

VANUATU FINANCIAL INTELLIGENCE UNIT



Financial Intelligence Unit
Bureau des Renseignements Financiers

2009 ANNUAL PUBLIC REPORT

STATE LAW OFFICE, GOVERNMENT OF VANUATU

Meet the FIU team!

OUR OBJECTIVE

To positively contribute to the combating of money laundering, financing of terrorism and other financial/economic crime in Vanuatu as well as in the Pacific and broader region

OUR MISSION

To collect, analyze and disseminate financial information and intelligence to support the detection, investigation and prosecution of money laundering, financing of terrorism and financial/economic crimes.

OUR RELATIONSHIPS

DOMESTIC:

- Reporting Entities and their representative associations
- National Financial Regulators – Reserve Bank of Vanuatu and Vanuatu Financial Services Commission
- Law Enforcement Agencies – Vanuatu Police Force, Department of Customs and Inland Revenue, Department of Immigration and Citizenship
- State Law Office and Office of the Public Prosecutor
- Vanuatu Government- Office of the Prime Minister, Ministry of Finance and Economic Management, Ministry of Foreign Affairs, Ministry of Justice and Community Welfare, Vanuatu Investment and Promotion Authority
- Vanuatu Financial Sector Assessment Group

INTERNATIONAL:

- Foreign Financial Intelligence Units (FIUs)
- The Egmont Group of Financial Intelligence Units
- Other international organizations-the Asia/Pacific Group on Money Laundering (APG), Financial Action Task Force (FATF), UNODC's Pacific Anti-Money Laundering Program (PALP), Anti-Money Laundering Assistance Team (AMLAT), Australian FIU (AUSTRAC).

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VFIU Annual Report



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Re: ATTORNEY GENERAL'S REMARK

Welcome to the Vanuatu Financial Intelligence Unit's 2009 Annual Public Report!

It is with pleasure to present this annual report confirming another year of coordinated and combined effort in safeguarding the country's developing AML/CFT regime.

2009 was a year of consolidation for the Vanuatu FIU. Considerable work was deployed to enhance its responsibility as the AML/CFT regulator and embracing the reporting entities (financial institutions) into complying with the Financial Transaction Reporting Act.

Similarly, the Unit has stepped up its responsibility as the national centre for receiving, analyzing and dissemination of financial information.

During the year, the Unit has received some 20,000 reports from the financial institutions and other sources. A slight increase compared to the previous period and evidently as a result of the outreach program and awareness conducted the previous year.

These reports were assessed and analyzed and some disseminated to relevant persons for further investigation or as intelligence.

During the year, 3 comprehensive on-site examinations were conducted as part of the FIU compliance program in ensuring financial institutions are compliant with the FTRA. The program is ongoing with more examinations scheduled in the next 12 months.

On the international front, the Unit has continued to actively participate and contributing to the global fight against money laundering and terrorist financing.

Always, the capacity and capability of the Unit has been adequately enhanced with staff attending several intense trainings and refreshers.

The FIU has contributed significantly with its limited resources in regulating the AML/CFT regime and intelligence gathering.

Alatoi Ishmael KALSAKAU
Attorney General
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TABLE OF CONTENTS

1.....	Overview of FIU performance
2.....	AML/CFT Regime
2.1	Background
2.2	Recent Legislative achievements
3.....	Combating Money Laundering, Terrorist Financing and related Crimes
3.1	Information Collection
3.1.1	Cash Transactions
3.1.2	Electronic Transactions
3.1.3	Boarder Currency Movement
3.1.4	Suspicious Transactions
3.2	Analysis, Dissemination and Feedback
3.2.1	Analysis
3.2.2	Dissemination and Feedback
3.3	International Efforts against Money Laundering and Terrorist Financing
3.3.1	Asia Pacific Group on Money Laundering (APG)
3.3.2	Egmont Group of FIU's (Egmont)
3.3.3	Exchange of information with foreign FIUs
4.....	Deterring Money Laundering and Financing of Terrorism
4.1	Awareness of Financial institutions and Public
4.1.1	Familiarization visits to new Financial Institutions
4.1.2	Awareness and Training Workshops
4.1.3	Anti-Money Laundering Computer Based Training Centre
4.1.4	Media Release
4.2	Improving Compliance with FTRA
4.2.1	On-site Examinations
4.2.2	AML Compliance Officers
4.2.3	AML Internal Procedure/Policy
4.2.4	FIU Guideline for Financial Institutions
4.3	Strengthening Legislative and Regulatory Framework
4.3.1	Financial Transactions Reporting Act [Cap 268]...
5.....	Building and Strengthening Organisational Capacity
5.1	Organisation
5.1.1	Organisational Structure
5.1.2	Training
5.2	Processes
5.2.1	Data Quality Monitoring and Feedback
5.2.2	Monitoring of Compliance
5.2.3	Analysis of CTR and IFTR Data
6.....	Appendices
a.	Appendix A: Indicators for detection of suspicious transactions
b.	Appendix B: Examples of sanitized cases

1. VFIU PERFORMANCE AT A GLANCE 2009

Combat Money Laundering, Financing of Terrorism and other Economic offences

Collection of information

- 34 Suspicious Transaction Report (STR)
- 2,627 Cash Transaction Report (CTR)
- 18,084 International Funds Transfer Report (IFTR)
- 9 Boarder Currency Report (BCR)

Analysis and Dissemination

- 20,754 Processed
- 11 Disseminated

Collaboration with domestic Law Enforcement and Intelligence Agencies

- Regular Interaction and Exchange of Information
- 17 Received requests for information from other agencies

Regional and Global AML/CFT efforts

- 52 requests received from foreign FIUs
- 7 requests sent to foreign FIUs

Deter Money Laundering and Financing of Terrorism

Awareness of Financial Institutions and Public

- 2 Trainings workshops covering the DNFBP
- 1 Public Awareness and 2 Media Releases

Improving compliance with FTRA

- 16 pocket meetings with financial institutions
- 3 Comprehensive On-site Examinations
- Notification of Compliance Officer and Internal Procedure

Strengthening legislative and regulatory framework

- FTRA and POCA amendments being finalized before stakeholders' comments.

2. Vanuatu AML/CFT Regime

2.1 Background

Money Laundering is the process by which criminals disguise the illegal origin of their wealth to avoid suspicion of law enforcement authorities and to wipe the trail of incriminating evidence.

Money derived from criminal activities can pose significant risk to the local financial system and can devastate Vanuatu's social, political, cultural and economical structure in all levels. Whilst it is impossible to measure accurately the amount of proceeds generated from illicit activity globally each year, it can be estimated at around USD 3.3 trillion per year.

There is no one method of laundering funds. Methods can range from transferring money overseas into various accounts to purchase and resale of a luxury item, to passing proceeds through legitimate local businesses and companies.

There is, however, an agreed 3 stage of typical money laundering process which is Placement, Layering and Integration. Placement is the first stage where the illegal funds/proceeds are placed in the financial system e.g. making small deposits of cash into a bank account. Layer is the second stage which involves creating layers of transactions to disguise the origin of the funds and to obscure the audit trail e.g. quickly moving funds across different accounts and to overseas accounts. Final stage – Integration involves re-introducing the funds/proceeds into legitimate financial system and projecting them as clean funds to enable their further use e.g. setting up funds companies, purchasing luxury assets.

For Vanuatu, there is no known research conducted to identify the criminal elements which represent the largest source of criminal proceeds, published by the local law enforcement agencies. However some of the major criminal offences involving substantial money are counterfeit bank notes, 419 fraud / scam, bank fraud, theft and

illegal Asian immigrant entering and working in the country.

The value of these illegal or criminal activities cannot be determined but every year substantial amount of money is derived from these activities and laundered despite the efforts of the Vanuatu Financial Intelligence Unit (FIU) and local financial institutions implementing anti-money laundering measures to counter the threat.

Since 2000, the real estate market was boosted with more than 5 real estate agents opening shops in the two urban centres marketing and selling/buying properties domestically and internationally. The booming market became very lucrative and was considered to be the best offshore investments given several favourable factors such as Vanuatu's lax land legislations, minimal tax obligations, booming tourism sector, political stability and medium property fees and charges.

Given the exponential increase of unregulated land/property sale, there is a high possibility of criminals and launders utilising the real estate market to launder their funds or purchase property/lands as legitimate assets.

Vanuatu's Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) regime is centered on the Financial Transaction Reporting Act [CAP 268], the Proceeds of crime Act [CAP284] and Counter Terrorism and Transnational Organized Crime [CAP 313]. These pieces of legislations were brought into force in 2000, 2002 and 2005 respectively as Vanuatu Government's response to the global effort against money laundering and terrorist financing. Other relevant legislations under the regime are Mutual Assistance in Criminal Matters Act [CAP285], United Nations Convention against Transnational Organized Crime [CAP 294] and Extradition Act [CAP 287].

The objective of the Financial Transaction Reporting Act is to provide for the reporting of

transactions to the FIU, the regulation of the AML/CFT regime and the establishment of the FIU. The Proceeds of Crime Act is to criminalise money laundering and provide for the confiscation of property derived from or involved in money laundering

Supervision of AML/CFT is undertaken by the FIU and at times jointly with the Reserve Bank of Vanuatu (RBV) and the Vanuatu Financial Services Commission (VFSC).

The RBV is responsible for supervising and regulating domestic and offshore banks. The VFSC supervises credit unions, charities and trust & company service providers.

Section 11 (3) of the Proceeds of Crime Act defines the offence of money laundering as under:

“A person engages in money-laundering only if the person:

- (a) acquires, possesses or uses property or engages directly or indirectly, in an arrangement that involves property that the person knows or ought reasonably to know to be proceeds of crime; or*
- (b) converts or transfers property that the person knows or ought reasonably to know to be proceeds of crime; or*
- (c) conceals or disguises the true nature, source location, disposition, movement, ownership of or rights with respect to property that the person knows or ought reasonably to know to be proceeds of crime.”*

Section 2 of the POC defines “tainted property” as “property intended for use in, or used in or in connection with, the commission of the offence, or proceeds of crime.

Section 5 of the POC defines “Proceeds of crime” as “property derived or realised directly or indirectly from a serious offence, including:

Definition of Money Laundering

Money laundering is the process by which criminal disguise the illegal origin of their wealth.

- (a) property into which any property derived or realised directly from the offence is later successively converted or transformed; and*
 - (b) income, capital or other economic gains derived or realised from that property since the offence.*
- (2) If property that is proceeds of crime (“the original proceeds”) is intermingled with other property from which it cannot readily be separated, that proportion of the whole represented by the original proceeds is taken to be proceeds of crime.”*

The Counter-Terrorism and Transnational Organized Crime Act was brought into force with the aim to implement the United Nations Security Council Convention criminalizing terrorism, terrorist financing and organized crime over

Definition of Terrorist Financing

Terrorist financing is a process of collecting and providing funds obtained from legitimates business activity for terrorist activity.

jurisdictions.

The Mutual Assistance in Criminal Matters Act enforced the facilitating international assistance in criminal matters for the taking of evidence, search and seizure proceedings, forfeiture or confiscation of property, and restraints on dealings in property that may be subject to forfeiture or seizure.

The Attorney General possesses the authority to grant requests for assistance, and may require government agencies to assist in the collection of information pursuant to the request.

2.2 Recent legislative achievements

The Financial Transaction Reporting Act [CAP 268] was reviewed in line with the international best practices and notable amendments and suggested were pointed out to the FIU for possible ratification via parliamentary amendments.

Similarly, the Proceed of Crime Act [CAP 284] was reviewed in line with the Vanuatu 2nd Mutual Evaluation Recommendations and a report has been handed to the State Law Office with possible amendments and ratifications.

These amendments are necessary so to ensure Vanuatu's legislations are practical and conducive to the changing environment.

It is anticipated that the amendments will be processed further next year 2010 and will allow for stakeholder's consultation before tabling them in the National Parliament.

Requirements for Reporting Entities under the Financial Transaction Reporting Act [Cap 268]

Obligation	When
Submit STR	Within 2 working days after forming suspicion
Submit CTR	Within 15 working days for Vatu & 2 w/days for other currencies
Submit IFTR	2 working days
Appoint a Compliance Officer	Immediately
Establish an Internal Procedure	Immediately
Implement a Client Identification Programme	Immediately
Verify identity	At the time of opening an account
Maintain records of identity of clients	For a period of 6 years after establishing a relationship with client
Maintain records of all transactions reported to FIU	For a period of 6 years after the date of transaction

3. Combating Money Laundering, Terrorist Financing and related Crimes

The ability of financial institutions to identify and report suspicious and other financial transaction is integral to the effective collection of information. The Unit has played a key role in analysing the received information and sharing the value added information to relevant persons – Law Enforcement Agencies, Vanuatu Government Departments, Regulators and Foreign Agencies.

3.1 Information Collection

The Unit has continued to receive reports from the financial institutions and other relevant sources so to assess, analyse and where applicable, disseminate information to relevant persons for further investigation or as intelligence in its mandated role as Vanuatu’s national centre for intelligence gathering.

The four prescribed reports are the Cash Transaction Report (CTR), International Funds Transfer Report (IFTR), Border Currency Report (BCR) and Suspicious Transaction Report (STR).

CTR captures cash transaction of or exceeding 1 million vatu or its equivalent in foreign currency. IFTR captures electronic transaction across borders (into and out of Vanuatu) or exceeding 1 million vatu or its equivalent in foreign currency. BCR captures currency and other valuables totaling to or exceeding 1 million vatu or equivalent in foreign currency carried across borders on a passenger.

And STR captures transactions or attempted transactions that give rise, on reasonable grounds, to suspect a money laundering offence, terrorist financing offence or other serious offence regardless of the sum of currency involved.

3.1.1 Cash Transactions

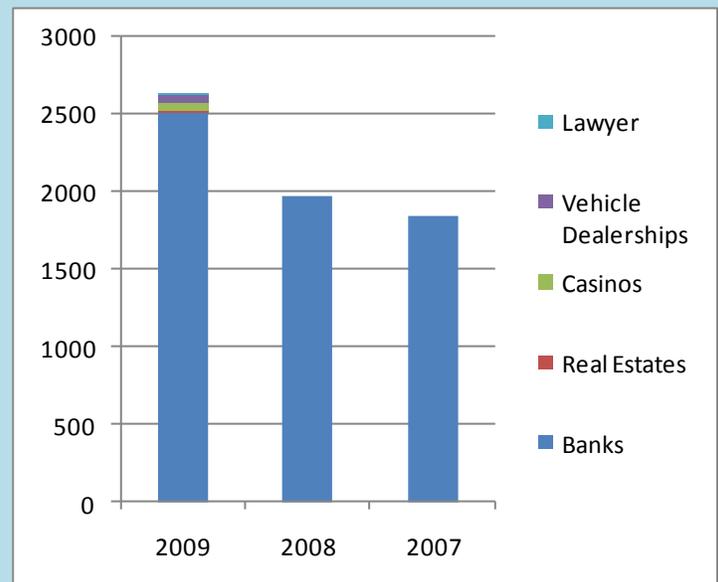
Under the FTRA, all financial institutions are required to submit to the Vanuatu FIU information relating to:

- Any single transaction of an amount in cash exceeding VT1 million or its equivalent in foreign currency.

Cash transactions are required to be reported to the Vanuatu FIU:

- In the case of a transaction or transfer in Vanuatu, within 15 days after the transaction or transfer is made; and
- In the case of a transaction or transfer in a foreign currency, within 2 days after the transaction or transfer is made.

Increase in numbers of CTRs over the years



Comparing 2009 figures with previous two years, there’s a notable increase in CTR report submission from an increased range of industry. This may be explained by the inclusion of a new domestic bank, a growing economy and the enhanced awareness on the compliance program.

Submission of Cash Transaction Reports

VFIU Annual Report

	Banks	Real Estates	Casinos	Vehicle Dealerships	Lawyer
2009	2510	13	45	58	1
2008	1965	0	0	0	0
2007	1847	0	0	0	0

Submission of International Funds Transfer Reports by reporting industries

	Banks	Real Estates	Accountants	Casino	Lawyers	Money Exchange	Offshore Banks
2009	17727	4	3	3	5	342	0
2008	16488	0	10	23	0	96	33
2007	19483	0	0	0	0	0	0

3.1.2 Electronic Transactions

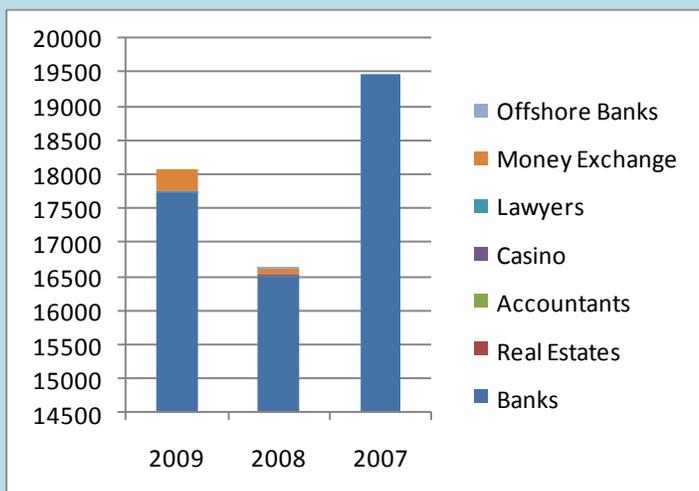
Under the FTRA, all financial institutions are required to submit to the Vanuatu FIU information relating to:

- The transmission out of Vanuatu or receipt from outside of Vanuatu of an electronic or other funds transfer of an amount exceeding VT 1 million or its equivalent in a foreign currency in the course of a single transaction.

Electronic transactions are required to be reported to the Vanuatu FIU:

- In the case of a transaction or transfer in Vanuatu, within 15 days after the transaction or transfer is made; and
- In the case of a transaction or transfer in a foreign currency, within 2 days after the transaction or transfer is made

Numbers of IFTRs over the years

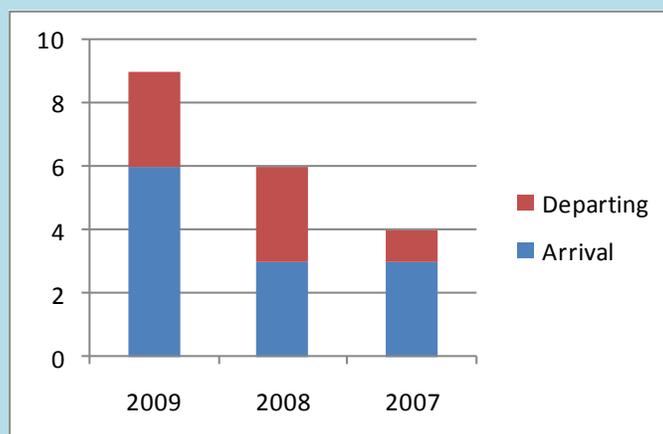


3.1.3 Border Currency Movement

Under the Proceed of Crime Act [CAP 284], passengers travelling into and out of Vanuatu must declare to the Customs Department at the ports of entry/departure:

- Cash or negotiable bearer instruments on his or her person or on his or her luggage of or exceeding VT 1 million.

Number of BCRs over the years



The reports are furnished to the Vanuatu FIU for assessment and analysis.

There's an increase in BCR reporting which may be due to the awareness conducted by Customs Department to its staff on Border Cash couriers.

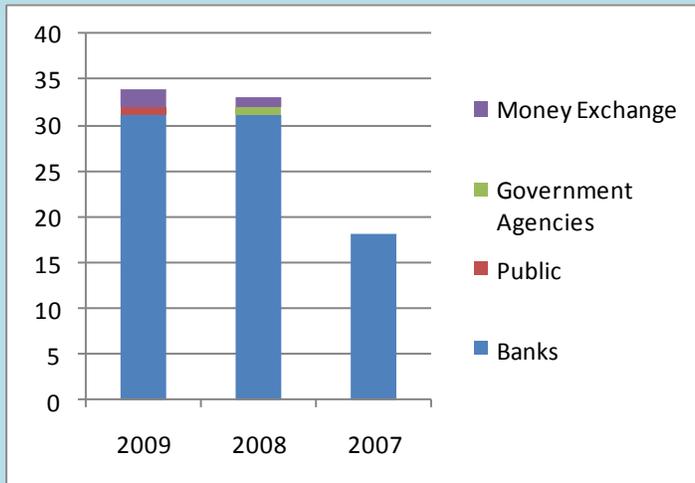
3.1.4 Suspicious Transactions

Under the FTRA, financial institutions are required to submit to the Vanuatu FIU information relating to any suspicion that a transaction or attempted transaction is or may be relevant to:

- The detection, investigation or prosecution of a person for a money laundering offence, a financing of terrorist offence or any other serious offence; or
- The commission of a money laundering offence, a financing of terrorism offence or any other serious offence; or

The financial institution must prepare a report of the transaction or attempted transaction and submit to the Unit no later than 2 days after forming the suspicion.

Viewing the statistics by reporting industries



Submission of Suspicious Transactions by reporting entities and other sources

	Banks	Public	Government Agencies	Money Exchange
2009	31	1	0	2
2008	31	0	1	1
2007	18	0	0	0

In the year, FIU has received the same number of STR compared to 2008. This may be due to lack of confidence and understanding of the report. Resulting in the FIU and AUSTRAC jointly hosting a Suspicious Transaction Awareness Workshop for targeted industry in October of that year.

Most of the STRs raised and submitted to the FIU are from the banking industry. This may be due to these banks being subsidiaries/branches of international institutions that are already partners in the global effort against money laundering and terrorist financing.



Suspicious Transaction Awareness Workshop for DNFBP's Oct 2009

3.2 Analysis, Dissemination and Feedback

3.2.1 Analysis

One of the main functions of the FIU is to analyse the reports submitted by the financial institutions and to disseminate this information to relevant persons.

During the year, 34 STRs were submitted and processed. 11 of these STRs formed cases worth further investigation and were disseminated to law enforcement agencies and other relevant agencies. Of the 11 cases, some information

VFIU Annual Report

were disseminated as intelligence to relevant persons.

Vanuatu FIU as permitted by the FTRA also used relevant information from external sources to add value to financial information that was disseminated. Facts reported in STR and from other information sources (internal and external) were analysed and interpreted with a view to identify information relevant to the detection, investigation or prosecution of a person for a money laundering offence, a financing of terrorism offence or any other serious offence.

Analysis of STRs

Category	2009	2008	2007
STRs received	34	33	18
STR brought forward from previous year	19	10	-
STRs processed	25	27	13
STRs Disseminated	11	7	5

3.2.2 Dissemination and Feedback

Through dissemination of intelligence, the Unit has assisted and strengthened the work of the law enforcement agencies, regulators and international counterparts. During the year, 11 disseminations were discharged which were considered fit for dissemination.

A feedback mechanism has been developed for receiving feedback from agencies to which information is disseminated to. This helps in ascertaining the usefulness of the information as well as the outcome of the disseminated information.

Dissemination of STRs

Agency Type	2009	2008	2007
Local Law Enforcement	7	5	4
Government	1		
Financial Institutions	3	2	1
Total	11	7	5

3.3 International Efforts against Money Laundering and Terrorist Financing

The global impact of money laundering and terrorist financing has brought the international community placing greater emphasis on exchange of information and expertise development of AML/CFT issues.

3.3.1 Asia Pacific Group on Money Laundering (APG)

The Asia Pacific Group on Money Laundering is an international organisation consisting of 40 members and a number of international and regional observers including the United Nations, IMF and World Bank.

The APG is closely affiliated with the Financial Action Task Force (FATF) based in the OECD Headquarters in Paris, France. Members of the APG are committed to effectively implement the FATF's international standards for anti-money laundering and combating terrorist financing (40+9 recommendations).

Vanuatu is a member of the APG and an associate member of FATF. Vanuatu FIU has participated in the activities of the APG by attending the Annual Meeting in Brisbane, Australia (6-10 July 2009) as a member of the Vanuatu Delegation.

Vanuatu has undergone its second Mutual Evaluation in 2006 conducted jointly by APG and Overseas Group of Banking Supervisors (OGBS). The Vanuatu Government and FIU are committed to oversee the implementation of the evaluation recommendations.

3.3.2 Egmont Group of FIUs (Egmont)

In 1995, some of the FIUs around the world decided to establish an informal group, known as Egmont Group of FIUs, for international cooperation amongst FIUs. Named after the location of the first meeting at the Egmont-Arenberg Palace in Brussels, the goal of the Egmont is to provide a forum for FIUs to improve support to their respective national anti-money laundering and anti-terrorist financing program.

Vanuatu FIU is an active member of the Egmont since 2003 after gaining its membership. The current membership stands at 116 FIUs. All members foster the widest possible cooperation and exchange of information amongst them on the basis of reciprocity or mutual agreement and on the following established “Principles of information exchange”:

- Free exchange of information for purposes of analysis at FIU level;
- No dissemination or use of the information for any other purpose without prior consent of the providing FIU;
- Protection of confidentiality of the information

3.3.3 Exchange of information with foreign FIUs

The Vanuatu FIU received some 53 requests for information from foreign FIUs in the year. Further, the Unit has also requested information from foreign FIUs in 5 cases.

Exchange of information with Foreign FIUs

	2009	2008	2007	Total
Request received from foreign FIUs	52	65	87	204
Request sent to foreign FIUs	7	24	9	40

What is an FIU?

A Financial Intelligence Unit (FIU) is an central, national agency responsible for receiving (and, as permitted, requesting), analyzing and disseminating to the competent authorities information: (i) concerning suspected proceeds of crime and potential financing of terrorism, or (ii) required by national legislation or regulation, in order to counter money laundering and terrorist financing.



*The Egmont Group
of Financial Intelligence Units*

4. Deterring Money Laundering and Financing of Terrorism

The Vanuatu FIU's success depends on the capacity of the financial institutions in identifying and reporting suspicious transactions. Rigorous implementation of AML/CFT regime by the financial institutions is deterrence to attempted money laundering and terrorist financing. This can be improved through capacity building and close monitoring of compliance by financial institutions to their FTRA obligations.

4.1 Awareness of Financial Institutions and Public

The first step in effective deterrence is increased awareness of financial institutions and other relevant agencies about the Financial Transaction Reporting Act, their reporting and implementation obligations and role they can facilitate in strengthening these efforts.

4.1.1 Familiarisation Visits to new Financial Institutions

During the year, the Unit has noticed a significant increase of new entities opening up in country particularly in the real estate and motor vehicle retail industry. These entities are unaware of their additional responsibilities and obligations under the FTRA. The Unit has continued with its familiarisation visit whereby the FIU team meets with entities to introduce the FTRA and their obligations under the Act and for the FIU team to understand the entity.

The Unit has conducted 16 meetings with financial institutions on their compliance with the FTRA.

4.1.2 Awareness and Training Workshops

During the year, several workshops were organised with the financial institutions (particularly with non-banking institutions) to increase awareness about their obligations under the FTRA and the role of the Vanuatu FIU.

Outreach Activity

Awareness	Host/Facilitator	Reporting Industry	Participants
Compliance workshop 3 - 5 February	VFIU/AMLAT/PALP	Real Estate, Vehicle Dealership and Credit Union	15
STR Reporting 14-15 October	VFIU/AUSTRAC	All non-banking institutions	34
Law Week 17 November	VFIU	Public Awareness	Public

Technical and financial assistance were provided by PALP, AUSTRAC and AMLAT.

4.1.3 Anti-Money Laundering Computer Based Training Centre

As a responsibility of the FIU, the Unit has provided training to financial institution and law enforcement in the past and is continuing with the trend to create awareness to new and existing staff of the financial institution on the prevention of money laundering.

During the year, the VFIU has conducted in house training to staff of several financial institutions and has issued certificates to successful staff.



AML Certificate presentation for staffs of a real estate agent

The aim of the program is to enable staff of financial institutions and law enforcement agencies to understand, detect and report to the FIU any money laundering and terrorist financing offences. The Unit has in-house 5 computers installed with the training modules.

The FIU also has two wireless network laptops donated by the UNODC at its disposal. This laptop training supplements the training offered at the FIU training centre.

4.1.4 Media Releases

As in previous years, the Unit has continued to provide media awareness on issues relevant to the general public. 2 media releases were issued on warning the general public of the exponential increase of scam victims and hoax email/letter/sms informing random individual as winners of a lottery prize and enabling the victim to contact the scam artist(s).

4.2 Improving Compliance with FTRA

4.2.1 On-site Examinations

Initially, the Unit focused on improving awareness of financial institutions and assisting them in submitting reports. During the year, the Unit increased its focus to ensure compliance by conducting on-site examinations of several financial institutions on their compliance with FTRA.

The 3 comprehensive examinations was conducted with technical assistance from UNODC's PALP regulatory advisor, Mr. Andrew Milford

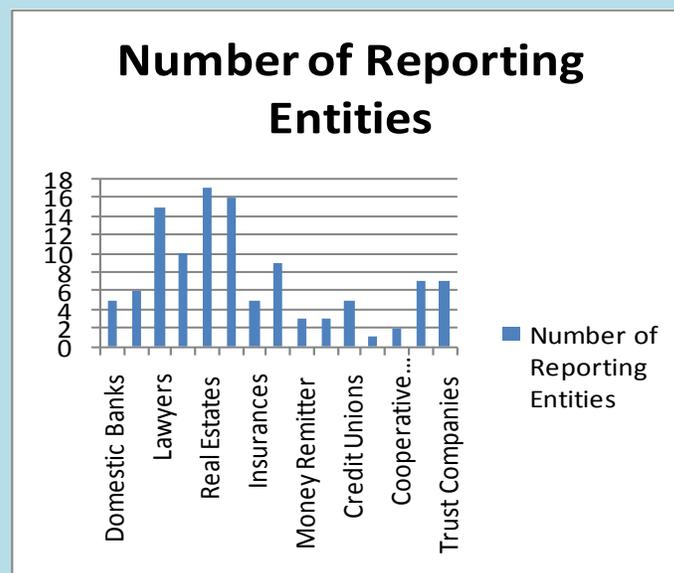
Examination of Industry

Industry	Examination	No. of institutions examined
Accountant	Comprehensive	2
Money Exchange	Comprehensive	1
Total		3

4.2.2 AML Compliance Officers

Important emphasis has been placed by the Unit on this particular obligation. Financial institutions are required to nominate or appoint an officer as their AML compliance officer who is responsible for ensuring the financial institution's compliance with the requirement of the FTRA and the regulations.

During the year, reminders were circulated to all financial institutions that are yet to notify the Unit of their respective appointed AML Compliance Officer.



Vanuatu FIU notes that appointment of an AML compliance officer within each financial institution is a stepping stone to easier and smoother compliance adherence.

4.2.3 AML Internal Procedure/Policy

Similarly, greater emphasis was focused on financial institutions establishing and maintaining AML internal Procedures/Policy. The Procedure(s) sets out the institutions' commitment to implement the reporting, Customer identification and verification, record keeping and retention requirements as stated under the FTRA.

Reminders were delivered to financial institutions notifying them of this obligation. Due to several misguided interpretation of the internal procedure requirement, the Unit in partnership with AMLAT will be conducting a training workshop with each reporting industry on establishing their own internal procedure. This training is schedule for 2010.

4.2.4 FIU Guideline for Financial Institutions

In 2008, the Unit has released an updated version of the Guideline (of 2003) which captured the major amendments made to the FTRA in 2005. The updated version provided detailed guidance to financial institutions on how to implement their obligation under the FTRA. It contained a general part and individual sections relating to each respective reporting industry.

4.3 Strengthening Legislative and Regulatory Framework

Vanuatu FIU has initiated and played an important role in reviewing and suggesting amendments to the FTRA and the POCA. These suggested amendments were in part derived from recommendations handed to the Vanuatu Government and the Vanuatu FIU after our second mutual evaluation in 2006.

4.3.1 Financial Transaction Reporting Act [CAP 268], Proceeds of Crime Act [CAP 284] and Currency Declaration Act of 2009

The FIU has reviewed the recommendations of the 2nd Mutual Evaluation and suggested amendments to the mentioned Acts so to improve the legal and regulatory framework, extend its scope to cover other grey areas and adapt to the ever-changing dynamics of the ML/TF environment.

The suggested FTRA and POCA amendments are being reviewed by the State Law Office before inviting stakeholders' comments.

The Currency Declaration Bill of 2009 was tabled in the National Parliament and passed into law. During the year, the Act was enacted by the former President of Vanuatu and is now awaiting publication in the official Vanuatu Government Gazette.

Since 2005, issues were identified with the existing legislation governing the declaration of currency carried on passengers across into and out of our border. This has greatly confined the customs officials from effectively carrying out their duties.

The new legislation is stand alone comprehensive legislation and will replace Part 5 of the POCA.

5. Building and Strengthening Organisational Capacity

Money launderers and financiers of terrorism keep adopting new techniques and changing methodologies to evade detection of their activities. The dynamic economic and technological scenario adds to the complexity of the task of detecting patterns of money laundering and financing of terrorism. To overcome these challenges, adequate internal capacity in terms of processes and people has to be built into Vanuatu FIU

5.1 Organisation

5.1.1 Organisational Structure

Vanuatu FIU is currently staffed by four officers, the FIU Manager, Financial Analyst, Compliance Officer and Data Officer. Being a small team but tasked with huge responsibilities, the FIU team has at its disposal, a legal team to assist the FIU with legal advices.

5.1.2 Training

Anti-money laundering and combating financing of terrorism are dynamic and ever changing issues. During the year, FIU officers attended several training programs to improve the Unit's capacity and be exposed to international best practices adopted by fellow FIUs.

Date	Training	Facilitator
6 July	Technical Seminar on " Issues relating to pacific island jurisdictions"	APG
6 July	Technical Seminar on "Investigation of PEPs and Corruption"	APG
13-15 July	FIU Analysis and Coordination	AUSTRAC

5.2 Processes

5.2.1 Data Quality Monitoring and Feedback

Effective search and analysis of Vanuatu FIU's databases requires that the data submitted by financial institutions is of good quality. A data validation procedure was developed late into the year ready for implementation in 2010, will be used to check reports submitted by financial institutions for most types of data defects. This will generate a data quality report which will be delivered to the concerned financial institutions for ratification and correction.

5.2.2 Monitoring of Compliance

Similarly, a compliance module has been developed to assist the FIU officers in monitoring compliance of each financial institution. This is to ensure old financial institutions are pursued by the FIU to increase their level of compliance.

5.2.3 Analysis of CTR and IFTR Data

Earlier the Cash Transaction Reports and International Funds Transfer Reports were used primarily for analysis of suspicious transaction reports and processing of request for information. During the year, the two databases were processed to generate clusters of reports on the basis of direct and indirect relationships. Certain high-risk clusters were analyzed and assist in developing future compliance programs.

6. Appendix A: Indicators of suspicious transactions

Industry Type	Sample indicators for detection of suspicious transactions
Banks	<ul style="list-style-type: none"> • Transaction is inconsistent with financial standing or occupation, or is outside the normal course of business for the customer in light of the information provided by the customer when conducting the transaction or during subsequent contact with customer. • Transaction is unnecessarily complex for its stated purpose. • The volume or frequency of transaction has no economic rationale or lawful sense. • Customer is hurried, nervous or evasive. • Customer is accompanied by unrelated individuals.
Money Exchange/Remitters	<ul style="list-style-type: none"> • Client request a transaction at a foreign exchange rate that exceeds the posted rate. • Client wants to pay transaction fees that exceed the posted fees. • Clients exchanges currency and request the largest possible denomination bills in a foreign currency. • Client knows little about address and contact details for payee, is reluctant to disclose this information, or requests a bearer instrument. • Client wants a cheque issued in the same currency to replace the one being cashed. • Client wants cash converted to a cheque and you are not normally involved in issuing cheques. • Client wants to exchange cash for numerous postal money orders in small amounts for numerous other parties. • Client enters into transactions with counter parties in locations that are unusual for the client. • Client instructs that funds are to be picked up by a third party on behalf of the payee. • Client makes large purchases of travellers cheques not consistent with known travel plans. • Client requests numerous cheques in small amounts and various name • Customer is reluctant to provide original ID • Customer makes inquiries or tries to convince staff to avoid reporting
Accountants	<ul style="list-style-type: none"> • Client appears to be living beyond his or her means • Client has business activity inconsistent with industry averages or financial ratios. • Client has cheques inconsistent with sales (i.e. unusual payments from unlikely sources).
Lawyers	<ul style="list-style-type: none"> • A transaction is proposed, however, the client is not the person being dealt with. The client wants a lawyer to act on behalf of their niece or elderly relative, for example, who is unknown, not available for contact and has not provided any instruction. • A client request a lawyer to hold a sum of money on the client's behalf, which is unrelated to any particular transaction or the provision of any legal services and where there is no other reasonable explanation for it being held by the lawyer. • New client approaches a firm with a simple proposition. Once access has been gained to the firm's trust account, the proposal is radically changes or developed. • Client uses lawyer's trust account for transaction that may be more appropriately conducted through a bank or other type of account. • Client wants to deposit a sum of cash into a firm's trust account pending the proposed purchase of a property in Vanuatu. The purchase never eventuates or falls through and the client requests a transfer of the funds to a third party without providing an adequate reason for the transfer. • Payment to a lawyer by means of a cheque drawn on an account other than that of the client in circumstances where non sound reason is given for the third party making funds available. • Clients or representatives providing conflicting information to different members of a law firm

Casino	<ul style="list-style-type: none"> • Patrons wanting to exchange large quantities of low denominations notes for higher denominations when they do not seem to participate in any of the gaming activities. • Unusually large amounts of cash exchanged for chips made by a patron whose business is known by casino staff to normally generate cheques or other instruments, rather than cash. • Frequent exchange of cash from other currency to Vatu where there appears to be no logical reason for such activity • Patrons whose transactions contain counterfeit notes or forged instruments or whose cash has an unusual appearance. • Patrons conducting a number of separate transactions in an apparent attempt to avoid any of the requirements of the FTRA, for example, a number of transaction under VT 1 million to avoid customer identification requirements • A group of patrons who appear to be acting together and simultaneously, or within a short period of time, use separate cashiers to conduct large cash or foreign exchange transactions • Patrons buying-in with large amounts of cash at the tables or gaming machines, do not gamble and then cash out at the cashier's cage. • Patrons making verbal statements as to their involvement in criminal activity. • Patrons depositing cash, or making wire transfers, with no intention to wager • Patrons establishing and using cheque cashing facilities with no intention to wager
Real Estates	<ul style="list-style-type: none"> • Initial deposit is paid by purchaser with a large amount of cash • Initial deposit is paid with a cheque from a third party, e.g. an associate or relative (other than spouse) • A purchaser uses a significant amount of cash to close a real estate deal • Property is purchased in the name of a nominee e.g. an associate or relative (other than spouse) • Purchaser refuses to put his/her name on any document associated with the property or uses a different name on contracts, agreements or deposit receipts etc... • Client unsatisfactorily explains the last minute substitution of the purchasing party's name • Client purchases property without inspecting location.
Vehicle Dealerships	<ul style="list-style-type: none"> • Customer wishes to pay an unusually large amount in cash • Customer is not relying on finance and has money well in excess of his or her occupation • Deposit or balance is paid with a cheque from a third party, e.g. an associate or relative (other than spouse) • Vehicle is purchased in the name of a nominee, or an associate but the purchaser appears to want to use the vehicle as his or her own transport • Purchase is reluctant to put his name on any document associated with the vehicle • Customer purchases the vehicle without usual regard for condition or value for money
Insurance	<ul style="list-style-type: none"> • Client proposed to purchase an insurance product using a cheque drawn on an account other than his or her personal account. • Client requests an insurance product that has no discernible purpose and is reluctant to divulge the reason for the investment. • Client who has other small policies or transaction based on a regular payment structure makes a sudden request to purchase a substantial policy with a lump payment. • Client conducts a transaction that results in a conspicuous increase in investment contributions. • Client cancels investment or insurance soon after purchase. • Client shows more interest in the cancellation or surrender than in the long-term results of investments. • Client makes payments with small denomination notes, uncommonly wrapped, with postal money orders or with similar means of payment. • The duration of the life insurance contract is less than three years. • The first (or single) premium is paid from a bank account outside the country. • Client accepts unfavorable condition unrelated to his or her health or age. • The transfer of the benefit of a product to an apparently unrelated third party. • Client establishes a large insurance policy and within a short time period cancels the policy, requests the cash value returned payable to a third party. • Introduction of a client by an agent/intermediary in an unregulated or loosely regulated jurisdiction or where organized criminal activities are prevalent.
	<ul style="list-style-type: none"> •

VFIU Annual Report

Credit Unions	<ul style="list-style-type: none">• Client suddenly repays a problem loan unexpectedly.• Client's employment documentation lacks important details that would make it difficult to contact or locate the employer.• Client has loans to or from offshore companies that are outside the ordinary course of business of the client.• Client offers you large vatu deposits or some other form of incentive in return for favourable treatment on loan request.• Client asks to borrow against assets held by another financial institution or a third party, when the origin of the assets is not known.• Loan transactions are entered into in situations where the client has significant assets and the loan transaction does not make economic sense.• Customer seems unconcerned with terms of credit or costs associated with completion of a loan transaction.• Client applies for loans on the strength of a financial statement reflecting major investments in or income from businesses incorporated in countries known for highly secretive banking and corporate law, and the application is outside the ordinary course of business for the client.
Trust and Company Service Providers	<ul style="list-style-type: none">• Complex networks of trusts and/or nominee ships and/or companies• Transactions which lack economic purposes• Transaction which are inconsistent with the expected objectives of the structure• Arrangements established with the apparent objective of fiscal evasion• Structures or transactions set up or operated in an unnecessarily secretive way• Lack of clarity about beneficial ownership or interest or difficulties in verifying identity of person with ownership or control• Unwillingness to disclose the source of assets to be received by a trust or company• Unwillingness for the fiduciary to have the degree of information and control which it needs to fulfill its duties

Appendix B: Examples of sanitized cases

Case 1: False Identification

A regular customer of a local money remitter has been remitting funds to an African country on a monthly basis and on several occasions has used the name of another living person as sender of the funds. There was no consent from the third party for the customer to use his personal details.

The remitter has requested the customer to provide identification documents for the third party. Instead the customer switched remittance services to continue his transfers. An alert notice was issued to the money remittance service notifying it of the customer's previous activity.

Case 2: Cheque Kiting

Several domestic banks raised STRs on a particular customer for suspected cheque kiting.

The customer has several accounts with all four domestic banks. Over a span of 2 months, she wrote cheques from one of her account with bank A and deposited them into her account with bank B. while the cheque was being cleared; she made cash withdrawal from the account in bank B against her cheques. Once the cheques were cleared, it was found that no funds were held in the account in bank A to cover the cash withdrawal.

This fraudulent activity was further extended to involve all four banks, where cheques were drawn from her accounts in bank A were deposited in her account in bank B and cheques from account with bank B being deposited with bank C and so forth.

This was seen as an attempt to prolong the process of depositing funds in the accounts. The case has been forwarded to the local law enforcement agency.