance and usefulness of our membership in the EGMONT Group. Through this group we are able to share and request information from our partners. The sharing of intelligence which is facilitated through this group cannot be understated and they continue to play a pivotal role which is central to our mandate. The EGMONT group continues to serve us well.

In spite of our burdensome and onerous workload, our staff continues to be dedicated and committed to our mission. We have had to become proactive and plan our work in such a way that the reports which are for disclosure to law enforcement agencies are viewed by the Director and expedited as a matter of priority.

I am also pleased to announce the promotion of one of our long standing employees, Julian Hurlston, to the position of Senior Financial Analyst, with effect from 1 May 2014. This post was not filled due to budgetary constraints for over 5 years. As a result of the promotion, the post of analyst is now vacant and an open recruitment exercise is under way. The expectation is that the additional role will serve to enhance our performance over the coming year.

The coming year will see more training courses to develop our employees to the required capacity and to hopefully allow each of them to respond aptly and to be able to match the increased sophistication of those engaged in money laundering, terrorist financing and other associated criminal activities.

The 40 Recommendations of the Financial Action Task Force (FATF) will necessitate a complete review and overhaul of the Cayman Islands' AML/CFT regime and as the country embarks on the National Risk Assessment, we are committed to participate in the process in preparation for the next Caribbean Financial Action task Force (CFATF) mutual evaluation of this jurisdiction in 2017.

Once again, we are grateful to our partners in the reporting entities, law enforcement and regulatory agencies for their unwavering support during the year. We also wish to thank the Anti-Money Laundering Steering Group for its guidance and co-operation throughout the year. The work of the staff has also been invaluable and must be commended, particularly because we have not had our full staff complement for the year. I have every confidence that the staff will continue to work hard in dealing with the challenges in the year ahead.

This annual report provides an overview of our operations for 2013/2014 which I trust will provide useful insights to its readers about the work we do.

Lindsey Cacho  
Director

## I. LEGAL FRAMEWORK

The Cayman Islands fully understands and accepts that operating a financial services centre involves serious obligations. The Cayman Islands Government enforces a strong anti-money laundering (AML) and countering the financing of terrorism (CFT) regime through the following pieces of legislation:

### 1. The Proceeds of Crime Law, 2008 ("PCL")

The PCL consolidated in one place the major anti-money laundering provisions, whereas before these were in three separate pieces of legislation. The PCL re-defined, clarified and simplified offences relating to money laundering and the obligation to make reports of suspicious activity to the Financial Reporting Authority ("FRA"). It also introduced the concept of negligence to the duty of disclosure, and imposed a duty to report if the person receiving information knows, suspects, or has reasonable grounds for knowing or suspecting, that another person is engaged in criminal conduct, and such information came to him in the course of business in the regulated sector, or other trade, profession, business or employment.

It also governs the operations of the FRA.

In addition the Law widened the definition of criminal conduct, which is now defined as any offence committed in the Cayman Islands or any action that would have constituted an

offence if committed in the Cayman Islands. As the definition was previously limited to indictable offences, the change simplified the task of assessing whether a particular set of facts falls within the PCL, and further satisfies the 'dual criminality' provisions, which mandate that the FRA may only respond to a request for information from another Financial Intelligence Unit ("FIU") if the offence being investigated in the overseas jurisdiction is also a crime in the Cayman Islands.

### 2. Misuse of Drugs Law (2010 Revision) ("MDL")

The MDL has over the years been amended to give effect to the Cayman Islands' international obligations, and particularly to United Nations ("UN") Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The MDL contains measures to deal with drug trafficking and the laundering of the proceeds from such activity. The law empowers the authorities to seize and confiscate drug trafficking money, and laundered property and assets. The Criminal Justice (International Cooperation) Law (2010 Revision) – originally enacted as the Misuse of Drugs (International Cooperation) Law - provides for cooperation with other countries in relation to collecting evidence, serving documents and immobilising criminally obtained assets in relation to all qualifying criminal proceedings and investigations.

### **3. Terrorism Law (2011 Revision)**

The Terrorism Law is a comprehensive piece of antiterrorism legislation that, inter alia, implements the UN Convention on the Suppression of Financing of Terrorism.

### **4. Anti-Corruption Law, 2008 ("ACL")**

Brought into effect on 1 January 2010, the ACL initiates the establishment of the Anti-Corruption Commission and also criminalises acts of corruption, bribery and embezzlement of funds.

The ACL seeks to give effect to the UN Convention against Corruption and the Organisation for Economic Cooperation and Development ("OECD") Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. International cooperation and asset recovery are important components of this legislation including measures to prevent and detect transfers of illegally acquired assets, the recovery of property and return of assets.

### **5. Proliferation Financing (Prohibition) Law 2010**

Proliferation Financing (Prohibition) Law 2010 conferred powers on the Cayman Islands Monetary Authority ("CIMA") to take action against persons and activities that may be related to terrorist financing, money laundering or the development of weapons of mass destruction. This legislation requires CIMA to

issue directions, where it reasonably believes that certain activities in these areas are being carried on that pose a significant risk to the interests of the Islands or the United Kingdom (U.K.).

### **6. Money Laundering Regulations (2013 Revision)**

The Regulations supplement the Law and are mandatory. The PCL defined "relevant financial business" and requires those engaged in "relevant financial business" activities, referred to as financial service providers ("FSPs") and professional intermediaries, to comply with specific administrative requirements aimed at preventing or detecting money laundering.

Among these administrative requirements is the appointment of compliance officers at management level.



## II. THE FINANCIAL REPORTING AUTHORITY

### 1. BACKGROUND

The FRA, known to counterparts worldwide by its computer call sign “CAYFIN”, is the financial intelligence unit of the Cayman Islands. As such it is the national agency responsible for receiving, requesting, analysing and disseminating financial information disclosures concerning proceeds of criminal conduct, in order to counter money laundering, terrorism, the financing of terrorism or suspicions of any of those crimes.

The FRA is the product of an evolutionary process. It first began as the Financial Investigation Unit in the early 1980s, operating within police headquarters. In the year 2000, it underwent a name change to become the Financial Reporting Unit, with the head of unit becoming a civilian post, and the appointment of a legal advisor. Line management for operational work was undertaken by the office of the Attorney General. Throughout this period, the role of the unit was to serve as the receiver, analyst and investigator of suspicious activity reports (“SARs”), in addition to gathering evidence to support prosecutions.

While this remains the FIU model in some countries, the Cayman Islands, along with other jurisdictions, quickly discovered that there were advantages to be gained from separating the functions of intelligence and evidence gathering. Briefly these are:

- A healthy review of the work undertaken by each subsequent player in the process from SAR to courtroom, and,
- As the majority of SARs are based upon “suspicion”, not every piece of confidential financial information should automatically end up in a police database.

Both benefits are instrumental in the due process of justice, and the latter is an important consideration in the FIU serving as a helpful ‘buffer’ type body between the confidential needs of a vigorous, competitive financial industry and combating crime by law enforcement.

Striking a balance between the various styles of FIUs, the Cayman Islands’ authorities moved towards an administrative-type unit. Subsequently the Proceeds of Criminal Conduct (Amendment) Law 2003 (PCCL) created the Financial Reporting Authority, the name by which the unit is presently known. The law which came into force on 12th January 2004, mandated that the FRA become a full-fledged civilian body, and that its function change from being an investigative to an analytical type FIU. Accordingly its mandate was restricted to the receipt and analysis of financial information coupled with the ability to disseminate this intelligence to agencies, where authorised to do so by the PCCL. Its existence and independence were

further enshrined in the PCL which repealed and replaced the PCCL and came into force on 30<sup>th</sup> September 2008. The investigative mandate continues to be undertaken exclusively by the Royal Cayman Islands Police Service (“RCIPS”) in relation to cases with local concerns.

Our primary objective is to provide timely and high quality financial intelligence to local and overseas law enforcement agencies through their local FIU, in keeping with the statutory requirements of the PCL.

## **2. Role and Function**

The FRA’s main objective is to serve the Cayman Islands by participating in the international effort to deter and counter money laundering and the financing of terrorism.

As noted above, the Authority’s role is to receive, analyse, (and as far as permitted request) and disseminate disclosures of financial information, concerning the proceeds of criminal conduct, suspected proceeds of criminal conduct, money laundering, suspected money laundering, or the financing of terrorism which is derived from any criminal offence committed in these islands.

The FRA also serves as the contact point for international exchanges of financial intelligence within the provisions of the PCL.

Financial intelligence is the end product of analysing one or several related reports that the FRA is mandated to receive from financial services providers and other reporting entities. Our ability to link seemingly unrelated transactions allows us to make unique intelligence contributions to the investigation of money laundering and terrorist financing activities.



The FRA team (from left to right): Mr. Julian Hurlston, Senior Financial Analyst, Ms. Sharon Dhamalie, Administrative Manager, Mr. Adam Roberts, Legal Advisor, Mrs. Elena Jacob, Financial Analyst, Mr. Roman Reyes, Senior Accountant, and Mr. Lindsey Cacho, Director (seated).

### 3. Organisational Structure and Management

The FRA is a part of the Cayman Islands Government Portfolio of Legal Affairs. The head of this portfolio is the Hon. Attorney General. In addition the FRA reports to the Anti-Money Laundering Steering Group (“AMLSG”), a body created by the same statute as the FRA. Chaired by the Hon. Attorney General, the group consists of the Hon. Financial Secretary (Deputy Chairman), the Commissioner of Police, the Collector of Customs, the Managing Director of CIMA and the Solicitor General. Since the creation of a separate prosecuting authority independent of the Attorney General, the Director of Public

Prosecutions is invited to attend meetings, as is the Director of the FRA.

The AMLSG has responsibility for oversight of the anti-money laundering policy of the Government and determines the general administration of the business of the FRA. It also reviews the annual reports submitted by the Director, promotes effective collaboration between regulators and law enforcement agencies and monitors our interaction and cooperation with overseas FIUs.

The FRA believes that a healthy and well managed organisation sustains performance. In particular, it maintains strong focus on the effective management of human, financial and technical resources.

The FRA staff consists of a Director, a Legal Advisor, an Accountant, a Senior Financial Analyst, a Financial Analyst and an Administrative Manager, all having suitable qualifications and experience necessary to perform their work.

On 1 May 2014 Mr. Julian Hurlston, the most experienced Financial Analyst of the FRA, was promoted to Senior Financial Analyst. Mr. Hurlston's internal progression within the FRA has left the other post of Financial Analyst vacant and the FRA is looking to fill that post in short order.

It is expected that all staff abide by the highest standards of integrity and professionalism. In particular, the FRA places great stress on the high level of confidentiality demanded by its role, as well as the financial industry with whom it interacts. It is the FRA's belief that staff should have the appropriate skills to carry out their duties, and thus provide specialised training suited to individual responsibilities, in addition to continuing education to ensure that staff remains up-to-date with industry and regulatory developments crucial to the effective functioning of the authority.

Throughout the year, staff attended 17 days of conferences and seminars, including the 21<sup>st</sup> ACAMS Annual Financial Crimes Conference, the Caribbean Financial Action Task (CFATF)

National Risk Assessment Workshop, the Egmont Group Strategic Analysis Training for Financial Intelligence Units, the Annual ACAMS Anti Money Laundering Conference, the 2014 Offshore Alert Conference and the 22<sup>nd</sup> Egmont Plenary training sessions.

FRA Staff also participated in and gained valuable experience from the 26 days spent representing the FRA at the 38<sup>th</sup> and 39<sup>th</sup> CFATF Plenary, the 21<sup>st</sup> and 22<sup>nd</sup> Annual Egmont Plenary and Heads of FIU Meeting, the CFATF's 1<sup>st</sup> Regional Anti-Money Laundering and Terrorist Financing Conference, as well as in presentations made to industry associations and reporting entities.

#### **4. Protecting Confidentiality of Information**

The PCL provides the framework for the protection of information obtained by the FRA. Furthermore a layered approach to security has been adopted for the FRA's office and systems. Protecting financial information received from reporting entities is a critical function of the authority. Computer security measures include advanced firewalls to prevent unauthorised access to our database. In addition staff are aware of their responsibilities to protect information, and severe penalties exist, under the Law, for the unauthorised disclosure of data in our possession and control.

The FRA constantly reviews its security procedures to ensure that those procedures remain current in its continued effort to maintain confidentiality.

## 5. Relationships

### Working with Financial Service Providers and Other Reporting Entities

The FRA recognises that the quality of financial intelligence is influenced directly by the quality of reports it receives from financial service providers and other reporting entities. If they are to produce insightful and relevant reports of superior quality, it is of utmost importance that they understand and are able to comply with the requirements of the PCL to which they are subject.

Recognising the vital importance of working with financial service providers and other reporting entities to raise awareness and understanding of their legal obligations under the PCL, the FRA meets with money laundering reporting officers (“MLROs”) to share matters of mutual interest.

### The Egmont Group

The Egmont Group is an international, officially recognised body through the adoption of the Egmont Charter in the May 2007 Plenary held in Bermuda and the establishment of its permanent Secretariat in Toronto, Canada. Its membership now comprises 139 countries. It sets standards for membership as well as expanding and systematising international cooperation in the reciprocal exchange of financial information within its membership. The Cayman Islands’ commitment to abide by the Egmont Group Principles for Information Exchange preceded

its admission to full Egmont membership in the year 2000. The FRA will continue to participate in the Egmont Working Groups and the Director attending the Egmont Plenary and the heads of FIU meetings.

### Memoranda of Understanding (MOUs)

The FRA can exchange information with other financial intelligence units around the world with regards to information in support of the investigation or prosecution of money laundering and/or terrorist financing. However some FIUs are required by domestic legislation to enter into arrangements with other countries to accommodate such exchanges. In this context the FRA is empowered by the PCL to enter into bilateral agreements with its counterpart giving effect to the global sharing of information.

During the year, the FRA signed and exchanged MOUs with FIUs from Israel, Jamaica, Russia and South Africa. This brings the number of MOUs signed and exchanged to 17. The other MOUs were with FIUs from Australia, Canada, Chile, Guatemala, Honduras, Indonesia, Japan, Mauritius, Nigeria, Panama, Saint Vincent and the Grenadines, Thailand and the United States.

### The Caribbean Financial Action Task Force

The Caribbean Financial Action Task Force (CFATF) is an organisation of states of the Caribbean basin that have agreed to implement common countermeasures to

address the problem of money laundering. It was established as the result of meetings convened in Aruba, in May 1990, and Jamaica, in November 1992. The 2011/2012 annual report of the CFATF puts its membership at 29 countries.

The main objective of the CFATF is to achieve implementation of and compliance with recommendations to prevent and control money laundering, as well as to combat the financing of terrorism.

The Mutual Evaluation Programme (MEP) is a crucial aspect of the work of the CFATF as it helps the CFATF Secretariat ensure that each member state fulfills the obligations of membership. Through this monitoring mechanism the wider membership is kept informed of what is happening in each member country that has signed the Memorandum of Understanding (MOU). For the individual member, the MEP represents an opportunity for an expert objective assessment of the measures in place for fighting money laundering and the financing of terrorism.

As part of the preparations for the Fourth Round of Mutual Evaluations, the World Bank, jointly with the CFATF and with the support of the Cooperating and Supporting Nations has been providing training on the importance and fundamentals of the National Risk Assessment, through targeted Workshops.

The National Risk Assessment pertains to a country's obligation to identify, assess and effectively mitigate ML/TF risks and to the use

resources in the most efficient manner, as established by Financial Action Task Force (FATF) Recommendation 1 – Assessing risk and applying a risks based approach.

#### The FATF Recommendations (2012)

Following the conclusion of the third round of mutual evaluations of its members, the FATF has reviewed and updated the FATF Recommendations, in close co-operation with the FATF-Style Regional Bodies (which includes the CFATF) and the observer organisations.

The FATF Recommendations (2012) (“the Recommendations”) have been revised to strengthen global safeguards and further protect the integrity of the financial system by providing governments with stronger tools to take action against financial crime.

The Recommendations introduced the use of the risk based approach in recommendation 1, stating that “countries should apply a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified”.

Recommendation 7 reads as follows, “countries should implement targeted financial sanctions to comply with United Nations Security Council resolutions relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing”.

Other noteworthy revisions are the inclusion of tax crimes as a predicate offence to money laundering; and improved transparency to make it harder for criminals and terrorists to conceal their identities or hide their assets behind legal persons and arrangements. There are also stronger requirements when dealing with politically exposed persons (PEPs); and more effective international cooperation including exchange of information between relevant authorities, conduct of joint investigations, and the tracing, freezing and confiscation of illegal assets; and better operational tools and a wider range of techniques and powers, both for financial intelligence units, and for law enforcement agencies to investigate and prosecute money laundering and terrorist financing as well as associated crimes.

A FATF press release dated 30 June 2014, states “the FATF has started its fourth round of mutual evaluations with the assessments of Australia, Belgium, Norway and Spain. The reports on Norway and Spain will be finalised and published in October 2014. The reports on Belgium and Australia will follow in February 2015.”

#### Cayman Islands Guidance Notes Committee

The FRA became a member of the *Guidance Notes Committee* (GNC) in 2006-07. The GNC is comprised of industry association, government, and Cayman Islands Monetary Authority representatives. The GNC is tasked with reviewing and updating the *Guidance Notes on the Prevention and Detection of*

*Money Laundering and Terrorist Financing in the Cayman Islands*. The *Guidance Notes* provide general guidance for financial service providers and other entities conducting relevant financial business on the interpretation and application of the Money Laundering Regulations (2013 Revision). The *Guidance Notes* were last updated in March 2010. While the *Guidance Notes* should not be relied upon in respect of points of law, they will be taken into account by the courts in determining whether a person has complied with the Money Laundering Regulations.

### III. PERFORMANCE REPORTING

#### 1. Receiving Information - Suspicious Activity Reports (SARs)

The FRA receives information from reporting entities relating to suspected money laundering, proceeds of criminal conduct, terrorism and the financing of terrorism through SARs. It also receives requests for information from local law enforcement agencies and overseas financial intelligence units. SARs and requests for information are collectively referred to as cases in this report.

Upon receipt, each case is examined to ensure that the report contains all the required data. The case is then assigned a reference number and data from the case is entered into the FRA SAR database.

For the year 2013/2014 the FRA received 558 total SARs from 115 different reporting entities. This number excludes the 35 overseas financial intelligence units that requested information from the FRA. The 115 reporting entities are classified in this report according to the licence that they hold with CIMA, if they are a regulated/registered entity. Reporting entities that are not regulated are classified according to the type of service that they provide. Regulated/registered entities are shown as part of the following sectors governed by CIMA: banking and related services, fiduciary services, insurance services, investment funds and fund administrators and securities investment

businesses. Reporting entities that are not regulated are held under the term Designated Non-Financial Businesses and Professions (DNFBPs).

DNFBPs consists of law practitioners, accounting professionals, real estate brokers, dealers of high value items, private individuals and legal entities.

There was a slight increase in the number of reporting entities. When compared against the 93 different reporting entities in fiscal year 2012/2013, this was found to be due to more entities, categorised as banking and related businesses, insurance services, and law practitioners, filing reports with the FRA.

The number of cases filed under each of those sectors and the DNFBPs are as follows:

Sector	No of Cases
Banking and related businesses	256
Fiduciary services	80
Insurance services	12
Investment funds and fund administrators	33
Securities investment businesses	60
DNFBPs	45
Requests for Information - Overseas	69
CIMA	3
<b>Total No of Cases</b>	<b>558</b>

Anyone who files a SAR has a defence to any potential related money laundering or terrorist financing offences. SARs filed under the PCL do not breach the Confidential Relationships



Preservation Law, nor do they give rise to any civil liability. An important exception to this rule is that it is no defence to such liability, if the person making the report is also the subject of the report.

Chart 2.1 on the succeeding page shows the total number of cases by financial year since 2010/2011. In 2013/2014 the FRA received 558 new cases, which is a 42% increase from those received in 2012/2013. This is the first time that the number of cases has breached the 500 level. This has put a considerable strain on the FRA's resources. In response, the FRA used its existing risk ranking for SARs to determine which cases are to be expedited while the rest are dealt with in accordance with existing timetables.

The FRA has long held the view that the growing number of SARs is indicative of the vigilance of the reporting entities against money laundering and terrorist financing. With regards to the substantial increase in 2013/2014, it is believed that some of the reports made may have been influenced by due diligence reviews as a result of the US Foreign Accounts Tax Compliance Act (FATCA) coming into effect.

The average number of cases received per month increased to 46 cases in 2013/2014 from the 30 cases per month for the previous two years. The 64 cases in July 2013, 54 in August 2013, 67 in March 2014 and 59 in April 2014 all exceeded the previous record for largest number of cases received in a single

month which was 51 cases in March 2011. (see Chart 2.2 on the next page).

The increase of 166 cases represents the largest year on year fluctuation in the number of cases received in the FRA's history.

The increase in number of SARs naturally led to an increase in the number of subjects. The total number of subjects increased from 727 in 2012/2013 to 881 in 2013/2014 (see Chart 2.3 on the page 16). The total number of subjects that are natural persons increased to 618 in 2013/2014, 50 of those natural persons were the subject of multiple SARs. The total number of legal entities identified as subjects totaled 263, 14 of which were the subject of multiple SARs.

Chart 2.1 and 2.2 on the next page do not include those SARs received during 2013/2014 which are updates to a previously submitted report. As a consequence, the subjects of those updates are not included in the number of legal entities and natural persons identified as subjects of SARs in Chart 2.3 on page 16.

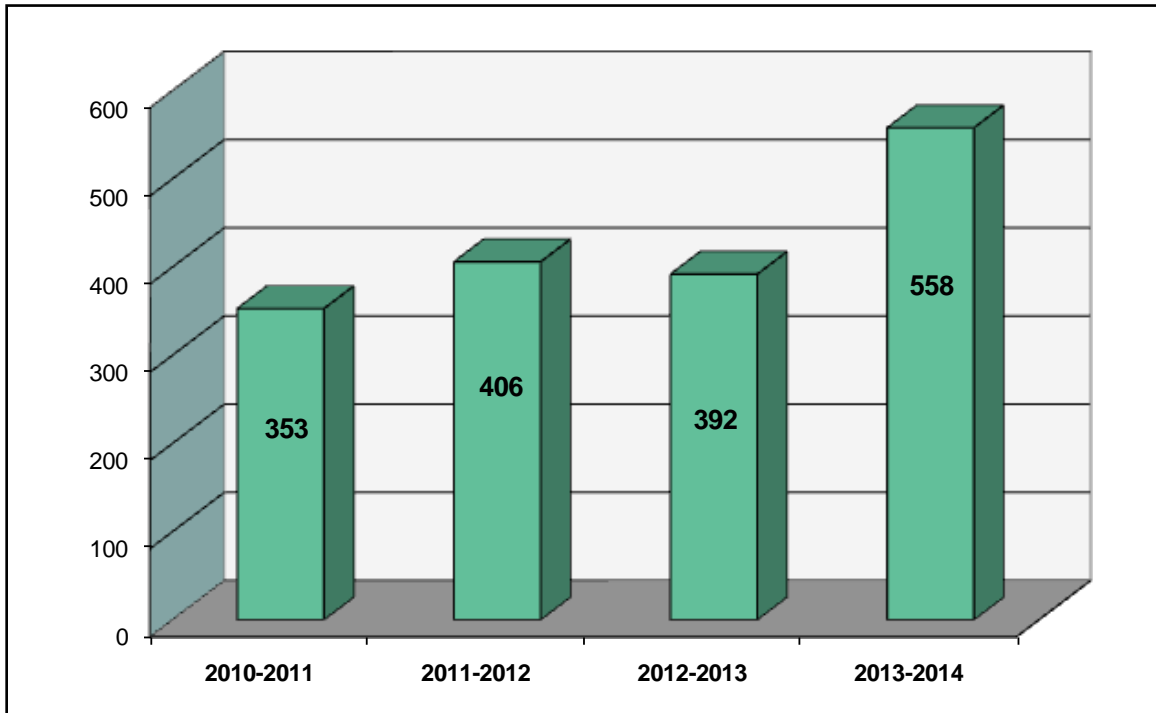


Chart 2.1: Total cases by financial year

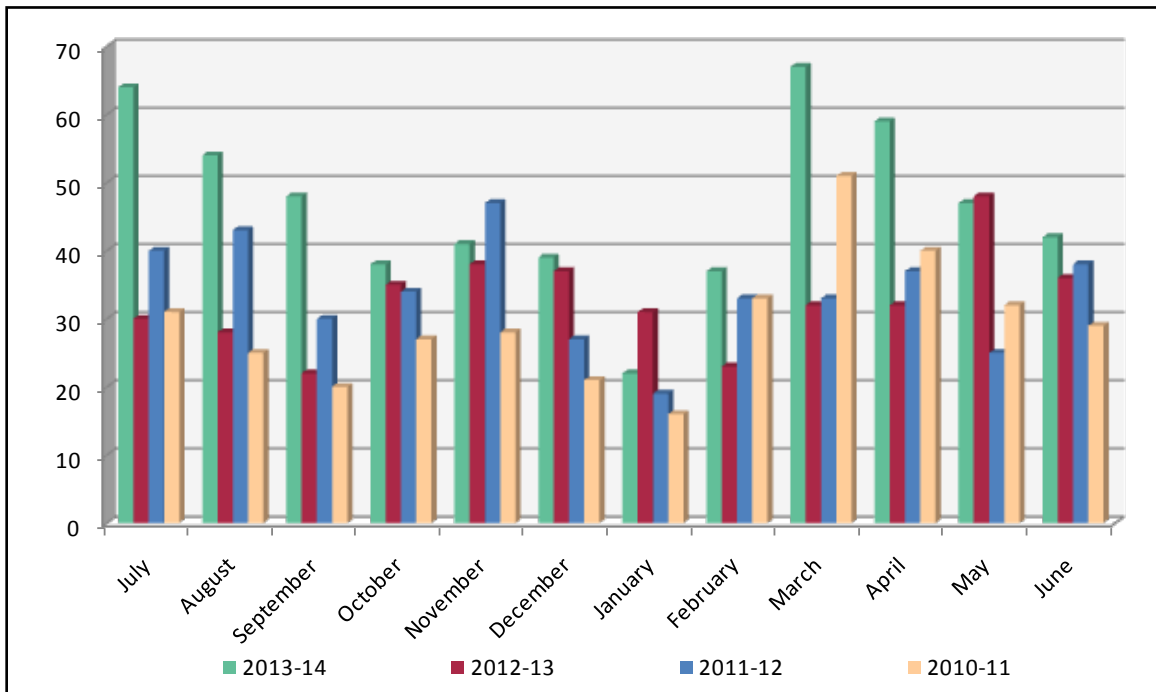


Chart 2.2: Comparison of monthly cases received

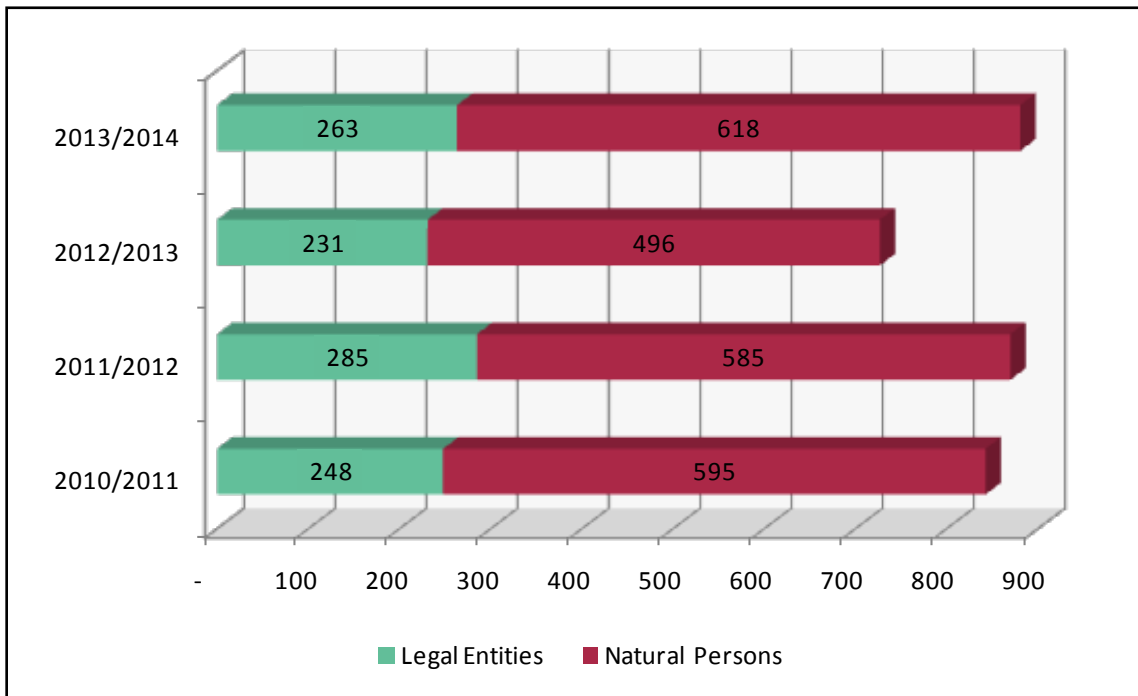


Chart 2.3: Number of subjects by financial year

Countries of Subjects Reported

The international scope of the Cayman Islands’ financial services industry is reflected in the wide range of subjects’ countries reported in cases. The “Countries of Subjects” chart on the succeeding page lists 79 different countries for the subjects of the reports. In light of the international character of the subjects reported, our membership of the Egmont Group has proven a valuable resource for information exchange and requests and has enhanced the analysis of information reported in the development of intelligence.

The greatest number of subjects was classed as Caymanian. Of those 220, 55 were Caymanian nationals (natural persons) and 165 were legal entities doing business in the Cayman Islands. The United States provided

the second largest number at 143, comprising 19 legal entities and 124 natural persons. Third in the list was Argentina with 3 legal entities and 99 natural persons. Canada, Jamaica and the United Kingdom are the only other countries with more than 20 subjects. Together these six countries account for 652 subjects, which represents 74% of the total received.

The category “Others” in the chart 2.4 is comprised of one subject each from Antigua, Bahamas, Belgium, Belize, Chile, Cook Islands, Croatia, Denmark, Djibouti, Dubai, Gibraltar, Holland, Hungary, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Malaysia, Nepal, New Zealand, Oman, Romania, Singapore, South Africa, Spain, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sweden and the Turks and Caicos Islands.

In some cases, particularly those relating to declined business and scam related activities, the nationality or domicile of the subject is not known. Declined business describes situations where a company has declined a customer's business. Such cases are reported to the FRA where there appears to be a rationale for doing so. There are also instances when a requesting overseas FIU does not have complete identification for the subject of their request, and these are accordingly represented as "unknowns" in the chart on the succeeding page.

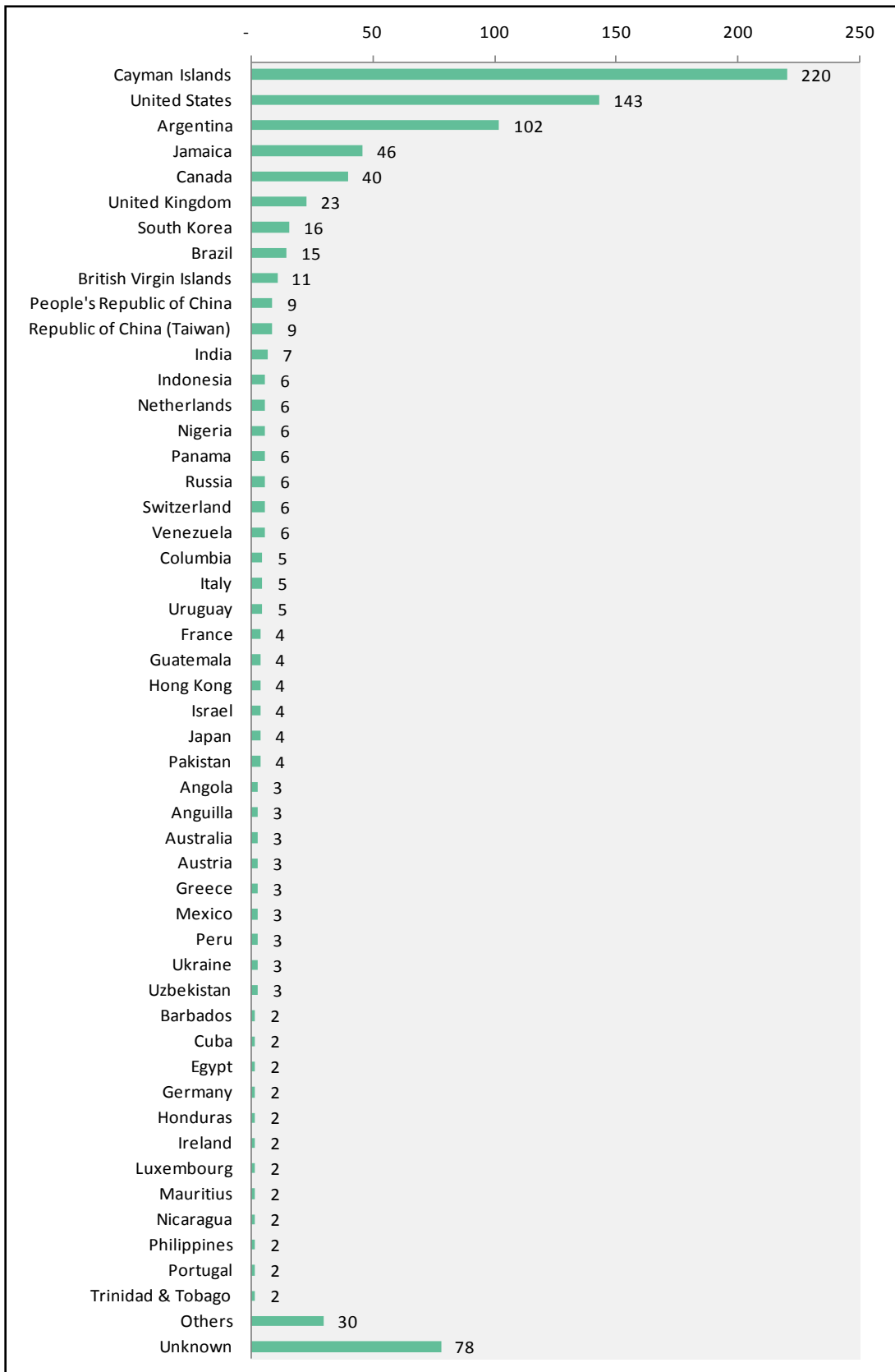


Chart 2.4: Countries of all subjects in SARs reported in 2013/2014

Sources of Cases

Chart 2.5 below shows a detailed breakdown of the sources of cases. CIMA regulated financial service providers, which include banks, trust companies, mutual fund administrators and money service providers, provided a substantial portion of the cases that the FRA has received. The five largest contributors were:

- Banks - 201
- Overseas Financial Intelligence Units - 69
- Securities Broker/Dealer – 57
- Trust Companies – 54
- Money Service Providers - 52

Banks continue to be the largest source of SARs received. The number of banks making reports increased to 26 in 2013/2014 from 21 in 2012/2013.

Banks and money service providers which belong to “CIMA’s banking and related

businesses sector”, account for 46% of the total number of cases filed in 2013/2014.

The securities broker/dealer category accounted for 10% of the total SARs received in 2013/2014. The 57 SARs was a significant increase from the 11 received in 2012/2013. This category includes those licensed by CIMA as brokers/dealers, securities managers, securities advisors, securities arrangers or market makers.

The trust company category means a company carrying on trust business; this includes those acting as trustee, executor or administrator of a trust. Cases from trust companies account for 10% of the total received.

The largest number of SARs we received from DNFBPs came from law practitioners. Other DNFBPs filing SARs included: accounting professionals, real estate brokers and dealers of high value goods.

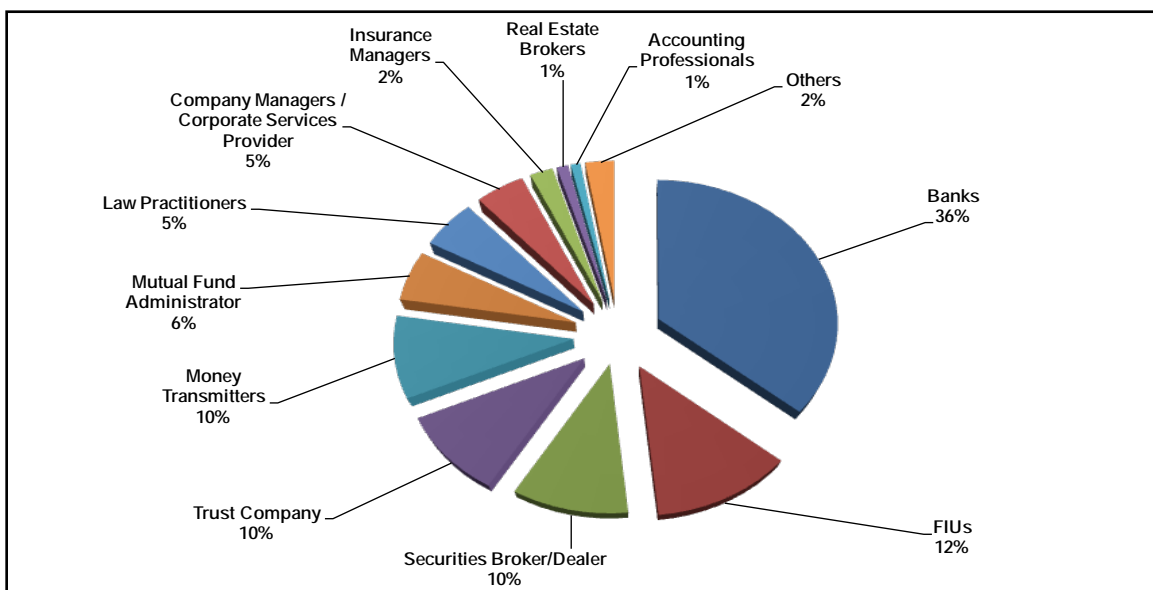


Chart 2.5: Sources of Cases

## 2. Analysing Information

The FRA conducts in-depth research and analysis by matching data in the SAR to existing records and intelligence information in the SAR database, as well as to information contained in other external databases. An important element of the FRA’s analysis is the ability, provided for by the PCL, to request information from any person, in order to clarify or amplify information disclosed in a report, or at the request of its overseas counterparts. Failure to provide this information within 72 hours is an offence under the PCL. A second important element is the FRA’s ability to request and exchange information with Egmont Group members, with whom it communicates through the Egmont Secure Web.

Consistent with the provisions of the Law, the FRA made 56 requests locally to clarify or

amplify information received in 52 cases. Seventeen (17) requests for information to overseas FIUs were made via the Egmont Secure Web, arising from 15 cases. These requests have greatly assisted the FRA’s determination to make disclosures to local law enforcement as well as to overseas FIUs. Chart 2.6 below shows the number of requests made locally and overseas for the past 4 years.

Upon completion of the analysis, an assessment is made to determine if the analysis substantiates the suspicion of money laundering, financing of terrorism or a predicate offence leading to money laundering. If, in the opinion of the Director, this statutory threshold is reached, the FRA discloses the information to the appropriate law enforcement agency or overseas FIU.

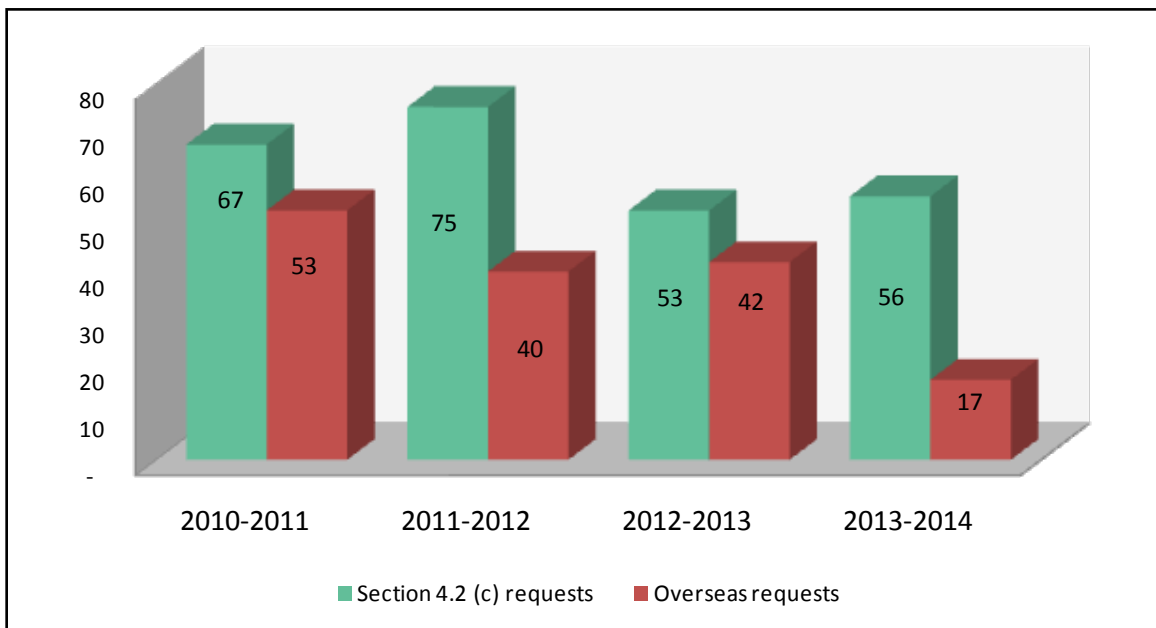


Chart 2.6: Number of request made locally and overseas

SARs Trend Analysis

The five most common reasons for filing reports are:

- suspicious financial activity - 287
- fraud - 122
- money laundering - 51
- corruption - 38
- tax evasion - 17

Included in the 122 reports citing fraud as the reason for suspicion are: bank fraud, investment/securities fraud and unlawful schemes and other financial fraud. Included in unlawful schemes and other financial fraud are: advance fee fraud schemes, debt collection scams, and variations of counterfeit cheque schemes. Table 2.7 below provides a detailed breakdown of the reasons for suspicion.

Reason	%
Suspicious Activity	51%
Fraud	22%
Money Laundering	9%
Corruption	7%
Tax Evasion	3%
Drug Trafficking	2%
Declined Business	2%
Regulatory Matters	1%
Others	3%
<b>Total</b>	<b>100%</b>

Table 2.7: Reasons for suspicion

**Suspicious Financial Activity**

A large number of reports filed with the FRA are due to ‘suspicious activity’, which may mean that an account is showing activity that

is out of line with the customer’s declared level of expected income or expectations for the type of account when used for legitimate business. In other words such activity lacks an apparent lawful economic basis to support it. The FRA recognises that this is a perfectly valid reason to submit a SAR and that it is no part of the function of a reporting entity to carry out exhaustive investigations. After detailed analysis by the FRA, many of these reports inevitably fail to meet the statutory threshold and no link to criminal activity is established. Nevertheless, these reports form a vital part of intelligence gathering and help build a clearer picture of the money-laundering threat to the Islands and help safeguard against criminal elements.

Some of these suspicious activities when matched to information in the FRA’s SAR database have led to the identification of predicate offences for money laundering.

Consistent with prior years, the majority of cases received in 2013/2014 were due to suspicious activity. Among those cases, the largest percentage relate to those that report current adverse information (publicly available) about a subject, an entity linked to the subject or a third party to transactions of the subject. However, there is no other available information that can either confirm or deny that the assets held in these islands are connected to that adverse information.

Other notable percentages of SARs about suspicious activity are those that report



structuring and those that report transactions that are inconsistent with established client profile. Structuring includes reports where there appears to be attempts to break transactions into smaller amounts to avoid reporting thresholds. Included are reports about subjects making multiple cash transactions (i.e., deposits, withdrawals or remittances) in a single day or making recurring cash transactions over a specified period of time, as well as those reports about multiple overseas cash withdrawals via ATMs. Cases about transactions that are inconsistent with established client profile include reports where the FSP identified that their client's recent transactions do not match the profile initially provided to them when the account was established and the client's explanation for the transactions appears to raise further questions.

Other reasons that have led to general suspicions are concerns about the sources of funds, insufficient due diligence information on recent transactions, law enforcement inquiries and unusual transactions.

### **Fraud**

Fraud is the second most common reason for the filing of suspicious activity reports. Included in this category are bank fraud, securities fraud, internet fraud and other financial scams. During 2013/2014 the FRA received reports regarding the following:

#### *Bank Fraud*

Cases about bank fraud generally involved the use of illegal means to obtain money, assets,

or other property owned or held by a financial institution, or to obtain money from depositors by fraudulently posing as a bank or other financial institution. This can involve the use of the internet or online schemes. Included in reports about bank fraud are account take-over schemes, forged cheques, cheque kiting, debit or credit card skimming and fraudulent bank reference letters.

Internet Fraud and online schemes have been an area of concern for law enforcement. Just as technology has become an integral part of business and government processes, criminals also have come to rely on technology as a tool to support their illegal operations. Based on reports received, banks and their customers continue to be the target of phishing and account take-over schemes. While account take over usually occurs via phished online log-in credentials, the FRA has also noticed that compromised email accounts have been used by fraudsters to issue fraudulent payment instructions to transfer money from bank accounts.

#### *Investment/Securities Fraud*

Investment/Securities Fraud, more specifically insider trading and stock manipulation, are regularly identified as reasons for suspicions. Most of these reports identify assets owned by an individual or entity that has been the subject of adverse reports regarding insider trading and stock manipulation and that the reporting entity could not confirm or eliminate the possibility that the assets owned by the subject may be tainted with the proceeds of the illegal scheme. A smaller portion of those

reports are about actual transactions that give rise to suspicion of trading on insider information or schemes that manipulate stock values.

*Unlawful schemes and other financial fraud*

Suspensions of fraud through unlawful schemes, or other financial fraud, include those that involve the use of deception such as ponzi schemes, pyramid schemes, mortgage fraud schemes and advance fee frauds.

Notable this year was the increase in SARs about a “person in need scheme” which appears to be a variation of advance fee fraud schemes. Yet, instead of reports about victims, the reports were about potential perpetrators of this fraud that were identified through the money being received. These individuals appear to receive funds from multiple third parties and subsequently remit those funds to other overseas individuals. The explanation for the purpose of the transaction and the funds appears to lack an economic purpose.

In prior years, the FRA received reports about fraudulent overpayment schemes that target Cayman Island based online consumer-to-consumer shopping websites. In this scheme, the buyer claims to be from overseas and creates an excuse to make payment in the form of a cashier's cheque, money order or personal cheque for more than the selling price. They then instruct the seller to wire them back the extra money. The cheque the buyer sends bounces and the seller is then liable for the total amount of the cheque. More

recent reports received by the FRA identified a variation of this counterfeit cheque overpayment scam that targets Cayman Islands based real estate brokers by posing as individuals wishing to acquire property in the Cayman Islands.

Another scam that uses counterfeit cheques is the debt collection scam. The perpetrators of debt collection scams claim to be international clients with large commercial accounts that need to be placed with a local agency for collection. They sometimes make it appear that the commercial accounts are from local companies. Shortly after the account is placed for collection, the customer mails what appears to be a cashier's cheque for the debt owed that turns out to be counterfeit. The perpetrator's goal is to extract the amount listed on the counterfeit cashier's cheque from the collection agency's trust account before the cheque is discovered as fraudulent.

Other cases where fraud or some form of deception has been suspected, are those that report suspicions about excessive fees charged by a financial service provider, suspicions of breach of investment guidelines, allegations of misappropriation of funds, or suspicions of fraudulent financial reporting.

**Money Laundering**

The processes by which proceeds of crime may be laundered are extensive. The financial services industry which offers services and products for managing, controlling and possessing money and property belonging to others is susceptible to abuse by money

launderers. While all crimes can be a predicate offence for money laundering, this category is used by the FRA to identify SARs whose reason for suspicion is the specific act of disguising the original ownership and control of the proceeds of criminal conduct, by making such proceeds appear to have been derived from a legitimate source. This includes the provision of financial services that aid in the concealment of the original ownership and control of the proceeds of criminal conduct.

Half of the SARs held in this category are requests for information from overseas FIUs pertaining to money laundering investigations. Most of these requests for information mention money laundering as the offence under investigation, though at times the details that brought about those suspicions are not clearly identified.

SARs received from domestic reporting entities in this category include those reports that identify that the subject is under local or overseas investigation, or is facing charges for money laundering offences. Also included in this category are those reports that identify transactions that appear to be structured to defeat money laundering guidelines, as well as reports about assets that have been identified to be the proceeds of a crime.

### **Corruption**

Heightened enforcement efforts against bribery and corruption in many countries have led to heightened monitoring and scrutiny of transactions that are linked to politically

exposed individuals, and to companies doing business with foreign governments. Further, global benchmarks in anti-bribery legislation like the UK's Bribery Act 2010 and the US Foreign Corrupt Practices Act (FCPA) made the bribery of foreign public officials an offence that extends beyond company employees to include the behaviour of third parties acting on behalf of a company.

In the Cayman Islands, the Anti-Corruption Law 2008 appears to be bringing the focus of bribery and corruption firmly into the minds of those operating businesses in the Cayman Islands. This has led to more SAR filings that identify corruption as the primary suspicion.

Those cases where the reason for suspicion is identified as corruption include those involving entities whose beneficial owner, or related parties, is linked to local or overseas corruption investigations. Most of those cases involved beneficial owners who are politically exposed persons, or related to politically exposed persons. Also included in this category are requests for information from overseas FIUs regarding corruption investigations, transactions which appear to be linked to bribes, the solicitation of bribes or kick backs.

### **Tax Evasion**

Because of the dual criminality provisions in the PCL, whereby to qualify as a predicate offence a series of facts would have to be illegal both in the overseas country and the Cayman Islands, the FRA cannot act on pure allegations of unlawful evasion of direct

taxation as no direct taxation exists in the Cayman Islands.

However, in recent years, in line with government policy, the attitude of the FRA has changed so that allegations of fraud, unlawful misrepresentations and false accounting are treated as satisfying the dual criminality test even if the aim of those activities is evasion of direct taxation.

Reports that raise suspicions about individuals or entities deliberately misrepresenting the true state of their affairs to the tax authorities, to reduce their liability for property and transfer taxes as well as customs duties, have always been caught as similar provisions exist in the Cayman Islands.

Of great interest in recent months has been the US statute, the Foreign Account Tax Compliance Act (FATCA). This imposes a duty on foreign financial institutions, such as banks, to enter into an agreement with the IRS to identify their U.S. personal account holders and to disclose the account holders' names and addresses, and the transactions of most types of accounts.

In general terms, this is a private contract with the US government and the mere fact of a US citizen having savings in the Cayman Islands is not a crime. Thus, it is rare that any obligation or report generated as a result of FATCA's implementation needs to be accompanied by a SAR to the FRA.

The mere fact that an account holder seeks to close an account, when the sole reason for doing so appears to be an attempt to thwart the provisions of FATCA, would not, in the absence of anything further, usually be sufficient to warrant the submission of a SAR.

### 3. Disseminating Intelligence to Law Enforcement

#### Disposition of Cases

The dissemination or disclosure of financial intelligence, resulting from its analysis, is a key function of the FRA. Once information is analysed and the Director has reviewed and agreed with the findings, a determination is made regarding onward disclosure. Financial intelligence is disclosed to the following designated agencies where the required statutory threshold has been met:

- Local law enforcement agencies where there is *prima facie* evidence of criminal conduct or where the FRA has cause to suspect criminal conduct.
- CIMA where the information is in relation to criminal conduct.
- Overseas financial intelligence units where the information is in relation to criminal conduct. Overseas disclosures require the consent of the Attorney General who considers the purpose of the disclosure, third party interests, and may impose any other conditions of disclosure.

The statutory purposes of onward disclosure are to:

- report the possible commission of an offence;
- initiate a criminal investigation;
- assist with any investigation or criminal proceeding; or
- facilitate the effective regulation of the financial services industry.

Cases which do not meet the threshold for disclosure are retained in the FRA's confidential SAR database pending future developments. As new cases are received and matched with data in the SARs database, prior cases may be re-evaluated with the receipt of new information.

In 2013/2014, the FRA received 558 new cases as compared to 392 cases received in 2012/2013 and 406 cases in 2011/2012. Table 2.8 shows the disposition of the cases as at 30 June for the past 4 years.

The FRA completed the review of 319 cases, out of 558 received during the year, leaving 239 in progress at year-end. Of the 319 new cases analysed, 131 were deemed to require no further immediate action, which was an increase of 54 cases from the 77 in 2012/2013. The FRA also completed analysis on 121 of 173 cases carried over from 2012/2013. All except for 49 of those 173 cases are under continuing analysis with varying stages of completion.

As at June 30, 2014 the FRA had commenced initial analysis of 99 of 239 cases in progress. Those 99 cases were in varying stages of completion, with some waiting on clarifying/amplifying information, while others are in need of further research.

Disposition	No. of Cases			
	2013-14	2012-13	2011-12	2010-11
Cases Analysed Requiring No Further Action	131	77	154	136
Cases Analysed that resulted in a Disclosure	141	97	110	94
Reply to Overseas Requests	47	42	57	59
Reply to Local Requests	-	3	-	-
In Progress (as at 30 June)	239	173	85	64
<b>Total Cases</b>	<b>558</b>	<b>392</b>	<b>406</b>	<b>353</b>

Table 2.8 Disposition of cases received

There was a noticeable increase in the total number of cases that resulted in voluntary disclosures from the 97 in 2012/2013 to 141 in 2013/2014. Information contained in those 141 cases was disclosed in the manner shown in Table 2.9 below. The 41 voluntary disclosures to overseas FIUs present almost a 50% increase from the 28 made in 2012/2013. The total number of cases disclosed exceeded the number of actual cases, as some disclosures were made to more than one local law enforcement agency and/or overseas FIU.

information and the other 41 were voluntarily disclosed as seen in chart 2.10 on the next page. Those disclosures went to 32 different countries, down from 33 the year before.

The FRA made voluntary disclosures to only four overseas FIUs; 37 went to the United States of America, 2 to Canada, and Malaysia and the Philippines received one each.

Recipient	No. of Cases Disclosed			
	13/14	12/13	11/12	10/11
RCIPS	120	58	64	59
CIMA	40	30	29	25
Other LLEAs	18	13	4	6
Overseas FIUs	41	28	34	25

Table 2.9: Number of cases that resulted in a disclosure

### Onward Disclosures Overseas

The FRA discloses financial intelligence to its overseas counterparts, either as a result of a suspicion formed through its own analysis, or in response to a request for information.

Of the 88 cases that resulted in disclosures to overseas FIUs, 47 were replies to requests for

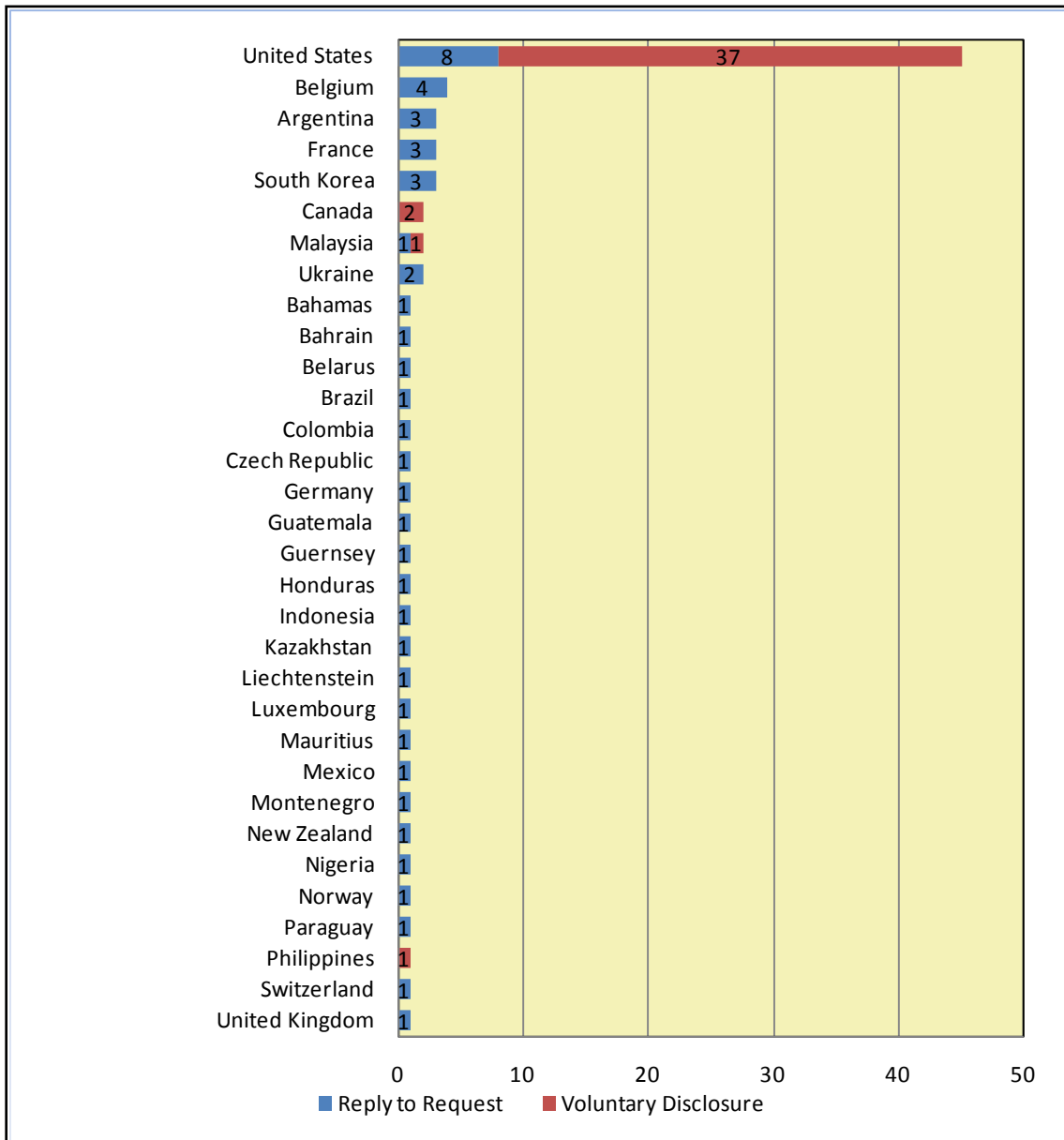


Chart 2.10: Overseas disclosures and replies to request for information

**Disposition of Cases Carried Over from 2012/2013**

The FRA began 2013/2014 with 173 cases carried over from year 2012/2013. Only 52 of those cases already had initial analysis completed and were in varying stages of completion and the other 121 did not have any analysis at year-end. As of 30<sup>th</sup> June 2014 all cases carried over from 2012/2013 had been analysed with only 49 deemed to require continuing analysis.

Out of the 121 cases carried over from 2012/2013 that were analysed and completed, 60 were deemed not to require any further action, 49 were disclosed to the appropriate local or overseas agency and 15 were replies to requests for information from overseas FIUs. Information contained in 32 of those 49 cases was disclosed to the RCIPS, 21 to CIMA, 15 to overseas FIUs and four to other local law enforcement agencies. The updated disposition of cases from 2012/2013 is as follows:

Disposition	2012-13	2012-13	Total
	Cases Carried Over to 2013-14	Cases Analysed in 2012-13	
Cases Analysed Requiring No Further Action	60	77	137
Disclosed to CIMA only	10	21	31
Disclosed to CIMA and RCIPS	7	7	14
Disclosed to CIMA, RCIPS and CI Immigration	0	1	1
Disclosed to CIMA, RCIPS and Overseas FIU	4	1	5
Disclosed to RCIPS only	14	36	50
Disclosed to RCIPS and CI Immigration	3	7	10
Disclosed to RCIPS and HM Customs	0	1	1
Disclosed to RCIPS, CI Immigration, HM Customs and Overseas FIU	1	1	2
Disclosed to RCIPS and Overseas FIU	3	4	7
Disclosed to CI Immigration only	0	2	2
Disclosed to Overseas FIU only	7	16	23
Reply to Requests Local	0	3	3
Reply to Overseas Requests	15	42	57
In Progress as of 30 June 2013		173	173
Cases carried forward 2013-14	(173)		(173)
In Progress as of 30 June 2014	49		49
<b>Total Cases</b>	<b>-</b>	<b>392</b>	<b>392</b>

Chart 2.11: Disposition of cases carried over from 2011/2012



#### 4. The Year in Review

Detailed disposition of the cases as at 30 June for the past 4 years:

The following table shows the detailed disposition of the cases as at 30 June for the past four years:

Disposition	No. of Cases			
	2013-14	2012-13	2011-12	2010-11
Cases Analysed Requiring No Further Action	131	77	154	136
Disclosed to CIMA only	16	21	18	15
Disclosed to CIMA and Overseas FIU	0	0	5	2
Disclosed to CIMA and RCIPS	12	7	5	7
Disclosed to CIMA, RCIPS and CI Immigration	0	1	0	0
Disclosed to CIMA, RCIPS and Overseas FIU	12	1	1	1
Disclosed to RCIPS only	56	36	50	42
Disclosed to RCIPS and CI Immigration	12	7	2	5
Disclosed to RCIPS and HM Customs	0	1	2	0
Disclosed to RCIPS, CI Immigration, HM Customs	2	0	0	0
Disclosed to RCIPS, CI Immigration, HM Customs and Overseas FIU	0	1	0	0
Disclosed to RCIPS and Overseas FIU	24	4	4	3
Disclosed to CI Immigration only	2	2	0	1
Disclosed to Overseas FIU only	5	16	23	18
Reply to Requests Local	0	3	0	0
Reply to Overseas Requests	45	42	57	59
Reply to Overseas Requests, Disclosed to RCIPS	2	0	0	0
In Progress	239*	173	85	64
<b>Total Cases</b>	<b>558</b>	<b>392</b>	<b>406</b>	<b>353</b>

Table 2.12 Disposition of cases received (detailed)

\* - includes 19 overseas requests for information as at 30 June 2014

#### Significant Events

There were also 52 cases carried over from 2012/2013 and 22 cases carried over from 2011/2012 that were previously analysed, but not marked as completed and which require continuing analysis.

#### **Analysis of Reports**

The FRA had a busy year with 679 cases to analyse in 2013/2014. This was comprised of the 558 new cases in 2013/2014 and the 121 of the 173 cases carried over from 2012/2013.

While the FRA staff analysed 539 of the 679 cases for a combined average 45 cases per month, not all of those analysed were marked as completed. Of these 148 cases were deemed to require continuing analysis. (49 cases carried over from 2012/2013 and 99 cases from 2013/2014). A total of 443 cases were closed in 2013/2014 making an average of 37 cases completed closed per month.

### **The Egmont Group Plenary Meetings**

The FRA participated in the 21st Egmont Group Plenary, held at Sun City, South Africa from 1<sup>st</sup> – 5<sup>th</sup> July 2013 and in the 22<sup>nd</sup> Egmont Group Plenary, held at Lima, Peru from 1<sup>st</sup> – 6<sup>th</sup> June 2014. Both plenary meetings were attended by over 300 participants who represented FIUs from various jurisdictions, and by more than 15 international organisations. The Egmont Plenary, held annually, brings together the Egmont member FIUs and observer organisations for training and in-depth discussions to further the development of the international FIU network.

The 21<sup>st</sup> Egmont Group Plenary highlighted the important role the Egmont Group plays in enhancing greater understanding of the threats and problems faced within different regional and country contexts. It also brought focus to the Egmont Group's growing capacity to better address these threats and problems through operational information exchange.

During the 21<sup>st</sup> Plenary, the Egmont Heads of FIUs approved revised Egmont Group foundational documents which will provide the guiding principles for financial intelligence units in the future. These include: the *Egmont*

*Charter, Principles of Information Exchange Between FIUs, and Operational Guidance for FIU Activities and the Exchange of Information.*

The 22<sup>nd</sup> Egmont Plenary focused on the challenges associated with implementation of the Egmont Group standards, and received presentations from Egmont Group FIUs on their experiences undergoing mutual evaluations based on the 2012 FATF Recommendations for AML/CFT.

Six training sessions were held throughout the 22<sup>nd</sup> Egmont Group Plenary focused on topics of contemporary concern to FIUs. A member of the FRA staff was able to attend training sessions on the New Payment Methods Followed by Terrorist Financing, and the Role of FIUs in Conducting National Risk Assessments.

During the 22<sup>nd</sup> Plenary, the FRA signed bilateral cooperation agreements with the Jamaican, Russian and South African FIUs. Whilst the FRA can exchange information, in most instances, without recourse to Memoranda of Understanding (MOUs), other jurisdictions are in need of these cooperation agreements to facilitate the exchange of information. The FRA believes that these MOUs will deliver very practical results in expanding the flow of information exchange among FIUs.

The Egmont Group continues to place increased emphasis on the fight against corruption. The 22<sup>nd</sup> Egmont Group Plenary

included a training session on the Role of FIUs in Anti Corruption and Asset Recovery.

### **The CFATF Plenary Meetings**

The FRA participated in the 38<sup>th</sup> CFATF Plenary in Freeport, Bahamas from 18<sup>th</sup> – 21<sup>st</sup> November 2013 and in the 39<sup>th</sup> CFATF Plenary in Miami, USA from 25<sup>th</sup> – 29<sup>th</sup> May 2014.

The FRA also participated in the First Regional Anti-Money Laundering and Terrorist Financing Conference of the CFATF in Nassau, Bahamas from 2<sup>nd</sup> – 3<sup>rd</sup> April 2014.

The FRA continues to monitor the CFATF's Accreditation Working Group which has been tasked with the development of a framework for the proposed accreditation programme for analysts and financial investigators in the Caribbean region. This project will strengthen regional capacity to take the profit out of crime. It is being undertaken by the CFATF in partnership with the European Union, the Caribbean Forum of African, Caribbean and Pacific States ("CARIFORUM"), Caribbean Community Implementation Agency for Crime and Security ("CARICOM IMPACS") and United Kingdom Eastern Caribbean Financial Investigations Advisory Team.

### **Egmont Group Strategic Analysis Training for Financial Intelligence Units**

A member of staff participated in the Egmont Group Strategic Analysis Training for Financial Intelligence Units held in Miami, FL from 3<sup>rd</sup> – 7<sup>th</sup> March 2014. The training was facilitated by the Inter-American Drug Abuse Control

Commission ("CICAD") of the Organisation of American States. The aim of this course was to develop an understanding of the skills, practices and standards required to prepare quality strategic analysis products, and to appreciate the availability and usefulness of a range of tools that will assist the analyst in the process. It focused on different types of strategic analysis products and the benefits of using and producing strategic analysis within a Financial Intelligence Unit.

### **Results of Disclosures of Information**

During the year, the FRA was made aware of the arrest of individuals who were named in cases that were previously disclosed to local law enforcement agencies.

The FRA also received multiple cases about individuals who were reported to have been arrested during the year. These cases were subsequently disclosed to local law enforcement

In 2012-13 several subjects of disclosures to local law enforcement agencies had been charged and convicted of criminal offences. The very nature of a criminal investigation can sometimes mean that detailed feedback is not always forthcoming and this is an area that the FRA is working hard to improve.

The FRA continues to make regular disclosures regarding suspicions of scams and fraudulent schemes to allow law enforcement to build a database of those schemes.

### **Industry Presentations**

Throughout the year the FRA made presentations in industry association organised events, as well as four separate presentations to local businesses at their request, on the work of the FRA, the duties and potential difficulties with the PCL and the minutiae of SAR forms and filling them out. With the positive feedback received, the FRA intends to continue these presentations to better inform the industry in the future.

## IV. SCENARIOS THAT WOULD TRIGGER FILING OF A SUSPICIOUS ACTIVITY REPORT (TYPOLOGIES)

The following is a compilation of sanitised cases of successes and learning moments in the fight against money laundering and terrorist financing. These cases have been identified by the primary typology involved, though some of them may involve more than one typology. They are being included here for learning purposes and as a feedback tool for our partners in the fight against money laundering and terrorist financing. The FRA believes that the greater the quality, accuracy, and timeliness of the suspicious activity reports, the greater the value they provide to the detection, deterrence and disruption of money laundering and terrorist activity.

### 1. Unlicensed Money Service Business

A retired foreign national maintained personal and commercial accounts with a local bank. It was noted by the bank that various individuals from the retiree's home country were making frequent deposits to his personal accounts.

An in depth review revealed that the foreign national on a regular basis would transfer these deposits to his commercial account. Subsequently, these funds are then wired out to the foreign national's home country. It was also noted that the current commercial accounts were not designed to facilitate the type of business transactions conducted through the accounts.

The information was subsequently disclosed to the Royal Cayman Islands Police and the Cayman Islands Monetary Authority. The foreign national was later prosecuted for operating an unlicensed money service business.

Indicators:

- Frequent deposits by various individuals
- Bank account activity contrary to stated purpose of the account

### 2. Money Transmitters

A foreign national employed as a cashier with a local company for the past four years frequently remitted funds through a local money transmitter to various individuals in two different countries, sending a total of CI\$35,000.00 over a five month period and CI\$38,000.00 over another three week period. The remittances were all under the money transmitter's reporting threshold and therefore a declaration of the source of funds was not required.

It was later learned by the money transmitter that the foreign national used two different addresses in the Cayman Islands to send funds and also presented different driver's licences as forms of identification, one from the Cayman Islands and the other from another jurisdiction. The money transmitter

noticed that the foreign national used three different branches to transfer funds.

The foreign national's volume of transactions did not coincide with his stated occupation and salary.

This information was disclosed by the FRA to the RCIPS for intelligence purposes.

Indicators:

- Use of different branches of a money transmitter to transfer funds
- Structuring of funds to remain under reporting threshold

### 3. Unsound Business Practices

A foreign national operating a regulated financial business was the subject of a suspicious activity report from several banking institutions. First, a local bank reported a concern after the foreign national issued a personal cheque as a repayment to his client after overpaying himself for management fees. The bank was concerned about the appropriateness of his access to those funds.

Subsequently, SARs were received from two other banks that had declined the business of the foreign national. The bank disclosed that the business was declined due to concerns about the economic viability of the proposed transactions and that the practices could be abused to create a mechanism to avoid money laundering controls. The reports of declined business from the two banks

highlighted that the subject was actively seeking to further his business on this island.

As the financial business of the foreign national was subject to regulation, the information was disclosed to the regulatory authority. Subsequent information about offences committed by the foreign national surfaced and he was prosecuted for misappropriation of client assets.

Indicators:

- Issues about the economic viability of the proposed transactions
- Unsound business practices that are subject to abuse

### 4. Suspicious Activity

A foreign national arrived in the Cayman Islands for a holiday. He arrived with three cheques for substantial amounts in his possession. Two were in his name and one was in the name of a relative. The cheques were deposited individually over the course of ten days. During approximately the same period, the person made twelve cash withdrawals totaling slightly more than the amount of his deposits. Six withdrawals were made over two days in equal amounts at different times with different bank tellers.

There was no reason for this person to deposit the cheques on separate occasions when he arrived with them in his possession. The person knew the bank would not pay out such a large amount in cash at once, and therefore structured his withdrawal transactions to avoid

detection. This information was disclosed by the FRA to the FIU of the foreign national's home country.

Indicators:

- Structuring
- Use of non-domestic bank account

## 5. Overseas Remittances

A Cayman Islands Money Service Business (MSB) filed a SAR on several individuals that they noticed to be receiving remittances from individuals overseas. The details of the SAR showed that the recipients of the funds failed to provide sufficient information about their source and that the recipients appear to use the MSB's service only for this particular transaction. A review by the MSB disclosed that the funds originated from the same overseas jurisdiction and the recipients of the remittances were all of the same nationality.

Subsequent SARs from another MSB, disclosed that their global network representative has identified that one of the MSB's locations was used by fraudsters to collect money from a fraud scheme. The victims of the fraud scheme were all based overseas.

Analysis of those SARs identified similarities in the frequency and amounts of the remittances, as well as the lack of sufficient information about the sources of those funds. The nationalities of the recipients of those funds and the location originating the remittances

provided further information linking all the SARs. The FRA's research also identified that warnings against scams perpetuated by individuals of the same nationality as the recipients of the funds, had been issued for citizens of the country where the remittances originated.

As the later SARs identified a predicate offence, all information was disclosed for intelligence purposes only to the RCIPS and the FRA's overseas counterpart in the country originating the remittances.

Indicators:

- Insufficient information about source of the funds
- The recipient of the funds used the MSB's service solely for a particular transaction
- Information linking subjects to suspected fraud schemes

## 6. Money Laundering

A foreign company from a non-schedule 3 country (schedule 3 countries are those with equivalent AML/CFT strategies) maintained a bank account with a local banking institution. The company did not have named shareholders, but rather utilised bearer shares and the beneficial owner of the company was a foreign national. During a due diligence exercise it was discovered that he had been arrested for various offences, including: forming a criminal organisation, embezzlement and money laundering, as part of a special operation in a foreign country.

The FRA made a request to the local service provider seeking information on the bank account of the foreign company which revealed that the account had significant activity and currently contained a substantial amount of funds. The information was disclosed to the FIU of the subject's home country for intelligence purposes.

#### Indicators

- Adverse due diligence information
- Use of bearer shares
- Business originating from a non-schedule 3 country

### 7. Fraud and Corruption

A foreign national resident in the Cayman Islands set up a personal account with a local bank with the stated purpose of receiving his salary. He worked for a local company in a position which made him responsible for procuring goods and services, as well as hiring.

Without the knowledge of his employer he formed a local company of which he was the beneficial owner. The individual began using his inside knowledge of bids to illegally allow his personal company to win contracts from his employer. Analysis of his personal bank account subsequently showed that he had been receiving numerous weekly third party deposits from individual employees that he had been responsible for hiring for his employer. The FRA made an onward disclosure to the local police who initiated an investigation. The person was convicted of

fraud and receiving kickbacks from employees.

#### Indicators:

- Bank account activity contrary to the stated purpose of the account.
- Setting up a company to hide true beneficial ownership
- Fraud/receiving kickbacks

### 8. Securities Fraud

The managing director of an overseas company issued a prospectus which contained misleading and false information within the company's annual report. He overstated the company's group revenue by 275%. This information was provided to that country's securities commission as part of the company's proposal for listing on their stock exchange.

The managing director established a revocable trust and underlying company in the Cayman Islands. He then opened an overseas bank account in the name of the Cayman Islands company for which he held the Power of Attorney, allowing him to trade in the account. This structure was devised to hide the managing director's trading in the overseas company and to hide assets derived from his illegal activities. The Cayman Islands company held over US\$1 million in this bank account.

The FRA made an onward disclosure to the FIU of the foreign national's home country. The foreign national has been charged in his



home country with three counts of providing misleading and false information.

Indicators:

- Use of corporate structures to conceal possible proceeds of crime
- Alleged securities fraud due to overstatement of revenue

### **9. Money Laundering / Terrorist Financing through a Trust Company**

Mr. A established a Cayman Islands revocable trust, with himself as settlor and a local trust company service provider acting as trustee. Mr. A also arranged for the incorporation of a Cayman Islands company known as 'Company B', with the local trust company also acting as the registered office.

The SAR maker in its capacity as trustee and registered office became aware of allegations relating to Mr. A and his involvement in an oil and gas contract scam which also involved members of a foreign government. Mr. A was the representative of the oil and gas company and was allegedly involved in a kickback scandal in which his company was awarded a contract by the foreign government.

According to media reports Mr. A was the money source who provided several officials from the foreign government with the means to buy the support of other government officials in order for them to participate in the scam.

Over a two-year period the SAR maker reported that the trust and underlying company had received numerous transfers of funds and property from what was now deemed to be questionable sources, which in turn heightened its suspicions and prompted the SAR to the FRA.

An analysis of the trust accounts undertaken by the FRA revealed outgoing funds to individuals named in numerous media reports who allegedly took part in the kickback scandal.

The FRA in turn requested information from the FIU of the foreign jurisdiction to enquire if there were any investigations or criminal proceedings underway into Mr. A, to which the FIU responded saying that Mr. A was being investigated for money laundering and corruption of government officials.

The FRA also constructed a timeline of events, which revealed that funds and other assets were being added to the trust, around the same time the alleged criminal activity of Mr. A and others was reported to have occurred.

As a result of our analysis, and information from the FIU of the foreign jurisdiction, a disclosure was made to that FIU based on the premise that a Cayman Islands trust and company was being used to house the proceeds of Mr. A's criminal activity.

The information disclosed by the FRA was useful to the overseas FIU and investigations within the foreign jurisdiction. Matters before the courts there are still pending.

Indicators

- Adverse due diligence information
- Corruption
- Use of corporate structures to conceal possible proceeds of crime

These examples are based on actual information we have received and sanitised to protect the identities of the individuals or entities concerned.

Further typologies can be found at [www.Egmontgroup.org](http://www.Egmontgroup.org) or [www.FATF-GAFI.org](http://www.FATF-GAFI.org) or [www.cfatf-gafic.org](http://www.cfatf-gafic.org).

## V. STRATEGIC PRIORITIES: 2014/2015 BUILDING ON STRENGTHS

Today, the FRA performs collective efforts and activities aligned towards analytical and information sharing functions aimed at the detection and deterrence of money laundering and terrorism financing. The FRA's support to regulatory and law enforcement agencies, both in specific financial intelligence disclosures and in providing strategic insights into trends and patterns of financial crime, remains at the core of all that it does as the financial intelligence unit of the Cayman Islands.

To fulfill its responsibilities towards the analysis and dissemination of financial information in order to combat money laundering and terrorism financing, the FRA maintains the following main priorities:

### **1. Promotion of strong AML/CFT standards**

Criminal abuse of financial services and products is a borderless crime and undermines the integrity of financial systems around the world. The FRA works with policy counterparts within the Cayman Islands Government, foreign FIUs, and international organisations to support the implementation of regimes to combat money laundering, terrorist financing, and other financial crime. Towards these ends, the FRA supports Cayman Islands membership in the Caribbean Financial Action Task Force (CFATF) to promote the design and implementation of international money laundering and terrorist financing standards.

The FRA will continue to work with its national and global counterparts to promote stronger AML/CFT policies and programmes.

The FRA shall ensure that effective policies and procedures are implemented that address its statutory obligations for AML/CFT implementation and reporting, and meet the FATF Recommendations that will be covered in the upcoming mutual evaluation review.

To meet this objective, the FRA will:

- Enhance collaboration with Cayman Islands Government policy counterparts on development of AML/CFT policy and best practices
- Enhance engagement with foreign FIUs regarding AML/CFT exchange of information
- Ensure that the FRA's obligations for effective AML/CFT implementation in accordance with the FATF Recommendations are met

### **2. Analysis and information sharing contribute to the detection and deterrence of financial crime**

The importance of financial information to law enforcement, regulatory and policy efforts to counter illicit activity cannot be overlooked. Through its analysis of information collected under the PCL reporting requirements, the FRA aims to develop specific financial intelligence disclosures and provide strategic insights into trends and patterns of financial

crime. By sharing financial information gained through tactical and strategic analysis, the FRA is able to facilitate the effective utilisation of financial intelligence by law enforcement agencies and other domestic and foreign counterparts seeking to detect and deter financial crime.

*Objective 2.1: Develop high quality, relevant disclosures of financial information*

In addition to providing tactical intelligence, we will strive to develop strategic financial intelligence by applying analytical techniques to data that we have, as well as to other information sources to identify emerging trends and patterns that are used by criminal and terrorist organisations in money laundering and terrorist financing operations.

We believe that strategic intelligence will enable us and our law enforcement partners and regulatory agencies to direct our resources to deal with new types of threats. This will enable us, in a wider context, to contribute to the development of appropriate legislative and regulatory amendments where warranted.

To ensure that our financial intelligence disclosures provide valuable resource to law enforcement agencies, we are committed to developing and maintaining constant communication within the bounds allowed by our mandate. The FRA aims to establish regular meetings which would serve as an avenue to receive feedback on financial intelligence disclosures we have made to facilitate the refinement of its analytical products and ensure that the products assist

them in the detection and deterrence of financial crime.

To meet this objective, the FRA will identify opportunities for sharing and integrating data to enhance disclosures of financial information and to assist in the fight against financial crime and money laundering.

*Objective 2.2: Develop and maintain a vigorous and efficient information sharing process*

The FRA will develop and maintain an information sharing process, in addition to the existing mode of the dissemination of financial information, that aids in the detection and deterrence of financial crime. This will include both information technology systems and partnerships with law enforcement agencies and other government entities. In the international field, the FRA is one of 139 FIUs that together comprise the Egmont Group, a group whose core functions are based on financial information sharing in support of both domestic and foreign law enforcement investigations of money laundering and terrorist financing. The FRA will ensure that information is exchanged with Egmont Group member FIUs in accordance with the Egmont Principles on Information Exchange.

To meet this objective, the FRA will:

- Provide appropriate access to information and data to support local law enforcement and regulatory agencies

- Support local law enforcement agencies' investigative requests to Egmont Group FIUs

### **3. SAR information is useful, comprehensive, and secure**

The quality of our disclosures hinges directly on the quality of the financial information we receive. We are committed to developing and maintaining cooperative working relationships with all reporting entities, by encouraging an open line of communication to discuss matters of mutual interest, with a view to enhancing the quality of information we receive.

Protecting financial information received from reporting entities is a critical function of the FRA. The PCL provides the framework for the protection of information obtained by the FRA. A layered approach to security has been adopted for the FRA's office and computer systems. Security measures include advanced firewalls to prevent unauthorised access to our database. In addition staff are aware of their responsibilities to protect information, and severe penalties exist, under the law, for the unauthorised disclosure of data in our possession and control. Furthermore, we constantly review our security procedures to ensure that they remain current in our continued effort to maintain confidentiality.

Since 2008, we have maintained a website that is designed to provide public access to information on the work of the FRA, whilst providing links to legislation related to AML/CFT, and other useful and related information including additional trends and

typologies at Egmont Group, FATF and CFATF websites.

#### *Objective 3.1: Ensure effective information collection and safeguard confidentiality*

It is of utmost importance that information collected and provided by the FRA is reliable and complete. The Proceeds of Crime Law (Disclosure) Order, 2010 under the PCL mandated the use of the SAR Reporting Form. This effort was aimed at increasing data quality and to allow the FRA to integrate information from other SARs more effectively. The FRA will work with reporting entities to provide the necessary guidance to ensure how to properly utilise the SAR Reporting Form.

The FRA is committed to maintaining a secure database that houses all SARs received from reporting entities. The FRA will endeavour to maintain that this database contains accurate and reliable information to identify money laundering, terrorist financing, fraud and vulnerabilities in the financial industry.

To meet this objective, the FRA will:

- Engage with reporting entities to foster improved quantity and quality of reporting.
- Provide tools to support research and analysis, and educate reporting entities about them
- Ensure authorised users and recipients properly utilise and secure financial information disclosed by the FRA.

#### *Objective 3.2: Develop a reliable and secure technical infrastructure*

By ensuring that all SARs are collected and maintained in a single database, the FRA is able to establish more effective security and audit trails, to enhance data confidentiality and integrity, as well as ensuring that applications and systems are adequately protected from any breaches. The FRA is also able to aggregate and generalise information from these SARs. In 2014, the FRA began to review its technical infrastructure to ensure that its database has enough resources to effectively manage all information being received. The FRA has also initiated the development of more standardised definitions and categories that aid in the aggregation and generalisation of information from SARs.

To meet this objective, the FRA will:

- Improve data quality with standardised definitions and categories that enrich information
- Ensure security and privacy of data, applications and systems

#### **4. High-performing staff operate in an innovative and dynamic work environment**

The development of our staff is critical to the nature of the FRA's operation and the FRA seeks to promote and create a culture of excellence, integrity and diversity that inspires exceptional teamwork, service and performance. The FRA will continue to provide opportunities for training, attendance at conferences and seminars, as well as those meetings which are geared towards enhancing our ability to identify emerging trends and

patterns used by criminal and terrorist organisations in money laundering and terrorist financing operations.

By ensuring that staff are familiar with developing issues in AML/CFT, we will be able to lend the highest level of insight and most value possible to the intelligence product that we provide to law enforcement and intelligence agencies both locally and overseas. The FRA believes that satisfied and well equipped employees are motivated to take initiative, achieve results, and provide exceptional service.

To meet this objective, the FRA will:

- Define clear performance expectations and provide timely feedback
- Improve information sharing and feedback
- Continue the process of improvement and encouraging innovation
- Participate fully in the government's succession planning programme
- Recruit new high quality motivated staff to deal with the increased workload while maintaining our high standards

Money Laundering

Money laundering is the process of making illegally-gained proceeds (i.e. "dirty money") appear legal (i.e. "clean"). Typically, it involves three steps: placement, layering and integration. First, the illegitimate funds are furtively introduced into the legitimate financial system. Then, the money is moved around to create confusion, sometimes by wiring or transferring through numerous accounts. Finally, it is integrated into the financial system through additional transactions until the "dirty money" appears "clean." Money laundering can facilitate crimes such as drug trafficking and terrorism, and can adversely impact the global economy.

(Source: FinCEN website)

Terrorist Financing

"Simply, the financing of terrorism is the financial support, in any form, of terrorism or of those who encourage, plan, or engage in it. Some international experts on money laundering continue to find that there is little difference in the methods used by terrorist groups or criminal organizations in attempting to conceal their proceeds by moving them through national and international financial systems."

(Source: 2005 Report of the United States Government  
Accountability Office)

4th Floor, Government Administration Building  
George Town, Grand Cayman  
Cayman Islands

Mailing Address

P.O. Box 1054  
Grand Cayman KY1-1102  
Cayman Islands

Telephone: 345-945-6267

Fax: 345-945-6268

Email: [financialreportingauthority@gov.ky](mailto:financialreportingauthority@gov.ky)

Visit our Web site at: [www.fra.gov.ky](http://www.fra.gov.ky)