



REPORT

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**ANNUAL REPORT BY THE MONEY LAUNDERING REPORTING
OFFICE SWITZERLAND MROS**

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TOPICS

Statistics

Typologies

From the MROS office

International scene

Internet Links

MROS

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Federal Office of Police

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1 Introduction

The Money Laundering Reporting Office (MROS) experienced several major developments during the reporting year. On 21 June 2013, the Swiss Parliament adopted the revised Anti-Money Laundering Act, which came into effect on 1 November 2013. Consequently, MROS is now authorised to exchange financial information with foreign financial intelligence units (FIUs). With this revision, Swiss lawmakers have recognised the importance that international cooperation has for MROS and have strengthened its position within the Egmont Group, which is indeed the framework ensuring optimal cooperation with foreign FIUs.

Another important development made possible by the revised Act is the authority to request information from financial intermediaries in relation to a suspicious activity report (SAR) submitted by another financial intermediary.

This latter authority has a direct bearing on relations between MROS and financial intermediaries, to which MROS may address a request for information at any time. The first cases of application of this measure gave rise to some interesting legal questions that MROS answers in the pages that follow.

The number of SARs submitted to MROS has fallen compared to 2011 and 2012. Unlike in previous years, there were no exceptional events triggering a large volume of SARs in 2013.

The lower volume of SARs gave MROS the opportunity to examine each case more thoroughly and contact foreign FIUs more frequently (an increase of approx. 400 natural persons or legal entities compared to 2012). As a result, the percentage of SARs forwarded to the prosecution authorities was lower than in previous years. MROS was therefore able to consolidate its role as a filter, simultaneously improving the quality of analysis of SARs forwarded to public prosecutors and exchanging more information with foreign FIUs.

As in previous years, fraud remains the main suspected predicate offense. A significant increase was observed in the number of cases involving fraudulent use of computers,

mostly „phishing“. A separate section is devoted to this topic in the pages that follow. SARs were also triggered by new predicate offences – which came into effect on 1 May 2013 – relating to securities transactions, namely insider trading and share price manipulation. The practical application of these predicate offences also raised a few important legal questions for financial intermediaries. In the chapter devoted to practices, MROS addresses these questions and presents the interpretation given by the Office of the Attorney General of Switzerland, which is the only office empowered to investigate such cases.

On 13 December 2013, the Federal Council adopted the draft bill on implementation of the revised FATF Recommendations. The draft bill seeks to improve the SAR submission mechanism by giving MROS more time to carry out its analyses. In response to requests from stakeholders, the Federal Council will maintain the dualism between the duty to report (mandatory SARs) and the right to report (voluntary SARs).

Both the legislative amendment that came into effect on 1 November 2013 and the one currently being examined by the Swiss Parliament show that Swiss lawmakers are serious about providing MROS with the authority needed to address current money laundering and terrorism financing challenges.

Bern, May 2014

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MROS Section

2 Annual MROS statistics

2.1 Overview of MROS statistics 2013

Summary of reporting year (1 January 2013–31 December 2013)

SAR Reporting Volume	2013		+/-	2012	
	Absolute	Relative		Absolute	Relative
Total number of SARs received	1 411	100.0%	-11.0%	1 585	100.0%
Forwarded SARs	1 116	79.1%	-17.6%	1 355	85.5%
Non-forwarded SARs	295	20.9%	28.3%	230	14.5%
Pending SARs	0	0.0%	N/A	0	0.0%
Type of financial intermediary					
Bank	1 123	79.6%	7.0%	1 050	66.2%
Payment services sector	74	5.2%	-79.6%	363	22.9%
Fiduciary	69	4.9%	6.2%	65	4.1%
Asset manager / Investment advisor	74	5.2%	51.0%	49	3.1%
Attorney	9	0.6%	-25.0%	12	0.7%
Insurance	19	1.3%	111.1%	9	0.5%
Credit card company	14	1.0%	-36.4%	22	1.4%
Casino	8	0.6%	33.3%	6	0.4%
Foreign exchange trader	5	0.4%	N/A	0	0.0%
Securities trader	1	0.1%	0.0%	1	0.1%
Other	1	0.1%	-75.0%	4	0.3%
Loan, leasing and factoring business	4	0.3%	300.0%	1	0.1%
Commodity and precious metal trader	10	0.7%	233.3%	3	0.2%
Currency exchange	0	0.0%	N/A	0	0.0%

Amounts involved in CHF

(Total effective assets at time of report)

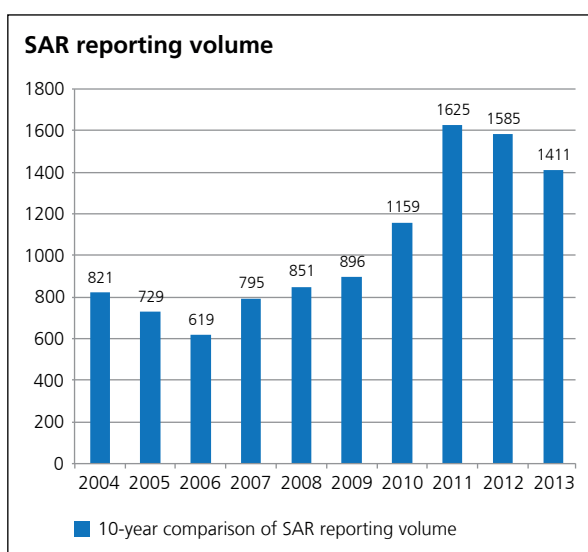
Total asset value of all SARs received	2 978 808 803	100.0%	-5.7%	3 160 051 234	100.0%
Total asset value of forwarded SARs	2 788 563 129	93.6%	-1.9%	2 841 340 706	89.9%
Total asset value of pending SARs		0.0%	N/A		0.0%
Total asset value of non-forwarded SARs	190 245 674	6.4%	-40.3%	318 710 528	10.1%
Average asset value of SARs (total)	2 111 133			1 993 723	
Average asset value of forwarded SARs	2 498 712			2 096 930	
Average asset value of pending SARs	0			0	
Average asset value non-forwarded SARs	644 901			1 385 698	

2.2 General remarks

The 2013 reporting period was characterised by the following developments:

1. Decrease in the total number of SARs over the previous reporting period;
2. High total asset value;
3. Fewer SARs forwarded to prosecution authorities;
4. Increase in data exchange with foreign FIUs.

2.2.1 Total number of SARs



In the 2013 reporting period MROS received a total of 1,411 SARs. This represents a decrease in reporting volume over the 2012 reporting year. With fewer SARs, MROS had time to analyse each case in more detail. This resulted in a lower proportion of SARs being forwarded to the prosecution authorities, thereby strengthening MROS's role as a "filter". As in the previous years, MROS received more SARs from the *banking sector* than from any other category and even than in any previous year. Indeed, the 1,123 SARs from the banking sector (nearly 80% of total reporting volume) represent a notable increase in reporting volume from this sector, surpassing even the record year of 2011. This increase is due – amongst other reasons – to the change in status of a financial intermediary from the payment services sector to the banking sector, which had repercussions on the statistics of these two categories.

In previous years, complex cases often generated multiple SARs relating to the same case (so-called case clusters). In 2013, however, MROS dealt with only a few such case clusters. Thus, the most complex case in 2013 generated only 25 SARs and related to a case of suspected terrorist financing. When MROS deals with a case cluster, it general-

ly combines all the reports it receives on that one case into a single analysis. The fact that there were few case clusters in 2013 meant that most of the SARs were the subject of a single analysis. This resulted in more work for MROS. But despite the additional work load, MROS did not require significantly more time to process a SAR than in the previous reporting year (2013: 3.23 days, 2012: 2.31 days). These figures make no distinction between voluntary and mandatory SARs. It should be noted here that MROS is only required to process SARs submitted under Article 9 AMLA within 5 days. If possible, however, it also tries to process SARs submitted under Article 305^{ter} paragraph 2 SCC within the same time frame.

The number of SARs from the *payment services sector* fell considerably, from 363 SARs in 2012 to only 74 SARs in 2013. As already mentioned, this steep decline is mainly due to the change in status of one financial intermediary, which until 2012 appeared in the sub-category *providers*, but which now falls under the *banking sector*. As the financial intermediary in question was the only one in the sub-category *providers*, this category no longer exists but still appears in the tables. The other reason for the decline in SARs from the *payment services sector* is the fall in the number of SARs from the sub-category *money transmitters*.

The category *fiduciary* continued its upward trend of the last few years, submitting 69 SARs in 2013 (2012: 65 SARs).

There was also an increase in the category *asset managers* (2013: 74 SARs, 2012: 49 SARs). However, it is difficult to talk of a trend because this category also saw a rise in reporting volume in 2010 to 40 SARs, only to fall again in 2011 to 27 SARs, before increasing again in 2012 to 49 SARs. The increase in 2013 can be explained partly by the existence of three cases clusters that generated 23 SARs owing to the number of business connections involved.

The number of SARs from the category *commodity and precious metals traders* rose from 3 SARs in 2012 to 10 SARs in 2013. These SARs mainly involve cases of attempted fraud.

2.2.2 SARs from the payment services sector

As in the previous years, the *payment services sector* was the second largest contributor of SARs behind the *banking sector*. Compared to the banking sector, the number of SARs from this sector fell considerably, however. Whilst in previous years SARs from the *payment services sector* made up approximately one-fourth of total reporting volume, this proportion fell to one-twentieth in 2013. In terms of reporting volume, the two categories *asset ma-*

Year	Total SARs	in %	Payment services sector	in %	-of which providers	in %	-of which money transmitters	in %
2004	821	100	391	48	97	25	294	75
2005	729	100	348	48	57	16	291	84
2006	619	100	164	26	61	37	103	63
2007	795	100	231	29	100	43	131	57
2008	851	100	185	22	78	42	107	58
2009	896	100	168	19	106	63	62	37
2010	1 159	100	184	16	123	67	61	33
2011	1 625	100	379	23	141	37	238	63
2012	1 585	100	363	23	187	52	176	48
2013	1 411	100	74	5	0	0	74	100
Total	10 491	100	2 487	24	950	38	1 537	62

nager/investment advisor and fiduciary were on an equal footing with the *payment services sector*. This development can be explained by the fact that the PostFinance AG was granted a banking licence and hence submitted its SARs in 2013 as a bank. In relative terms, SARs from the *payment services sector* hence fell to 5.2 per cent of total reporting volume (2012: 22.9 %), whilst the proportion of SARs from the *banking sector* increased to 80 per cent (2012: 66%).

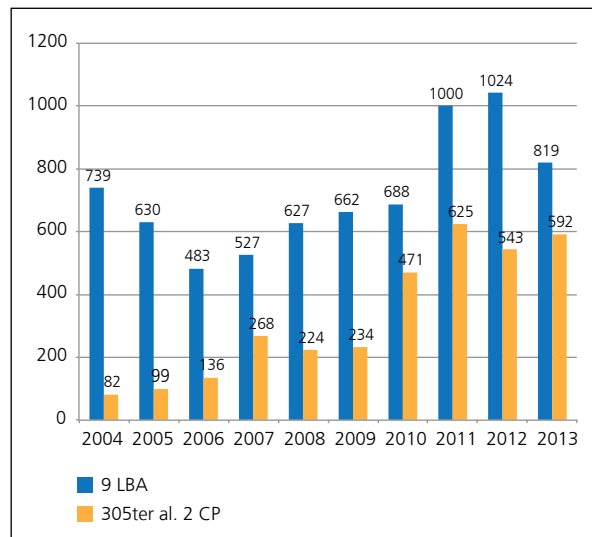
The number of SARs from the sub-category *money transmitters* also fell in 2013. One financial intermediary from this sub-category submitted far fewer SARs in 2013, whereby it was not the low number of SARs in 2013 but rather the high number in 2012 that was unusual. This particular financial intermediary was involved in only one case cluster in 2013 (generating multiple SARs), as opposed to the previous reporting period when the same financial intermediary was involved in two large and three smaller case clusters.

In one case it proved worthwhile that the financial intermediary had analysed the financial flows in great detail and was therefore able to establish that, taken as a whole, the individual transactions were suspicious. This resulted in the detection of a major case of money laundering.

2.2.3 Mandatory SARs (Art. 9 AMLA) and voluntary SARs (Art. 305^{ter} para. 2 SCC¹)

Of the 1,411 SARs submitted to MROS in 2013, 592 SARs, or 42 per cent, were submitted under Article 305^{ter} paragraph 2 SCC (*right to report or voluntary SARs*) and 819 SARs, or nearly 58 per cent, were submitted under Article 9 AMLA (*duty to report or mandatory SARs*).

Since 2010, the number of voluntary SARs has risen sharply. In fact, in 2010 voluntary SAR reporting volume increased



more than twofold over 2009. This increase is due to the 2009 revision of the Anti-Money Laundering Act. Before then, financial intermediaries were allowed to submit voluntary SARs (Art. 305^{ter} para. 2 SCC) either to the prosecution authorities or directly to MROS. Since the revision of the act, however, voluntary SARs may only be submitted to MROS. The significant increase in voluntary SARs to 625 in 2011 – from 471 in 2010 – was due to the overall increase in reporting volume that year on account of political upheaval in North Africa and the Middle East. Although the number of voluntary SARs fell to 543 in 2012, it was still higher than in 2010. The increase in voluntary SARs is therefore a clear trend of the last few years. The statistics of the last few years reveal that individual financial sectors follow different practices with regard to what type of SAR they submit. In the last few years, banks have submitted an increasing number of SARs under Article 305^{ter} para-

¹ Swiss Criminal Code of 21 December 1937 (SCC; SR 311.0).

graph 2 SCC. Indeed, 46 percent of voluntary SARs submitted in 2013 came from the banking sector, as opposed to 41 percent in 2012.

It is difficult to distinguish between the elements leading to the submission of a voluntary SAR as opposed to a mandatory SAR. According to the Federal Council dispatches of 1993² and 1996³, the financial intermediary may submit a SAR under Article 305^{ter} paragraph 2 SCC on account of a suspicion based on probability, doubt or a sense of unease about entering into a business relationship. On the other hand, a financial intermediary must submit a SAR under Article 9 AMLA if he has a well-founded suspicion of money laundering. The scope of a simple suspicion under Article 305^{ter} paragraph 2 SCC is therefore wider than the scope of a well-founded suspicion under Article 9 AMLA. Following this logic, one would therefore expect more SARs to be submitted under Article 305^{ter} paragraph 2 SCC than under Article 9 AMLA. However, this is not the case. The statistics show that the number of SARs submitted by virtue of Article 9 AMLA has always been higher than those submitted by virtue of Article 305^{ter} paragraph 2 SCC.

In the legislative project to implement the FATF recommendations, which was submitted for consultation on 27 February 2013, the the Federal Council proposed abolishing voluntary reporting. This option was dropped, however, following popular consultation. The draft bill to implement the FATF recommendations, which the Federal Council adopted on 13 December 2013, therefore retains voluntary reporting. This decision is significant for the financial centre of Switzerland, and for this reason a new form for voluntary reporting is now available on the MROS website (previously, financial intermediaries had to use the form for mandatory reporting under Art. 9 AMLA and adapt its contents).

If one considers the reporting practice of the banking sector, it is noticeable that there is a difference between *foreign-controlled banks* and *major (Swiss) banks*. Whereas *foreign-controlled banks* submitted more mandatory SARs (51.7 percent of all SARs from this category) than voluntary SARs, *major banks* made more use of voluntary reporting under Article 305^{ter} paragraph 2 SCC (56.5 percent).

Type of Bank	Art. 9 AMLA	in %	Art. 305 ^{ter} para. 2 SCC	in %	Total
Other institution	138	60,0	92	40,0	230
Foreign-controlled bank	124	51,7	116	48,3	240
Asset management bank	54	56,8	41	43,2	95
Branch of foreign bank	5	100,0	0	0,0	5
Major bank	141	43,5	183	56,5	324
Bank with special business circle	0	0,0	1	100,0	1
Cantonal bank	44	61,1	28	38,9	72
Private banker	43	61,4	27	38,6	70
Raiffeisen bank	47	59,5	32	40,5	79
Regional and savings bank	6	100,0	0	0,0	6
Other banks	1	100,0	0	0,0	1
Total	603	53,7	520	46,3	1123

² Dispatch of 30 June 1993 on the Revision of the Swiss Criminal Code and the Military Criminal Code, Federal Gazette 1993 III 269.

³ Additional Dispatch of 17 June 1996 on the Anti-Money Laundering Act, Federal Gazette 1996 III 1057..

Financial intermediary	Type of SAR	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Banks	Total	342	294	359	492	573	603	822	1 080	1 050	1 123	6 738
	9 AMLA	313	258	271	307	392	401	426	536	611	603	4 118
	305 ^{ter} SCC	29	36	88	185	181	202	396	544	439	520	2 620
Supervisory authorities	Total		2	5	1	1	4		1			14
Casinos	Total	2	7	8	3	1	5	8	6	6	8	54
	9 AMLA	2	7	8	2	1	5	4	3	1	6	39
	305 ^{ter} SCC				1			4	3	5	2	15
Foreign exchange trader	Total	1	1	1			5	6	7		5	26
	9 AMLA		1	1			5	6	5		4	22
	305 ^{ter} SCC	1						0	2		1	4
Securities trader	Total	2	2		2	5	2	4		1	1	19
	9 AMLA	2	2		2	5	2	1		1	1	16
	305 ^{ter} SCC							3			0	3
Currency exchange	Total	3	3	2	1	1	1		3			14
	9 AMLA	2	3	2	1	1	1		1			11
	305 ^{ter} SCC	1							2			3
Loan, leasing, factoring and non-recourse financing	Total	1	1	7	4	1	11	1	5	1	4	36
	9 AMLA	1	1	3	4	1	10	1	5	1	4	31
	305 ^{ter} SCC			4			1					5
Credit card company	Total	2			2	2	10	9	10	22	14	71
	9 AMLA	2			2	2	3	6	6	20	11	52
	305 ^{ter} SCC						7	3	4	2	3	19
Attorney	Total	10	8	1	7	10	11	13	31	12	9	112
	9 AMLA	9	8	1	7	10	11	12	27	11	8	104
	305 ^{ter} SCC	1						1	4	1	1	8
Commodity and precious metal trader	Total				1	5	1	1	1	3	10	22
	9 AMLA				1	5	1	1	1	3	8	20
	305 ^{ter} SCC										2	2
Fiduciary	Total		31	45	23	37	36	58	62	65	69	426
	9 AMLA		31	43	20	35	34	58	57	60	52	390
	305 ^{ter} SCC			2	3	2	2		5	5	17	36
other FI	Total			1	2		1	4	2	4	1	15
	9 AMLA			1	2		1	4	2	4	1	15
	305 ^{ter} SCC											
Asset manager / investment advisor	Total		18	6	8	19	30	40	27	49	74	271
	9 AMLA		17	6	5	16	29	38	21	42	59	233
	305 ^{ter} SCC		1		3	3	1	2	6	7	15	38
Insurance	Total		9	18	13	15	9	9	11	9	19	112
	9 AMLA		7	15	12	12	9	9	8	7	19	98
	305 ^{ter} SCC		2	3	1	3			3	2		14
Distributor of investment funds	Total	3	5		1							9
	9 AMLA	3	4		1							8
	305 ^{ter} SCC		1									1
Payment services, divided into	Total	391	348	164	231	185	168	184	379	363	74	2 487
a) providers	9 AMLA	87	32	22	27	46	86	65	91	109		565
	305 ^{ter} SCC	10	25	39	73	32	20	58	50	78		385
b) money transmitters	9 AMLA	255	257	102	129	104	61	57	236	173	43	1 417
	305 ^{ter} SCC	39	34	1	2	3	1	4	2	3	31	120

2.2.4 Reporting cases of attempted money laundering or suspected terrorist financing under Article 9 paragraph 1 (b) Anti-Money Laundering Act

Since the revision of the Anti-Money Laundering Act in 2009, a financial intermediary must report situations in which negotiations to establish a business relationship have been broken off due to a reasonable suspicion that the assets involved are

- connected to an offence in terms of Article 305bis SCC (money laundering) or Article 260^{ter} paragraph 1 SCC (criminal organisation),
- the proceeds of a felony,
- subject to the power of disposal by a criminal organisation or
- the assets serve the financing of terrorism.

Only eight SARs were submitted in 2013 under Article 9 paragraph 1 (b) AMLA (2012: 22 SARs). Of these eight SARs, one was forwarded to the prosecution authorities, bringing down the proportion of forwarded SARs in connection with attempted money laundering to 12.5 percent (2012: 36 percent).

Since the entry into force of Article 9 paragraph 1 (b) AMLA in 2009, MROS has received a total of 81 SARs by virtue of this article, 28 of which have been forwarded to the competent prosecution authority, making the overall proportion of forwarded SARs submitted under Article 9 paragraph 1 (b) AMLA since 2009 35 percent. Of the 28 SARs forwarded to prosecution authorities, ten cases were dismissed, nine cases were suspended, one case was temporarily suspended and one case resulted in a judgment⁴. Twelve of the 28 cases are pending.

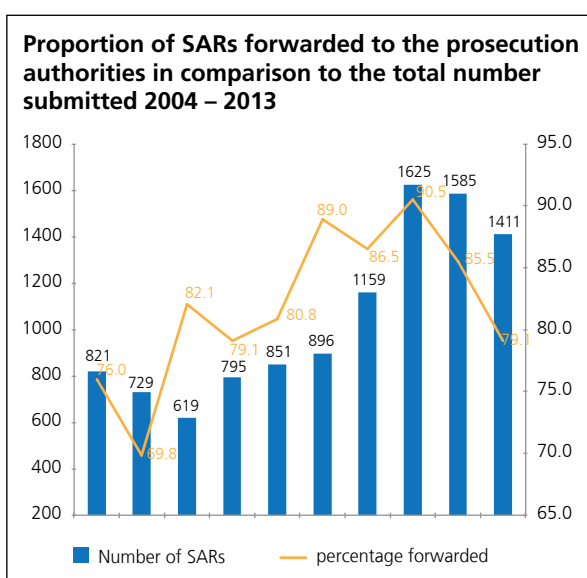
A financial intermediary who finds himself in the position described in Article 9 paragraph 1 (b) AMLA is under the obligation to submit a SAR to MROS. He must have a certain level of reasonable suspicion to report to MROS under this provision. However, it is difficult for a financial intermediary to get to know a client well and to establish a suspicion justifying a SAR on the basis of simple contacts or possibly even a single meeting. Indeed, when negotiations are terminated, business relations have not yet been established, assets have not yet been transferred and it is usually difficult therefore to prove related predicate offences. Thus, there is generally an insufficient basis for initiating criminal proceedings. This may explain the relatively low number of SARs submitted by virtue of Article 9 paragraph 1 (b) AMLA.

Submitting a SAR to MROS by virtue of this provision is important, however, because the Anti-Money Laundering Act is a piece of preventive legislation aimed at stopping the infiltration of the financial market by money of criminal origin. Even if MROS does not forward a SAR to the prosecution authorities, the aim of prevention can still be achieved because MROS can voluntarily provide national and international prosecution authorities or its counterparts abroad (Financial Intelligence Units) with information on suspects or *modus operandi*. It is therefore important that the reporting financial intermediary does not draw the wrong conclusions from a SAR that has not been forwarded by MROS to the prosecution authorities and, subsequently, re-enter into negotiations with the client.

⁴ This case relates to a SAR that MROS received in 2010 concerning a foreign national residing in Switzerland who, using false identities (based on forged documents), established several companies with headquarters in Switzerland and abroad. Later, the man attempted to obtain credit from a Swiss financial intermediary using forged balance sheets of the companies in Switzerland. Following its analysis and various inquiries, MROS sent the case to the prosecution authorities. The man was found guilty of fraud for commercial gain, and of forgery and falsifying identity documents, but not guilty of money laundering (due to insufficient proof).

Financial intermediary	Type of SAR	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Banks	Total	342	294	359	492	573	603	822	1 080	1 050	1 123	6 738
	of which Art. 9 (1)b AMLA	4	10	9	16	6	15	9	13	14	5	101
Supervisory Authority	Total		2	5	1	1	4		1			14
Casinos	Total	2	7	8	3	1	5	8	6	6	8	54
	of which Art. 9 (1)b AMLA											
Foreign exchange trader	Total	1	1	1			5	6	7		5	26
	of which Art. 9 (1)b AMLA								2			2
Securities trader	Total	2	2		2	5	2	4		1	1	19
	of which Art. 9 (1)b AMLA											
Currency exchange	Total	3	3	2	1	1	1		3			14
	of which Art. 9 (1)b AMLA											
Loan, leasing, factoring and non-recourse financing	Total	1	1	8	4	1	11	1	5	1	4	37
	of which Art. 9 (1)b AMLA											
Credit card company	Total	2			2	2	10	9	10	22	14	71
	of which Art. 9 (1)b AMLA							1				1
Attorney	Total	10	8	1	7	10	11	13	31	12	9	112
	of which Art. 9 (1)b AMLA											
Commodity and precious metal trader	Total			1	5	1		1	1	3	10	22
	of which Art. 9 (1)b AMLA											
Fiduciary	Total	36	31	45	23	37	36	58	62	65	69	462
	of which Art. 9 (1)b AMLA						1	1	2	4		8
Other FI	Total	7		1	2		1	4	2	4	1	22
	of which Art. 9 (1)b AMLA											
Asset manager / Investment advisor	Total	13	18	6	8	19	30	40	27	49	74	284
	of which Art. 9 (1)b AMLA							2	1		3	6

Financial intermediary	Type of SAR	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Insurance	Total	8	9	18	13	15	9	9	11	9	19	120
	of which Art. 9 (1)b AMLA									3		3
Distributor of investment funds	Total	3	5		1							9
	of which Art. 9 (1)b AMLA											
Payment services	Total	391	348	164	231	185	168	184	379	363	74	2 487
	of which Art. 9 (1)b AMLA								3	2		5



2.2.5 Proportion of SARs forwarded to the prosecution authorities

The proportion of SARs forwarded to the prosecution authorities fell in 2013 to 79 percent of total reporting volume. This is the lowest figure since 2006 and lowers the general average of forwarded SARs from approximately 83 percent from 2003 to 2012, to 81.4 percent in 2013. The decline can be explained by the general fall in overall reporting volume, which left the MROS analysts more time for researching the SARs they received.

As MROS has stated in the past, the high proportion of forwarded SARs reflects the high quality of SARs submitted by financial intermediaries in Switzerland. It is also an indication of the fact that the reporting system in Switzerland prompts financial intermediaries to submit a SAR only after conducting a detailed analysis of the case. In fact, both in the case of voluntary SARs and – even more so –

in the case of mandatory SARs, financial intermediaries must carry out extensive investigations to justify their suspicion. The statistics show that the proportion of forwarded voluntary and mandatory SARs in 2012 was quite comparable: 82 percent of mandatory SARs (Art. 9 AMLA) were forwarded to the prosecution authorities compared to 74.5 percent of voluntary SARs (Art. 305^{ter} para. 2 SCC). These figures are confirmed by the statistics of the previous years and indicate that financial intermediaries take both their duty and their right to report equally seriously.

In general, the percentage of forwarded SARs from all sectors was high. The *banking sector* (81.7 per cent) and the *asset managers* (83.8 per cent) were top of the list in 2013. As for the *payment services sector*, there was a decrease in the proportion of forwarded SARs, from 81 percent in 2012 to 51 percent in 2013.

In contrast to most foreign reporting systems, which are based on a “suspicious transaction report STR” (i.e. an unqualified suspicion), or even merely on a “currency transaction report CTR” (i.e. a transaction exceeding a certain monetary threshold), the Swiss reporting system is based on a well-founded suspicion of money laundering – as the name SAR or “suspicious activity report” suggests. Foreign systems result in a much higher number of reports whose content does not compare with the high quality of the Swiss reports, however. The efficiency and effectiveness of money laundering legislation should not only be measured against the number of reports or statistics, but – more relevantly – by comparing the proportion of forwarded reports. Compared with foreign reporting systems, the Swiss reporting system boasts a high proportion of SARs forwarded to prosecution authorities.

Proportion of SARs forwarded to the prosecution authorities in comparison to the total number submitted 2004–2013.

Financial intermediary category	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Bank	91,8 %	92,2 %	94,4 %	92,1 %	87,4 %	90,7 %	90,5 %	93,0 %	88,4 %	81,7 %	89,3 %
Supervisory authority		100,0 %	100,0 %		100,0 %						100,0 %
Casino	50,0 %	85,7 %	75,0 %	66,7 %	100,0 %	80,0 %	50,0 %	50,0 %	16,7 %	12,5 %	53,7 %
Foreign exchange trader		100,0 %	100,0 %			100,0 %	83,3 %	57,1 %		40,0 %	69,2 %
Securities trader	100,0 %	100,0 %		100,0 %	83,3 %	50,0 %	25,0 %		100,0 %	100,0 %	73,7 %
Currency exchange	100,0 %	100,0 %	50,0 %	100,0 %	100,0 %	100,0 %		33,3 %			78,6 %
Loan, leasing, factoring and non-recourse financing	100,0 %	100,0 %	75,0 %	50,0 %	100,0 %	90,9 %	100,0 %	100,0 %		50,0 %	78,4 %
Credit card company	100,0 %			100,0 %	100,0 %	100,0 %	66,7 %	100,0 %	100,0 %	64,3 %	87,3 %
Attorney	100,0 %	75,0 %	0,0 %	85,7 %	80,0 %	100,0 %	69,2 %	93,5 %	95,5 %	55,6 %	83,0 %
Commodity and precious metal trader			100,0 %	100,0 %			0,00 %	100,0 %	33,3 %	70,0 %	68,2 %
Self-regulating organisation		100,0 %	100,0 %	100,0 %		100,0 %		100,0 %			100,0 %
Fiduciary	91,7 %	100,0 %	88,9 %	82,6 %	91,9 %	86,1 %	79,3 %	85,5 %	72,3 %	79,7 %	84,2 %
Other FI	100,0 %			100,0 %			25,0 %	100,0 %	100,0 %	100,0 %	77,3 %
Asset manager / investment advisor	92,3 %	83,3 %	33,3 %	75,0 %	52,6 %	83,3 %	77,5 %	92,6 %	85,7 %	83,8 %	81,0 %
Assurance	87,5 %	88,9 %	72,2 %	61,5 %	86,6 %	66,7 %	44,4 %	54,5 %	77,8 %	78,9 %	73,3 %
Distributor of investment funds	100,0 %	60,0 %									66,7 %
Payment services	58,6 %	46,0 %	57,3 %	51,9 %	60,5 %	84,5 %	81,5 %	86,3 %	81,0 %	51,4 %	67,0 %
Total	76,0 %	69,8 %	82,1 %	79,1 %	80,8 %	89,0 %	86,5 %	90,5 %	85,5 %	79,1 %	82,9 %

2.2.6 SARs involving substantial levels of assets

Total asset value in 2013 amounted to CHF 2.98 billion and was therefore slightly lower than in 2012 (CHF 3.15 billion). The decrease can be explained by the general decline in overall reporting volume.

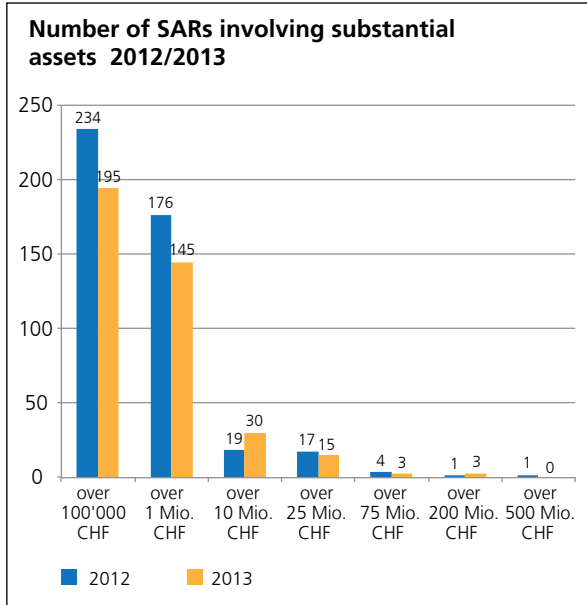
Five SARs involved an asset value of more than CHF 100 million, whilst one SAR generated more than CHF 75 million, making a total of CHF 1.5 billion. In 2012, six SARs had involved assets of more than CHF 75 million, making a total of CHF 1.4 billion. Of the six SARs involving substantial levels of assets in 2013, three SARs involved assets exceeding CHF 300 million. These three SARs, together with a further SAR involving nearly CHF 200 million, made up a case cluster. The SARs were submitted to MROS following reports by the media or from information by the prosecution authorities. All six SARs were submitted to MROS by

virtue of Article 305^{ter} paragraph 2 SCC and all came from the banking sector.

Thirty percent of total asset value in 2013 came from mandatory SARs and 70 percent from voluntary SARs. The year before, these figures were the other way round (2012: 60 percent mandatory and 40 voluntary SARs). This shows that financial intermediaries place equal importance on both types of reporting, which although requiring the same amount of time and investigation do not have the same legal consequences (no freezing of assets under Art. 305^{ter} para. 2 SCC).

In 2013 the rounded average of substantial assets involved in a SAR was 5.9 percent higher than in 2012 (2013: CHF 2.1 million, 2012: CHF 1.9 million).

2.2.7 Resurgence in phishing cases involving money mules



In 2013 MROS received quite a few SARs concerning stolen computer data. These SARs revealed a resurgence in the use of money mules to launder money gained by criminal means. The modus operandi works in following way : a person is contacted online by an institution or a person looking for assistance to transfer money abroad. Recruitment methods have become ever more sophisticated, giving the appearance of a legitimate activity. Most of the time, the person who is recruited – the money mule – is not aware that the money is the proceeds of a crime. Nevertheless, by transferring money received from a third party to an account abroad, the money mule is participating in money laundering and can be prosecuted and convicted under Article 305bis SCC if proven that the money mule knew or accepted that the money could have originated from a crime.

2.3 Information exchange with foreign Financial Intelligence Units (FIUs)

The 40 FATF recommendations (see Chapter 5.2.) govern information exchange between agencies responsible for combating money laundering and associated predicate offences, and terrorist financing. The basic idea of Recommendation 40 is to facilitate international co-operation, enabling the competent authorities to exchange information with their foreign counterparts rapidly and effectively. This includes, in particular, mutual administrative assistance between FIUs, which is specifically regulated in the Interpretive Note to Recommendation 40 (Chapter B, numbers 7 to 9). The following statistics (chapters 2.3.1. and 2.3.2.) provide information on the exchange of information between MROS and foreign FIUs.

2.3.1 Inquiries from foreign FIUs

What the chart represents

This chart shows which FIUs submitted inquiries to MROS. It also indicates how many natural persons and legal entities were mentioned in these inquiries.

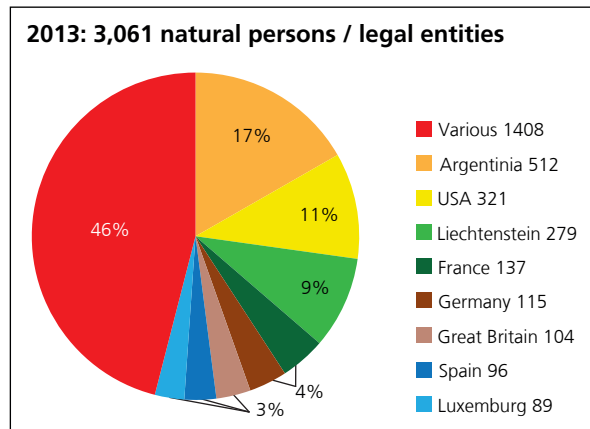
Chart analysis

The number of natural persons and legal entities who were the subject of inquiries from foreign FIUs increased by 28 percent.

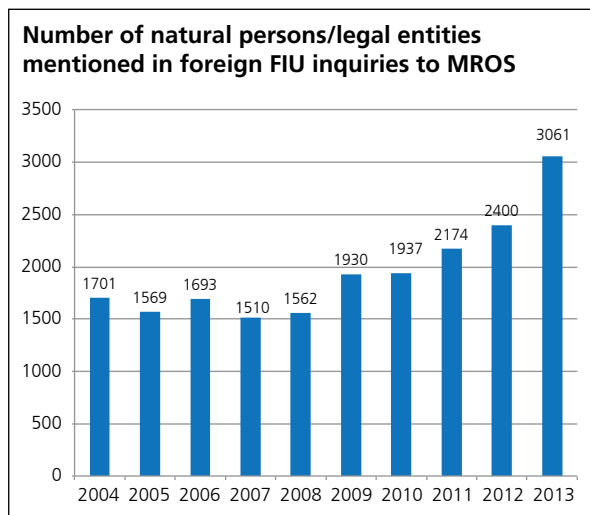
In the 2013 reporting year, MROS replied to 660 inquiries from 93 countries. This is more than in 2012 (620 inquiries). There was a significant increase of 28 percent in the number of natural persons and legal entities mentioned: 3,061 in 2013 compared to 2,400 in 2012. These figures confirm the upward trend in the number of mutual administrative requests from foreign FIUs – an increase of more than 100 percent since 2007. This increase is due not only to increasing membership of the Egmont Group, but also to the growing international entanglement of financial flows.

There was a renewed increase in the number of foreign FIU inquiries that MROS was unable to answer on formal grounds (2013: 30, 2012: 16). Most of these inquiries either had no direct connection to Switzerland, or concerned specific financial information that, until the entry-into-force of the amended Anti-Money Laundering Act on 1 November 2013, could only be provided by virtue of a mutual legal assistance request. Due to insufficient legal grounds, MROS was not able to disclose the requested information.

In 2013, MROS responded to FIU inquiries within an average of seven working days following receipt.



For comparison: 2004–2013



2.3.2 MROS inquiries to foreign FIUs

Whenever a financial intermediary in Switzerland submits a SAR mentioning a natural person or legal entity domiciled outside of Switzerland, MROS may send an inquiry to the appropriate foreign FIU to obtain information about that natural person or legal entity. MROS uses the information it receives to analyse the SAR in order to determine what action needs to be taken. Since many incoming SARs have an international connection, the information MROS receives from foreign FIUs is important.

What the chart represents

This chart shows the foreign FIUs to which MROS sent inquiries to obtain information about natural persons and legal entities. The chart also indicates the number of natural persons and legal entities mentioned in these inquiries.

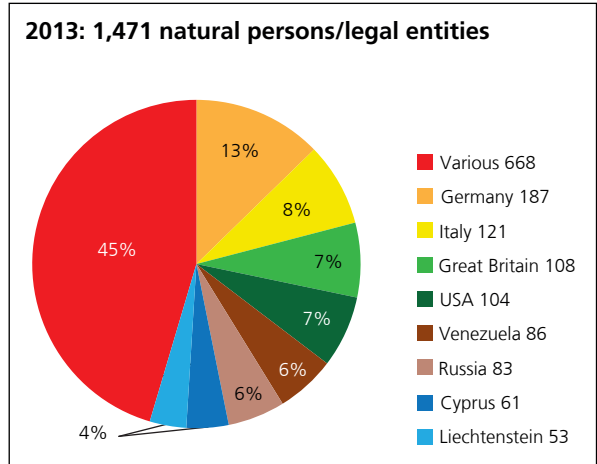


Chart analysis

Increase of 38 percent in the number of natural persons/legal entities mentioned in MROS inquiries to foreign FIUs.

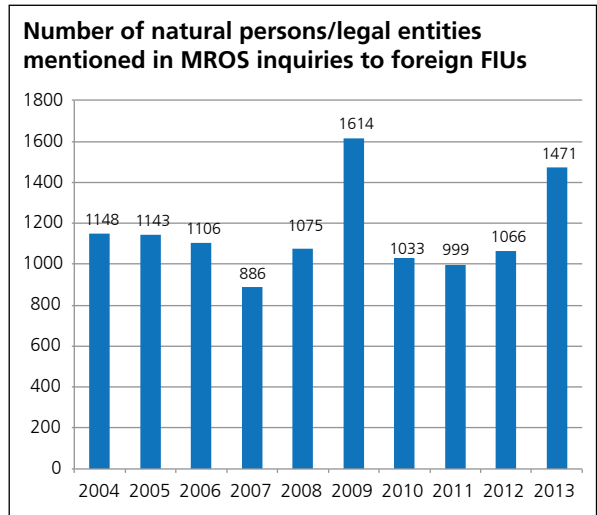
In the 2013 reporting year, MROS sent 426 (2012: 321) inquiries on 1,471 natural persons or legal entities (2012: 1,066) to 79 foreign FIUs. Although overall reporting volume decreased by 11 percent in 2013 over the previous reporting period, the number of MROS inquiries to foreign FIUs increased by 38 percent, which indicates that SARs are becoming increasingly complex. The foreign FIUs took an average of 25 working days to reply to each request.

MROS’s key partners in this respect were the FIUs in Germany, Great Britain, Italy and the U.S.A.

MROS sent inquiries to foreign FIUs to obtain information regarding an average of 123 natural persons or legal entities each month, compared to 89 in 2012.

MROS sent inquiries to foreign FIUs in relation to 361 of the 1,411 SARs it received in 2013 (nearly 26 percent of all incoming SARs).

For comparison: 2004–2013



2.4 The search for terrorist funds

The number of SARs involving terrorist financing increased more than twofold, from 15 in 2012 to 33 in 2013. Of these 33, only eight concerned individual cases; the remaining 25 SARs related to a single case cluster involving the same set of facts. At the time the SARs were submitted, the bank accounts contained nearly no more funds.

None of the SARs submitted to MROS in 2013 revealed a connection to any of the official terrorist lists. Most of the SARs were submitted based on information the finan-

cial intermediary had obtained from newspaper reports or information from third parties, including information from the compliance databases of private providers, which are used by financial intermediaries to match clients.

MROS forwarded 28 of the 33 SARs to the prosecution authorities, including the large case cluster that had generated multiple SARs. With regard to one SAR the prosecution did not enter into the substance of the case and dismissed it because the initial suspicion could not be substantiated. The remaining 27 cases are pending.

Status of forwarded SARs in connection with terrorist financing

Status	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Dismissal	7	13	2	3	4	3	3	6	1	1	43
Pending	1	-	-	-	1	1	3	3	9	27	45
Suspension	1	2	-	-	-	-	4	-	3	-	10
Temp. suspension	1	3	3	-	1	-	-	-	1	-	9
Judgment	1	-	-	-	1	-	-	-	-	-	2
Total	11	18	5	3	7	4	10	9	14	28	109

Year	Number of SARs			Factors arousing suspicion				Asset value	
	Total	Terrorist funding (TF) SARs	TF in % of total number of SARs	Bush*	OFAC**	Taliban-Liste***	Other	In connection with TF	TF in % of total asset value reported
2004	821	11	1,3 %	0	4	3	4	895 488.95	0,12 %
2005	729	20	2,7 %	5	0	3	12	45 650 766.70	6,71 %
2006	619	8	1,3 %	1	1	3	3	16 931 361.63	2,08 %
2007	795	6	0,8 %	1	0	3	2	232 815.04	0,03 %
2008	851	9	1,1 %	0	1	0	8	1 058 008.40	0,05 %
2009	896	7	0,8 %	0	1	1	5	9 458.84	0,00 %
2010	1 159	13	1,1 %	0	1	0	12	23 098 233.85	2,73 %
2011	1 625	10	0,6 %	0	0	1	9	151 592.84	0,00 %
2012	1 585	15	0,9 %	0	0	0	15	7 468 722.50	0,24 %
2013	1 411	33	2,3 %	1	0	0	32	449 771.68	0,02 %
Total	10 491	132	1,26 %	8	8	14	102	95 946 220.43	0,55 %

* <http://www.finma.ch/archiv/gwg/e/dokumentationen/gesetzgebung/sanktionen/index.php>

** <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

*** <http://www.seco.admin.ch/themen/00513/00620/00622/index.html?lang=de> (available in German, French and Italian only)

2.5 Detailed statistics

2.5.1 Home canton of reporting financial intermediary

What the chart represents

This chart shows the cantons where the reporting financial intermediaries who filed SARs are based. Compare this chart with the Prosecution authorities chart (chart 2.5.11), which indicates the cantons where the *prosecution authorities* receiving forwarded SARs are based.

Chart analysis

Approximately 84 percent of all SARs came from four cantons with a highly-developed financial services sector.

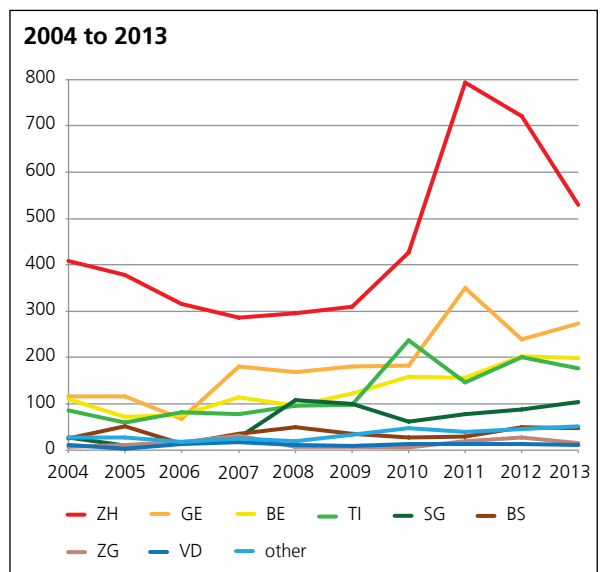
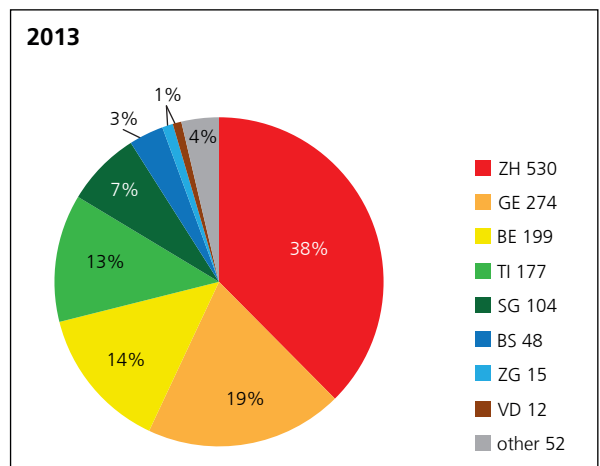
As to be expected, the majority of SARs in 2013 came either from those cantons with a highly-developed financial services sector, such as Zurich, Geneva or Ticino, or with centralised regional or national compliance centres, such as Bern. Thus, 1,180 (approximately 84 percent) of the 1,411 SARs were submitted by financial intermediaries from the cantons of Zurich, Geneva, Bern and Ticino. Of these four cantons, the number of SARs from the canton of Zurich fell noticeably in 2013 (as in the previous years) but is still in keeping with total reporting volume, which also fell over 2012.

In 2013, MROS did not receive a single SAR from financial intermediaries from the cantons of Thurgau, Jura, Obwalden, Nidwalden, Glarus and Appenzell Inner Rhoden. This may be due, in part, to the centralisation of compliance centres (see chapter 2.5.2), and also to the orientation of the financial sector in these cantons according to individual local or regional needs.

The fall in overall reporting volume is due, in particular, to fewer SARs from the cantons of Zurich (2013: 530 SARs, 2012: 720 SARs) and Ticino (2013: 177 SARs, 2012: 200). The number of SARs from the canton of Geneva rose from 239 SARs in 2012 to 274 SARs in 2013. The number of SARs from the canton of Bern remained virtually unchanged (2013: 203 SARs, 2012: 199 SARs), whilst the number of SARs from the canton of St. Gallen increased from 87 SARs in 2012 to 104 SARs in 2013. And reporting volume from the canton of Zug fell considerably, from 28 SARs in 2012 to 15 SARs in 2013.

Legend

AG	Aargau	NW	Nidwalden
AI	Appenzell Inner Rhoden	OW	Obwalden
AR	Appenzell Ausser Rhoden	SG	St. Gallen
BE	Bern	SH	Schaffhausen
BL	Basel-Landschaft	SO	Solothurn
BS	Basel-Stadt	SZ	Schwyz
FR	Fribourg	TG	Thurgau
GE	Geneva	TI	Ticino
GR	Graubünden	UR	Uri
JU	Jura	VD	Vaud
LU	Lucerne	VS	Valais
GL	Glarus	ZG	Zug
NE	Neuchatel	ZH	Zurich



For comparison 2004–2013

Canton	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
ZH	408	378	316	286	295	310	426	793	720	530	4 462
GE	116	116	67	180	168	181	182	350	239	274	1 873
BE	111	72	76	115	96	123	158	156	203	199	1 309
TI	86	59	82	77	96	97	237	146	200	177	1 257
SG	27	10	15	27	109	99	61	78	87	104	617
BS	26	52	14	36	49	36	28	29	49	48	367
ZG	8	12	18	31	7	8	6	20	28	15	153
VD	11	3	13	18	11	9	14	13	14	12	118
NE	3	6	2	7	6	7	12	4	4	6	57
FR	9	8	2	1			2	8	9	12	51
GR	5	1	2	4	3		7	5	11	10	48
LU	1	3	5	5	1	5	7	5	7	6	45
AG	2	1	3	1	3	6	3	7	1	6	33
SZ		3	1	2	1	3	7		5	2	24
BL	2	2		1		1	2	3	1	2	14
TG	3		2	1	1	2					9
SH		1		1		2	1	1	1	1	8
SO		1			1	1		1	1	2	7
JU					2	1	1	2	1		7
VS	1		1						1	4	7
AI				1		1	3		2		7
NW		1			1	2		3			7
OW	1			1		1	2		1		6
GL	1				1	1					3
AR								1		1	2
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.2 Location of suspicious business connection

What the chart represents

The chart shows the cantons where the reporting financial intermediary managed accounts or business connections mentioned in an incoming SAR. This chart is intended to complement the previous chart 2.5.1 *Home canton of reporting financial intermediary*.

Chart analysis

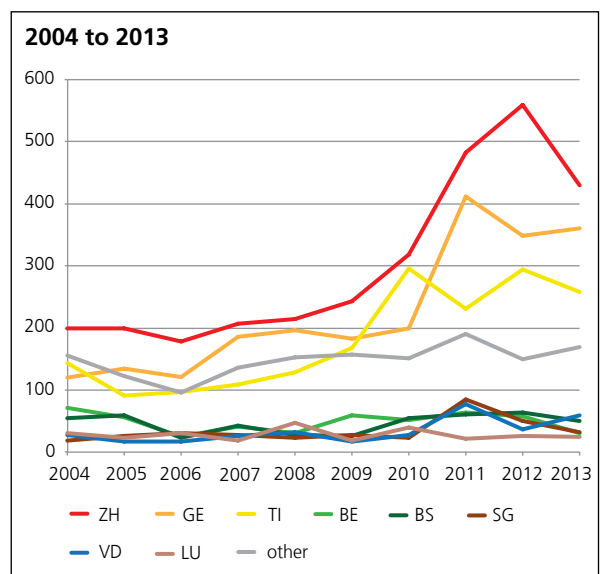
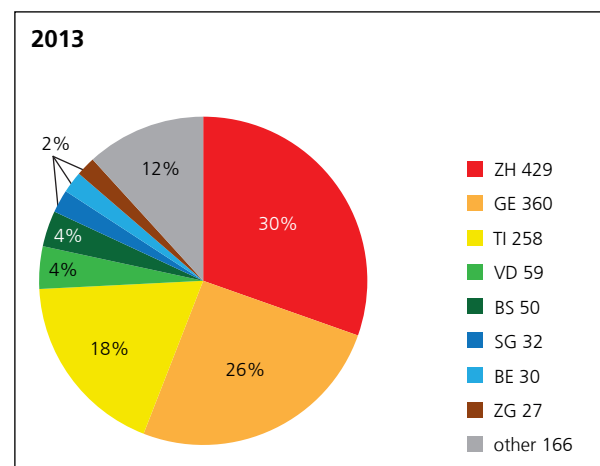
The headquarters of a reporting financial intermediary is not a definite indication of the actual location of the account or business connection at the time the SAR was submitted.

It is mainly the major banks and payment services providers that have established regional compliance centres. The financial intermediaries based in the various cantons send their reports to the appropriate regional compliance centre, which then drafts the SAR to MROS. However, these SARs do not necessarily concern the home canton of the reporting financial intermediary. This can lead to a distorted picture of the geographical distribution of money laundering cases in Switzerland. Moreover, a direct comparison with the statistics on the prosecution authorities involved (see chapter 2.5.11) is not possible.

This is partly because MROS does not forward all incoming SARs to the prosecution authorities, and partly because under Article 24 of the Criminal Procedure Code⁵ jurisdiction for criminal justice is no longer connected to the location of the account or business connection alone. This fact is illustrated by the previous chart on *Home canton of reporting financial intermediary* (chapter 2.5.1). While approximately 84 percent of all SARs in 2013 (as in previous years) came from financial intermediaries domiciled in Zurich, Geneva, Bern and Ticino, only around 76 percent of the reported business connections actually took place in these four cantons.

Legend

AG	Aargau	NW	Nidwalden
AI	Appenzell Inner Rhoden	OW	Obwalden
AR	Appenzell Ausser Rhoden	SG	St. Gallen
BE	Bern	SH	Schaffhausen
BL	Basel-Landschaft	SO	Solothurn
BS	Basel-Stadt	SZ	Schwyz
FR	Fribourg	TG	Thurgau
GE	Geneva	TI	Ticino
GR	Graubünden	UR	Uri
JU	Jura	VD	Vaud
LU	Lucerne	VS	Valais
GL	Glarus	ZG	Zug
NE	Neuchatel	ZH	Zurich



⁵ Criminal Procedure Code of 5 October 2007 (CrimPC; SR 312.0)

For comparison: 2004 –2013

Canton	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
ZH	199	200	178	207	215	243	318	483	559	429	3 031
GE	120	134	121	186	197	182	200	411	349	360	2 260
TI	143	91	97	109	128	167	295	231	294	258	1 813
BE	72	56	25	41	30	59	52	64	58	30	487
BS	54	59	23	43	27	26	54	61	64	50	461
SG	18	26	31	28	23	27	23	85	50	32	343
VD	28	17	17	26	32	17	27	78	36	59	337
LU	31	23	31	19	47	18	39	22	26	24	280
ZG	15	22	40	40	19	10	22	28	22	27	245
FR	29	15	5	16	19	41	24	24	22	12	207
AG	30	12	11	8	16	19	13	47	15	24	195
BL	4	5	1	7	23	21	24	14	8	14	121
NE	11	22	12	12	10	8	13	6	10	13	117
SO	12	10		6	20	12	9	13	7	20	109
VS	9	11	10	10	6	3	10	11	11	16	97
GR	14	2	3	5	5	5	9	16	19	15	93
TG	6	7	7	7	7	18	3	5	10	9	79
SZ	5	5	2	6	4	4	9	3	10	5	53
GL	8	4	2	9	6	6	6	6		1	48
JU	10	4	3	1	5	2	3	2	3	3	36
SH	1	2		3	1	2	1	6	6	4	26
NW	1	1			3	2		6		4	17
OW	1			1	6	2	2	1	1	1	15
AI				4		1	3	1	2		11
AR		1						1	3	1	6
UR				1	2	1					4
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.3 Type of financial intermediary

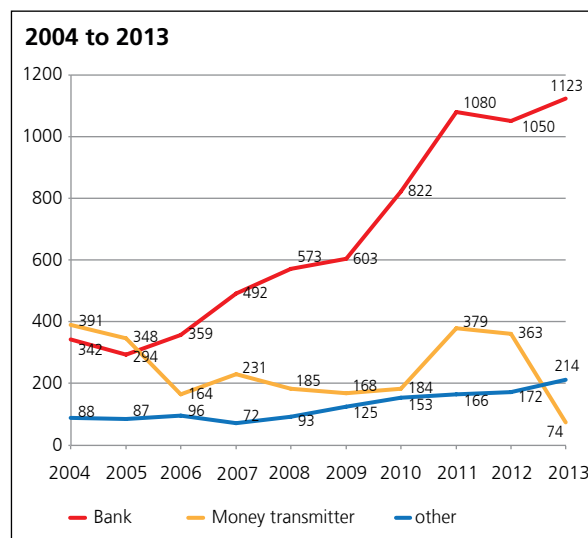
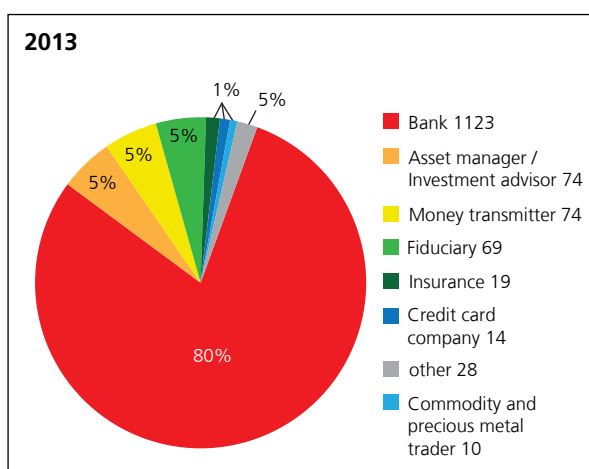
What the chart represents

This chart shows the various types of financial intermediary that submitted SARs to MROS.

Chart analysis

– SARs from the banking sector exceed 1,000 for the third consecutive year, making up 80 percent of total reporting volume.

- SARs from the payment services sector fell from 23 percent in 2012 to 5 percent in 2013 (see Chapter 2.2.2).
- SARs from asset managers increased by approximately 50 percent.
- Fall once again in SARs from attorneys.



For comparison: 2004–2013

Financial intermediary category	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Bank	342	294	359	492	573	603	822	1 080	1 050	1 123	6 738
Payment services	391	348	164	231	185	168	184	379	363	74	2 487
Fiduciary	36	31	45	23	37	36	58	62	65	69	462
Asset manager/ Investment advisor	13	18	6	8	19	30	40	27	49	74	284
Insurance	8	9	18	13	15	9	9	11	9	19	120
Attorney	10	8	1	7	10	11	13	31	12	9	112
Credit card company	2			2	2	10	9	10	22	14	71
Casino	2	7	8	3	1	5	8	6	6	8	54
Loan, leasing and factoring business	1	1	8	4	1	11	1	5	1	4	37
Foreign exchange trader	1	1	1			5	6	7		5	26
Commodity and precious metal trader			1	5	1		1	1	3	10	22
Other FI	7		1	2		1	4	2	4	1	22
Securities trader	2	2		2	5	2	4		1	1	19
Currency exchange	3	3	2	1	1	1		3			14
Self-regulating organisation		1	3	1		4		1			10
Distributor of investment funds	3	5		1							9
Supervisory authorities		1	2		1						4
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.4 SARs from the banking sector

What the chart represents

This chart shows the types of banks that submitted SARs to MROS.

Chart analysis

- Level of SARs from the banking sector continues to be very high, rising noticeably in 2013, both in relative and absolute terms.
- Proportion of SARs from the banking sector was 80 percent (2012: 60 percent) of total reporting volume.
- Whilst proportion of SARs from foreign controlled banks declined noticeably, SARs from the categories major banks and others are at the top of the tables.

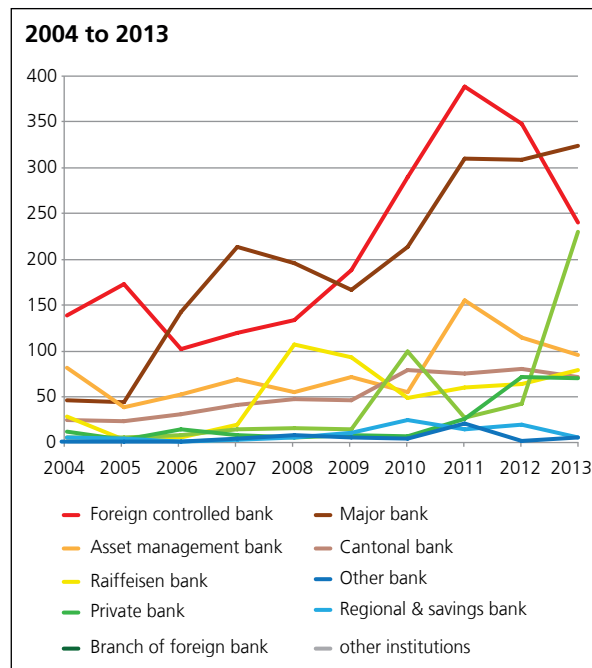
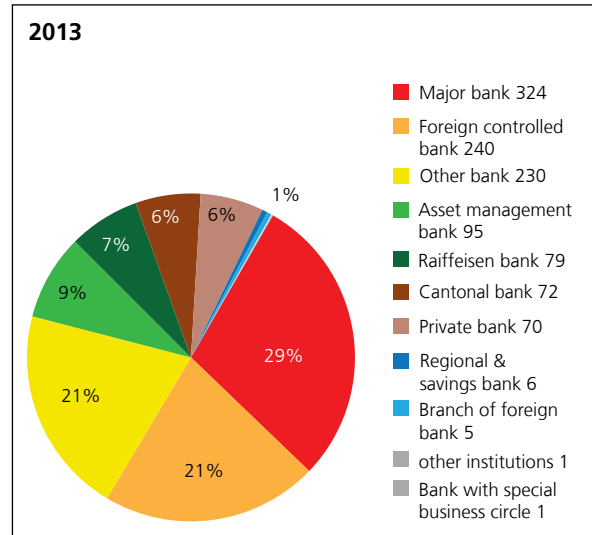
For the third consecutive year, MROS received more than 1,000 SARs from the banking sector. In fact, this sector submitted more SARs in 2013 than in any other year since 2003. In relative terms, the proportion of SARs from this sector rose to 80 percent in 2013 from 66 percent in the previous two years.

Year	Total number of SARs	SARs from the banking sector	Percentage of SARs from the banking sector
2004	821	342	42 %
2005	729	294	40 %
2006	619	359	58 %
2007	795	492	62 %
2008	851	573	67 %
2009	896	603	67 %
2010	1159	822	71 %
2011	1625	1080	66 %
2012	1585	1050	66 %
2013	1411	1123	80 %

Whilst there was a noticeable decrease in SARs from the category *foreign-controlled bank* (2012: 348 SARs, 2013: 240 SARs), the number of SARs from major banks increased once again (2012: 308 SARs, 2013: 324 SARs). The biggest increase reporting volume was from the category *other bank*, from 42 SARs in 2012 to 230 SARs in 2013.

The decline in SARs from the category *asset management bank* continued, falling to 95 SARs in 2013 and thus heading back in the direction of its ten-year average of 79 SARs per year. The categories *cantonal bank* and *private*

bank also submitted fewer SARs in relative terms in 2013 (6 percent) in comparison to the previous reporting period (2012: cantonal bank 8 percent, private bank 7 percent).



For comparison: 2004–2013

Type of bank	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Foreign-controlled bank	139	173	102	120	134	188	290	388	348	240	2 122
Major bank	46	44	143	213	196	167	214	310	308	324	1 965
Asset management bank	81	38	53	69	55	72	55	155	115	95	788
Cantonal bank	24	23	31	41	47	46	79	75	80	72	518
Raiffeisen bank	28	3	6	19	107	93	49	60	64	79	508
Other bank	5	5	8	15	16	14	99	27	42	230	461
Private bank	12	3	14	8	5	8	7	26	72	70	225
Regional and savings bank	6	4	1	3	5	10	25	15	19	6	94
Branch of foreign bank	1	1	1	4	8	5	4	21	2	5	52
Other institution								2		1	3
Bank with special business circle								1		1	2
Total	342	294	359	492	573	603	822	1 080	1 050	1 123	6 738

2.5.5 Factors arousing suspicion**What the chart represents**

This chart shows what suspicions prompted financial intermediaries to submit SARs to MROS.

Chart analysis

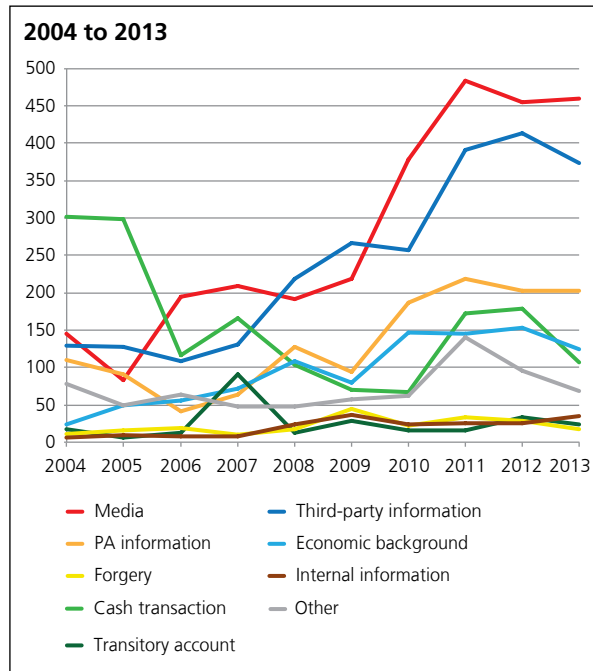
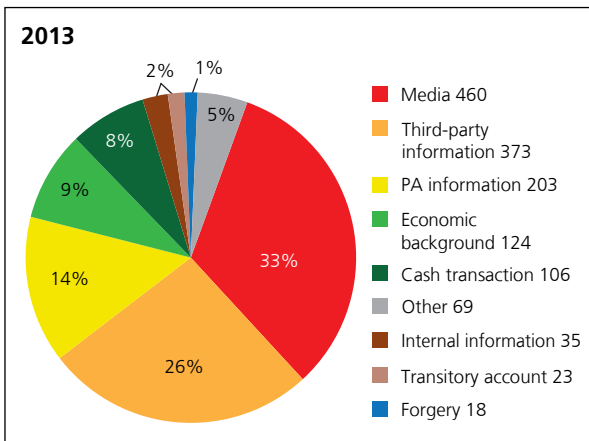
- *The proportion of SARs triggered by “external indications and information” increased to 72 percent.*
- *Increase in significance of “internal information”, after the categories unclear economic background and cash transaction.*

The main factor arousing suspicion in 2013 was, once again, *media reports* (32 percent of reporting volume). In second place was, also once again, *information gleaned from third parties* (26 percent of reporting volume). In third place again was *information from prosecution authorities* (14 percent of reporting volume), which was based on disclosure or confiscation orders by prosecution authorities or other information from the authorities. The significance for financial intermediaries of the category *information gleaned from third parties* becomes apparent if we consider all three main categories – *media reports*, *third-party information* and *information from prosecution authorities*. Together these categories triggered 72 percent of all SARs submitted to MROS in 2013. These figures show that financial intermediaries use modern resources and consult external sources in order to gather information for their inquiries, which is then evaluated and condensed into a considerable number of SARs sent to MROS.

Legend

Unclear economic background	The economic background of a transaction is either unclear or cannot be satisfactorily explained by the customer.
Information from prosecution authorities	Prosecution authorities initiate proceedings against an individual connected with the financial intermediary's client.
Media	The financial intermediary finds out from media reports that one of the people involved in the financial transaction is connected with illegal activities.
Third-party information	Financial intermediaries receive information from outside sources or from within a business about clients who could pose problems.
Other	Included in this category are topics which were listed separately in previous MROS statistics such as cheque transaction, forgery, high-risk countries, currency exchange, securities, smurfing, life insurance, non-cash cashier transactions, fiduciary transactions, loan transactions, precious metals and various.

The category *transitory account*⁶, which was significant in 2012, was replaced in 2013 by the category *internal information*. This category comprises SARs that were triggered by information gleaned by the financial intermediary from an affiliated company and which required additional verification. The number of SARs from this category increased 40 %, which can be explained by several large case clusters that generated multiple SARs.



For comparison: 2004–2013

Factors	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Media	145	83	195	209	192	219	378	483	455	460	2 819
Third-party information	129	128	108	131	218	267	257	391	414	373	2 416
Cash transaction	302	299	116	166	103	70	67	172	178	106	1 579
PA information	110	90	41	64	128	94	186	218	203	203	1 337
Economic background	23	49	55	71	108	80	147	145	153	124	955
Transitory account	17	6	13	90	13	29	16	16	33	23	256
Forgery	11	15	19	10	18	44	22	34	28	18	219
Internal information	6	10	8	7	23	36	24	26	25	35	200
Various	32	7	5	5	8	3	9	14	31	10	124
Opening of account	18	9	13	21	13	9	13	5	13	5	119
Currency exchange	3	6	12	11	9	9	23	14	16	10	113
High-risk countries	3	3	1	1	2	2	3	81	1	3	100
Cheque transaction	8	8	4	4	1	7	4	20	18	11	85
Securities	5	12	10	3	13	12	4	2	4	11	76
Loan transaction	3		7		1	4	1	1	6	5	28
Audit/supervisory board			7	1		10	2			2	22
Smurfing	1	3					1	1	7		13
Precious metals	3		1	1		1	1	1		3	11
Trust activity			2		1					2	5
Transaction monitoring										5	5
Life insurance	1	1	2				1				5
Non-cash cashier transaction	1							1		1	3
MROS-Info (Art. 11a)										1	1
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

⁶ See A30 in the annex to the FINMA Anti-Money Laundering Ordinance, SR 955.033.0

2.5.6 Suspected predicate offences

What the chart represents

This chart shows the predicate offences that were *suspected* in the SARs that MROS forwarded to prosecution authorities.

It should be noted that MROS's legal assessment of the suspected predicate offence is based solely on the financial intermediary's assumption as well as on MROS's own assessment of the facts. When a SAR is forwarded to a prosecuting authority, it is bound neither to the findings of the financial intermediary nor to MROS's legal assessment.

The *not classifiable* category includes cases where a variety of possible predicate offences are suspected. The *no plausibility* category includes those cases that do not fall into any visible predicate offence category, although the analysis of the transaction or of the economic background cannot exclude the criminal origin of the money.

Chart analysis

- *Proportion of SARs with "fraud" as the suspected predicate offence remains high at 26 percent. New in second place is the suspected predicate offence "corruption", with 12 percent of overall reporting volume.*
- *The category "organised crime" rises to 7 percent of reporting volume.*
- *Approximate threefold increase in proportion of SARs with the suspected predicate offence "misuse of a computer" (9 percent).*
- *Considerable relative fall once again in the category "money laundering".*

Since 2006, *fraud* has been the most frequently suspected predicate offence; this category accounted for more than one-quarter of all SARs submitted in 2013 (26 percent) and remained near its 2011 and 2012 levels. This large proportion can be explained partly by the fact that this category includes many kinds of fraud, from big-time investment fraud involving large sums of money (such as organised cybercrime), down to numerous instances of petty fraud such as petty Internet crime.

For the fourth time in 2013 the category *fraudulent misuse of a computer*, which mainly comprises phishing cases (unlawfully obtaining access data to an Internet user's bank accounts to steal assets), appears – retroactively for the years 2007, 2008 and 2009 – in the statistics (up to 2009 this predicate offence was classified under *fraud*). The category *fraudulent misuse of a computer* accounted for 122 SARs in 2013 (2012: 39 SARs). In the last few years it was mainly foreign banks that were affected by this type of fraud. This changed in 2013 however, with a number of Swiss banks becoming phishing targets.

The categories *bribery* (12 percent) and *embezzlement* (11 percent) came in second and third place, thus continuing the upward trend of the previous years. The significant increase in SARs from both these categories in the past was due, in part, to the political events surrounding the Arab Spring, since bribery, corruption and the embezzlement of public funds are typical offences committed by the ruling authoritarian elite. This correlation no longer applied in 2013.

The category *money laundering*, which came in second place in 2012 and which involves occurrences that cannot be directly associated with a particular predicate offence but suggest acts of money laundering due to the modus operandi involved, fell to sixth place, with only 7 percent of overall reporting volume.

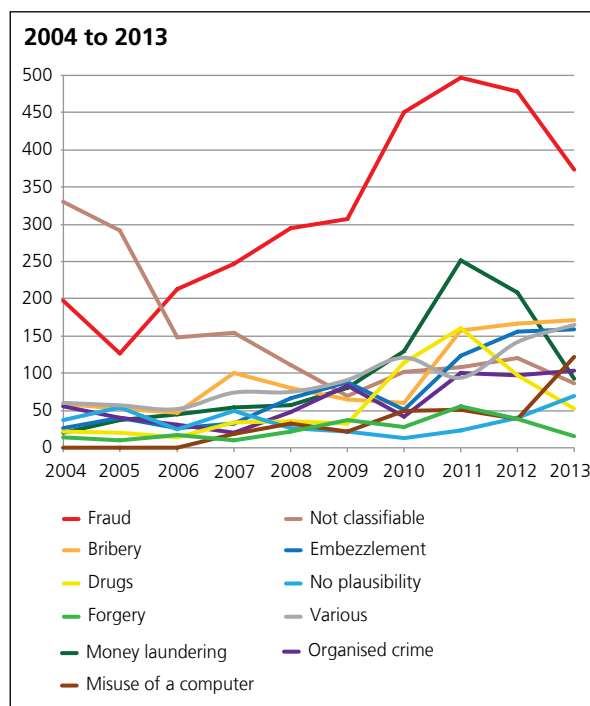
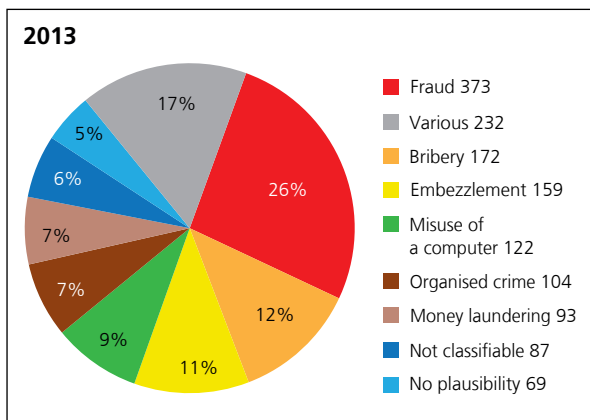
The category *drugs* is no longer represented in the pie chart, although MROS received 52 SARs in 2013 with drugs as the suspected predicate offence. The increase in SARs involving the *abuse of authority* rose to 22 in 2013 (2012: 2 SARs), although it should be noted that this category included three case clusters, each involving five business connections. The number of SARs involving *organised crime* increased once again, from 97 SARs in 2012 to 104 SARs in 2013. Most SARs in this category – both in absolute terms (50 SARs) and with regard to the volume of assets involved (nearly CHF 50 million) – involved criminal organisations from Italy. In second place, with 16 SARs, were criminal gangs from Russia, with a total asset volume of CHF 11 million. In terms of the volume of assets involved, however, criminal groups from Brazil came in second place with CHF 29 million. Further cases of organised crime involved occurrences in China, Brazil and India.

The category *stock exchange offences*, which comprises the sub-categories *insider trading* and *price manipulation*, appears in the statistics for the first time in 2013 with 7 SARs, because they became statutory offences on 1 May 2013.

The high number of SARs in 2012 involving *human trafficking/sexual offences* (19 SARs) fell significantly in 2013 (4 SARs). The 2012 level must be considered an exception, in particular because it involved one case cluster that generated 11 SARs. Of the four SARs in 2013, two were triggered

by information financial intermediaries had gleaned from media reports about the suspects, one was triggered by information provided to the financial intermediary from third parties, and one was triggered by suspicious cash transactions.

Arms dealings was a further category that saw a decrease in the number of SARs in 2013. Whilst in previous years (with the exception of 2005) MROS received between one and twelve SARs from this category, it did not receive a single SAR involving this suspected predicate offence in 2013.



For comparison: 2004–2013

Predicate offence	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Fraud	198	126	213	247	295	307	450	497	478	373	3 184
Not classifiable	330	292	148	155	111	69	102	108	121	87	1 523
Money laundering	20	37	45	54	57	81	129	252	209	93	977
Bribery	59	52	47	101	81	65	60	158	167	172	962
Embezzlement	26	40	27	32	67	88	51	124	156	159	770
Organised crime	55	41	31	20	48	83	42	101	98	104	623
Drugs	22	20	14	34	35	32	114	161	97	52	581
No plausibility	37	54	25	50	27	21	13	23	40	69	359
Fraudulent misuse of a computer				18	33	22	49	51	39	122	334
Forgery	14	10	17	10	22	37	28	56	38	15	247
Other property offences	14	12	13	22	22	36	10	7	34	41	211
Dishonest business management	4	10	11	21	12	20	44	25	34	25	206
Terrorism	11	20	8	6	9	7	13	10	15	33	132
Theft	6	9	8	4	3	4	12	19	7	7	79
Arms dealings	6		1	12	8	3	4	9	12		55
Other crimes	9	2	9	3	3	5	5	3	7	7	53
Blackmail	3	1	1		4	2	20	6	1	8	46
Human trafficking / sexual offences	3	1		3	4	3	3	1	19	4	41
Abuse of authority								4	2	22	28
Organised smuggling						5	7	3	5	4	24
Violent crimes	2	1		1	9		1	1		1	16
Robbery	2			1	1		2	1		1	8
Counterfeit consumer goods								4	2	1	7
Product piracy						2			2	3	7
Insider trading										6	6
Counterfeit money		1				4			1		6
Smuggling of migrants								1	1	1	3
Lack of due diligence in handling assets			1	1							2
Price manipulation										1	1
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.7 Domicile of clients

What the chart represents

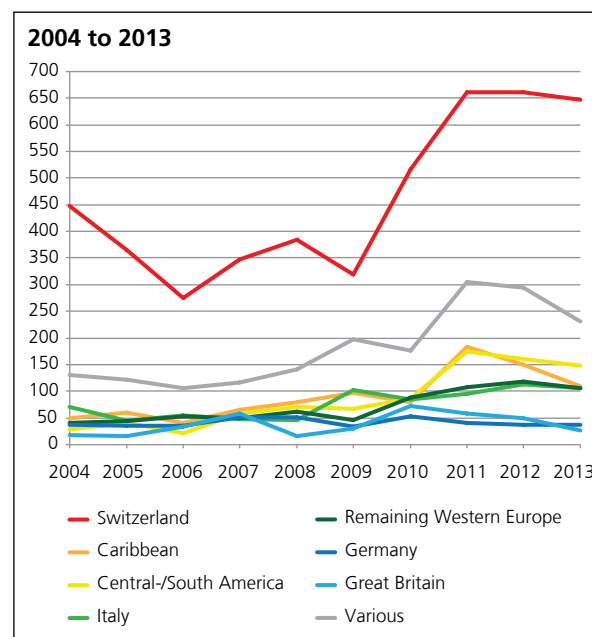
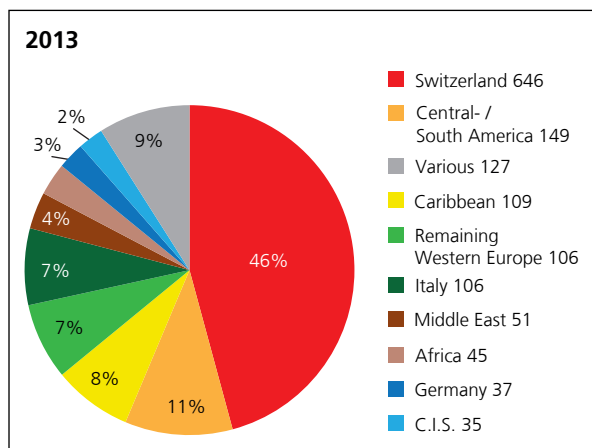
This chart shows the physical or corporate domicile of the financial intermediary's client at the time the SAR was submitted.

Chart analysis

- Proportion of clients domiciled in Switzerland slightly higher than those domiciled abroad. This represents a shift over 2012. In 2013, 646 SARs (46 percent) involved clients domiciled in Switzerland (2012: 661 SARs or 42 percent).
- Proportion of clients domiciled in Western Europe (including Switzerland) lower in absolute terms but higher in relative terms (2013: 946 SARs or 67 percent, 2012: 1023 SARs or 65 percent).

Legend

Remaining Western Europe	Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Malta, Monaco, Netherlands, Portugal and San Marino
Various	Great Britain, Eastern Europe, North America, Asia, France, Scandinavia, Australia/Oceania and Unknown



For comparison: 2004- 2013

Domicile of client	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Switzerland	447	365	275	348	385	320	517	660	661	646	4 624
Caribbean	49	60	40	65	79	97	80	184	150	109	913
Central / South America	28	41	21	58	71	68	87	175	161	149	859
Italy	71	45	55	48	46	103	85	95	113	106	767
Remaining Western Europe	41	45	53	50	62	46	88	107	119	106	717
Germany	37	35	36	51	51	34	54	40	37	37	412
Great Britain	18	16	33	58	16	31	72	59	49	27	379
Middle East	16	17	9	20	19	22	27	84	50	51	315
North America	19	25	25	20	23	23	48	38	36	32	289
Africa	18	13	8	12	11	16	22	66	47	45	258
France	18	17	12	18	22	58	26	32	34	18	255
Asia	12	15	26	19	22	29	16	17	19	18	193
Eastern Europe	17	13	14	9	10	10	11	17	39	11	151
C.I.S.	15	2	7	3	13	15	9	21	27	35	147
Australia /Oceania	9	6	1	7	13	17	5	17	21	14	110
Scandinavia	5	6	3	8	5	6	10	7	10	6	66
unknown	1	8	1	1	3	1	2	6	12	1	36
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.8 Nationality of clients

What the chart represents

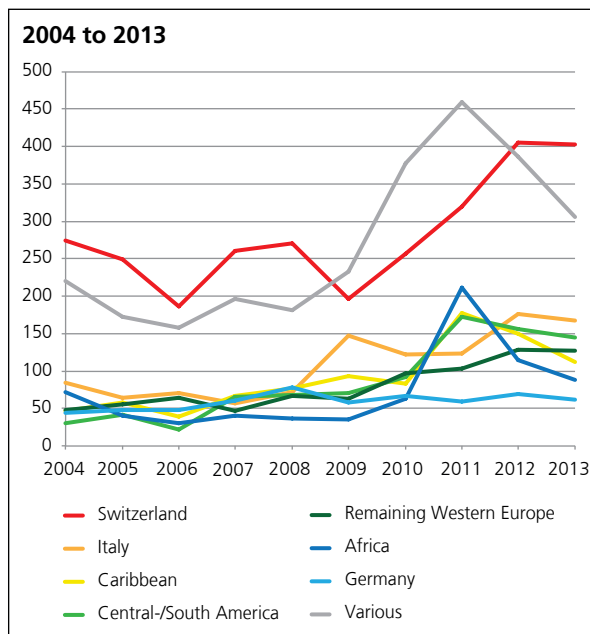
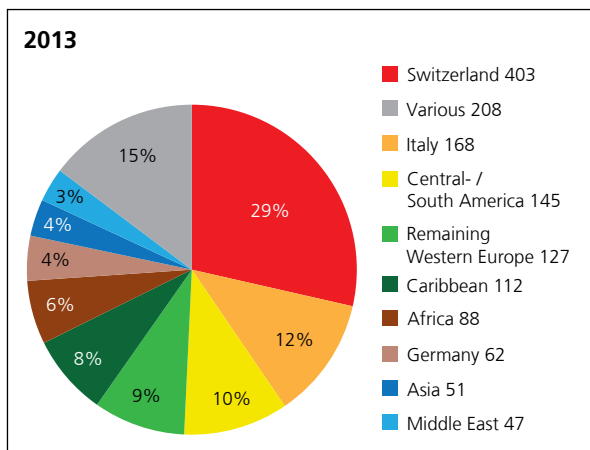
This chart shows the nationality of financial intermediaries' clients. While it is possible for a natural person's nationality to differ from his/her domicile, no such distinction exists between the nationality and domicile of a legal entity.

Chart analysis

- Parallel to the increase in SARs with Switzerland as the domicile of the financial intermediary's client is the relative increase again in SARs involving Swiss nationals (2013: 403 SARs or 29 percent, 2012: 405 SARs or 26 percent).
- SARs involving Italian clients were in second position again, with a slightly higher relative share over the previous reporting period (2013: 12 percent, 2012: 11 percent).
- SARs involving clients from the Caribbean and the rest of Western Europe have exchanged fourth and fifth place. For the first time since 2011 MROS received fewer SARs involving clients from the Caribbean (2013: 112 SARs, 2012: 150 SARs).

Legend

Rest of Western Europe	Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Malta, Netherlands, Portugal and San Marino
Various	Great Britain, France, C.I.S., North America, Eastern Europe, Scandinavia, Australia/Oceania and Unknown



For comparison: 2004 – 2013

Nationality of client	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Switzerland	274	249	186	261	271	196	257	320	405	403	2 822
Italy	85	64	71	57	72	147	122	123	176	168	1 085
Caribbean	47	58	39	67	77	93	83	177	150	112	903
Central / South America	30	42	22	66	68	71	92	172	156	145	864
Remaining Western Europe	48	56	65	47	67	63	97	103	128	127	801
Africa	72	40	30	40	37	35	63	212	115	88	732
Germany	44	48	48	61	78	58	67	59	69	62	594
Middle East	49	33	16	22	21	31	38	102	64	47	423
Great Britain	22	15	34	56	11	33	73	82	52	31	409
Eastern Europe	40	35	25	24	25	27	36	62	70	34	378
Asia	24	22	26	29	23	23	103	45	30	51	376
North America	23	28	24	23	24	29	48	37	39	46	321
France	19	18	19	19	28	42	45	55	45	28	318
C.I.S.	23	8	8	8	24	18	15	49	41	43	237
Australia / Oceania	11	5	1	6	12	17	6	16	21	12	107
Scandinavia	8	3	4	9	10	11	12	10	13	13	93
unknown	2	5	1		3	2	2	1	11	1	28
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.9 Domicile of beneficial owners

What the chart represents

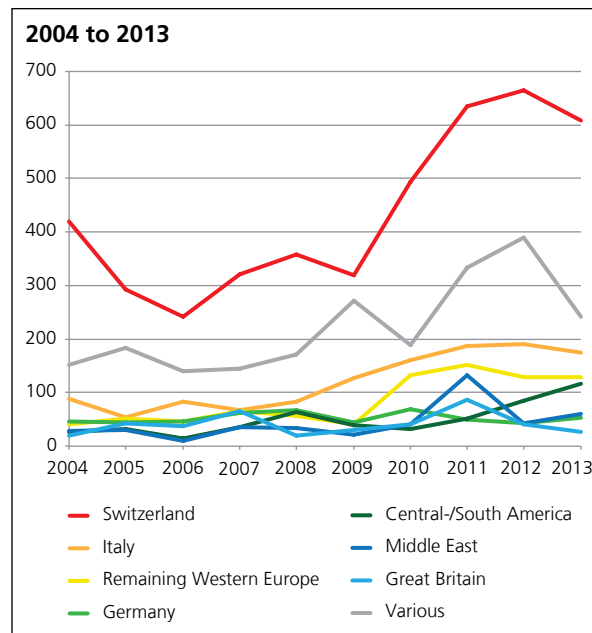
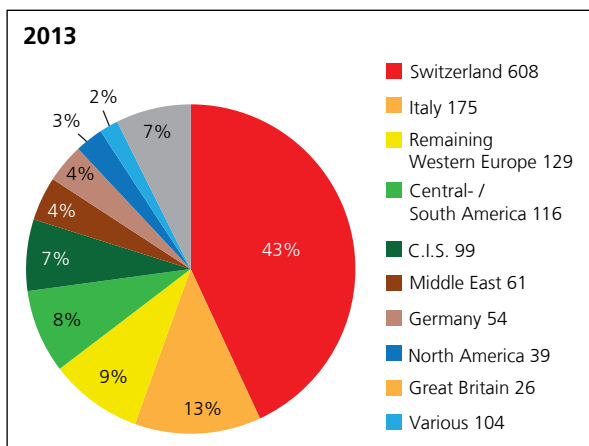
This chart shows the domicile of the natural persons or legal entities that were identified as beneficial owners of assets at the time the SARs were submitted to MROS.

Chart analysis

- Focus shifts to Western Europe: proportion of Swiss-based beneficial owners slightly higher (2013: 43 percent, 2012: 42 percent).
- Same applies to beneficial owners from Western Europe (Italy, Germany, Great Britain, Scandinavia and remaining Western Europe): 28 percent in 2013, 26.7 percent in 2012.
- Eastern Europe with insignificant share of beneficial owners, whilst 71 percent (2012: 69 percent) with beneficial owners domiciled in Western Europe (including Switzerland).

Legend

Rest of Western Europe	Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Netherlands, Portugal and San Marino
Various	Eastern Europe, France, North America, Asia, Scandinavia, Caribbean, Unknown and Australia/Oceania



For comparison: 2004 – 2013

Domicile of beneficial owner	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Switzerland	420	292	241	321	358	320	494	634	664	608	4 352
Italy	89	54	84	67	83	127	161	187	191	175	1 218
Remaining Western Europe	40	51	46	65	56	41	132	152	129	129	841
Germany	46	44	47	62	67	45	69	49	43	54	526
Central / South America	27	32	14	35	64	39	32	51	85	116	495
Middle East	28	30	10	36	33	21	41	132	43	61	435
Great Britain	19	42	37	65	19	31	41	86	41	26	407
C.I.S.	18	8	15	7	31	52	21	47	82	99	380
North America	32	29	32	27	28	34	48	45	32	39	346
Africa	26	35	17	21	22	19	24	100	46	25	335
France	20	29	18	23	26	63	35	45	39	21	319
Eastern Europe	20	33	22	13	18	24	21	32	104	13	300
Asia	14	24	29	27	24	49	23	23	46	26	285
Scandinavia	5	11	4	21	5	7	12	12	19	11	107
Caribbean	7	4	1	2	6	21	3	18	13	6	81
unknown	1	7	1	1	3	2	2	6	8	2	33
Australia/Oceania	9	4	1	2	8	1		6			31
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.10 Nationality of beneficial owners

What the chart represents

This chart shows the nationality of those individuals who were identified as the beneficial owners of assets at the time the SAR was submitted to MROS. No distinction is drawn between the nationality and domicile of legal entities. Often the identity and nationality of the actual beneficial owners of these legal entities can only be determined by prosecution authorities.

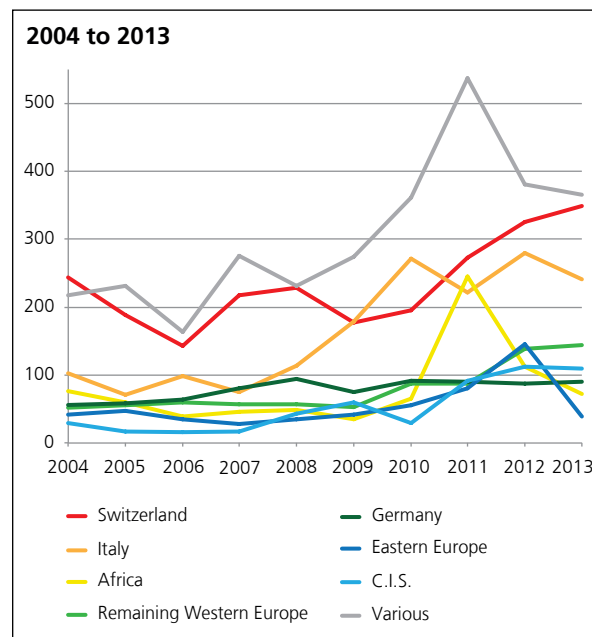
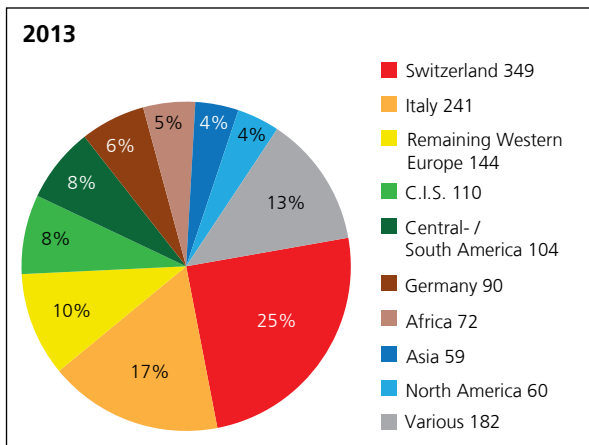
Chart analysis

- Proportion of SARs with Swiss nationals as beneficial owners increases again, reaching a ten-year record high (2013: 349 SARs or 25 percent, 2012: 326 SARs or 21 percent).
- Despite slight decrease from 18 percent to 17 percent, proportion of SARs with Italian nationals as beneficial owners in second position again.

- Relative increase in SARs with beneficial owners from Central and South America (2013: 8 percent, 2012: 4 percent).
- Only 5 percent of beneficial owners are African nationals (2012: 7 percent).

Legend

Rest of Western Europe	Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Netherlands, Malta and Portugal
Various	Great Britain, France, Middle East, Eastern Europe, Scandinavia, Caribbean, Unknown and Australia/Oceania



For comparison: 2004 – 2013

Nationality of beneficial owner	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Switzerland	244	188	143	217	228	178	195	273	326	349	2 341
Italy	103	71	99	75	114	179	271	221	280	241	1 654
Africa	77	60	39	46	49	35	66	245	113	72	802
Remaining Western Europe	52	55	60	57	57	53	88	87	139	144	792
Germany	56	59	64	80	94	75	92	90	88	90	788
Eastern Europe	42	48	35	28	35	42	56	81	145	39	551
C.I.S.	30	17	16	17	43	60	30	91	113	110	527
Middle East	57	50	16	27	28	29	46	145	68	51	517
Asia	27	27	28	40	33	44	110	51	54	59	473
Central- / South America	31	31	11	37	60	43	39	44	72	104	472
Great Britain	17	23	38	83	16	33	39	141	52	30	472
North America	34	42	35	31	31	55	47	50	36	60	421
France	23	42	27	30	36	43	57	69	50	34	411
Scandinavia	8	6	5	21	12	12	14	19	25	20	142
Caribbean	3	3		4	5	9	6	14	11	6	61
Australia/Oceania	15	3	2	2	7	3	1	3	5		41
unknown	2	4	1		3	3	2	1	8	2	26
Total	821	729	619	795	851	896	1 159	1 625	1 585	1 411	10 491

2.5.11 Prosecution authorities

What the chart represents

This chart shows where MROS forwarded the SARs it received from financial intermediaries. The choice of prosecuting authority depends on the nature of the offence. Article 24 et seq. (federal jurisdiction) and Article 27 et seq. (cantonal jurisdiction) of the Criminal Procedure Code (CrimPC) serve as the frame of reference.

Chart analysis

- The downward trend in the relative number of SARs forwarded to the prosecution authorities continues (2013: 79.1 percent, 2012: 85.5 percent, 2011: 90.5 percent).
- Slight decrease in the number of SARs forwarded to the Office of the Attorney General.

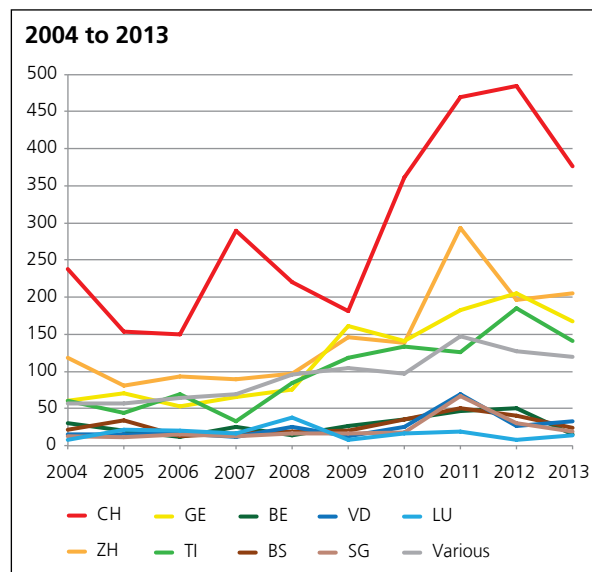
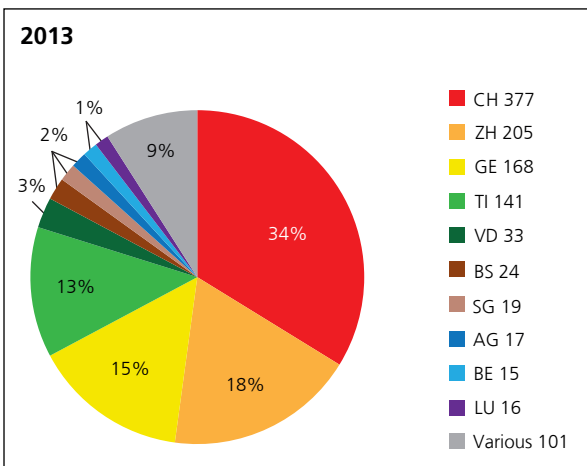
MROS received a total of 1,411 SARs in 2013 (2012: 1,585). Following careful analysis, it forwarded 1,116 SARs to prosecution authorities (2012: 1,355). This represents a decrease in the proportion of forwarded SARs to 79.1 percent (2012: 85.5 percent).

In 2013, MROS forwarded 377 SARs (2012: 484 SARs) to the Office of the Attorney General of Switzerland (OAG). This figure represents both a relative and an absolute decrease over the previous reporting period (2013: 34 percent, 2012: 36 percent).

The remaining 739 SARs were forwarded to 23 cantonal prosecution authorities. The prosecution authorities of Zurich received the second highest number of SARs after the OAG (205 SARs or 18 percent), whilst Geneva was in third position (168 SARs or 15 percent). The prosecution authorities of Ticino received 141 SARs (2012: 185 SARs): thus, together with the OAG, and the prosecution authorities of Zurich and Geneva, it was again one of the four authorities that received the most SARs.

Legend

AG	Aargau	NW	Nidwalden
AI	Appenzell Inner Rhoden	OW	Obwalden
AR	Appenzell Ausser Rhoden	SG	St. Gallen
BE	Bern	SH	Schaffhausen
BL	Basel-Landschaft	SO	Solothurn
BS	Basel-Stadt	SZ	Schwyz
FR	Fribourg	TG	Thurgau
GE	Geneva	TI	Ticino
GR	Graubünden	UR	Uri
JU	Jura	VD	Vaud
LU	Lucerne	VS	Valais
GL	Glarus	ZG	Zug
NE	Neuchatel	ZH	Zurich



For comparison 2004 – 2013

Authority	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
CH	238	154	150	289	221	182	361	469	484	377	2 925
ZH	118	81	93	90	97	146	139	293	197	205	1 459
GE	61	71	53	66	76	161	141	183	205	168	1 185
TI	61	44	69	33	85	118	134	126	185	141	996
BE	31	20	12	25	14	27	36	47	51	15	278
BS	22	34	13	16	19	20	35	50	40	24	273
VD	15	15	17	12	25	13	26	69	27	33	252
SG	13	11	15	13	17	17	18	67	31	19	221
ZG	8	22	21	16	38	8	16	19	8	14	170
AG	12	5	13	10	9	9	14	49	27	17	165
LU	10	11	17	14	25	11	13	9	15	16	141
BL	2	4	4	10	18	13	13	8	13	10	95
NE	8	16	4	5	8	8	7	10	8	8	82
SO	8	4	4	3	13	16	5	14	1	13	81
TG	1	3	4	3	3	22	7	9	14	8	74
SZ	6	2	7	4	2	5	8	8	8	7	57
FR	2	4	3	4	2	5	5	10	16	5	56
VS	3	1	5	5	1	3	9	7	5	11	50
GR	2	4	3	2	2	4	9	6	7	9	48
SH		1		1	1	1	2	8	5	7	26
NW	1				3	2	1	5	1	4	17
OW	1			1	6	3		1	2		14
JU	1	1	1		2	2	1	1	1	2	12
AI				3			2	1	2		8
AR							1	2	2	2	7
GL		1		3		1				1	6
UR				1	1						2
Total	624	509	508	629	688	797	1 003	1 471	1 355	1 116	8 700

2.5.12 Status of forwarded SARs

What the chart represents

This chart shows the current status of the SARs that were forwarded to federal and cantonal prosecution authorities. The chart distinguishes between the Office of the Attorney General of Switzerland (OAG) and the cantonal prosecution authorities.

Chart analysis

Nearly 44 percent of all SARs forwarded to federal and cantonal prosecution authorities since 2004 are pending.

By virtue of Article 23 paragraph 4 AMLA, MROS determines which SARs should be forwarded to which prosecution authorities (i.e. cantonal or federal). The current statistics only cover the last ten years because the information regarding SARs from before this time has been deleted for reasons of data protection. For practical reasons, therefore, only electronically available data is used for drawing comparisons.

From 1 January 2004 to 31 December 2013, MROS forwarded a total of 8,700 SARs to prosecution authorities. By the end of 2013, decisions had been reached in 4,892 cases (56 percent). These decisions are described below:

- In 7.9 percent (385 cases) of all forwarded SARs, the courts delivered the following verdict: 21 acquittals from the charge of money laundering, 9 acquittals from all charges (no charge of money laundering), 178 convictions including of money laundering, and 177 convictions for offences other than money laundering;
- In 43.8 percent (2,142 cases) of all forwarded SARs, criminal proceedings were initiated but later suspended after criminal investigations revealed insufficient evidence of wrongdoing;
- In 40.2 percent (1,965 cases) of all forwarded SARs, no criminal proceedings were opened in Switzerland following preliminary investigations. The cantonal authorities have different practices with regard to decisions on dismissals. Thus, some judicial authorities do not actually initiate proceedings, but under the provisions of Art. 67a IMAC⁷ voluntarily pass on information to foreign judicial authorities enabling the latter to submit a request to Switzerland for international mutual assistance. This practice will now change, following a judgment by the Federal Criminal Court's Appeals Chamber in July 2013⁸.

⁷ Federal Act on International Mutual Assistance in Criminal Matters (International Mutual Assistance Act, IMAC; SR 351.1)

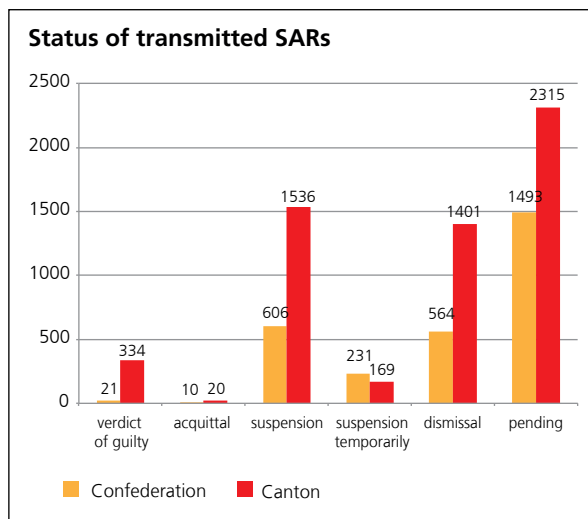
⁸ Judgment no. RR.2012.311 of the Appeals Chamber of the Federal Criminal Court

An appeal was submitted against a conclusive decree by the Public Prosecutor's Office of Canton Zurich on the disclosure of bank documents requested by German prosecution authorities under mutual assistance. The reason for the appeal was that the mutual assistance request was

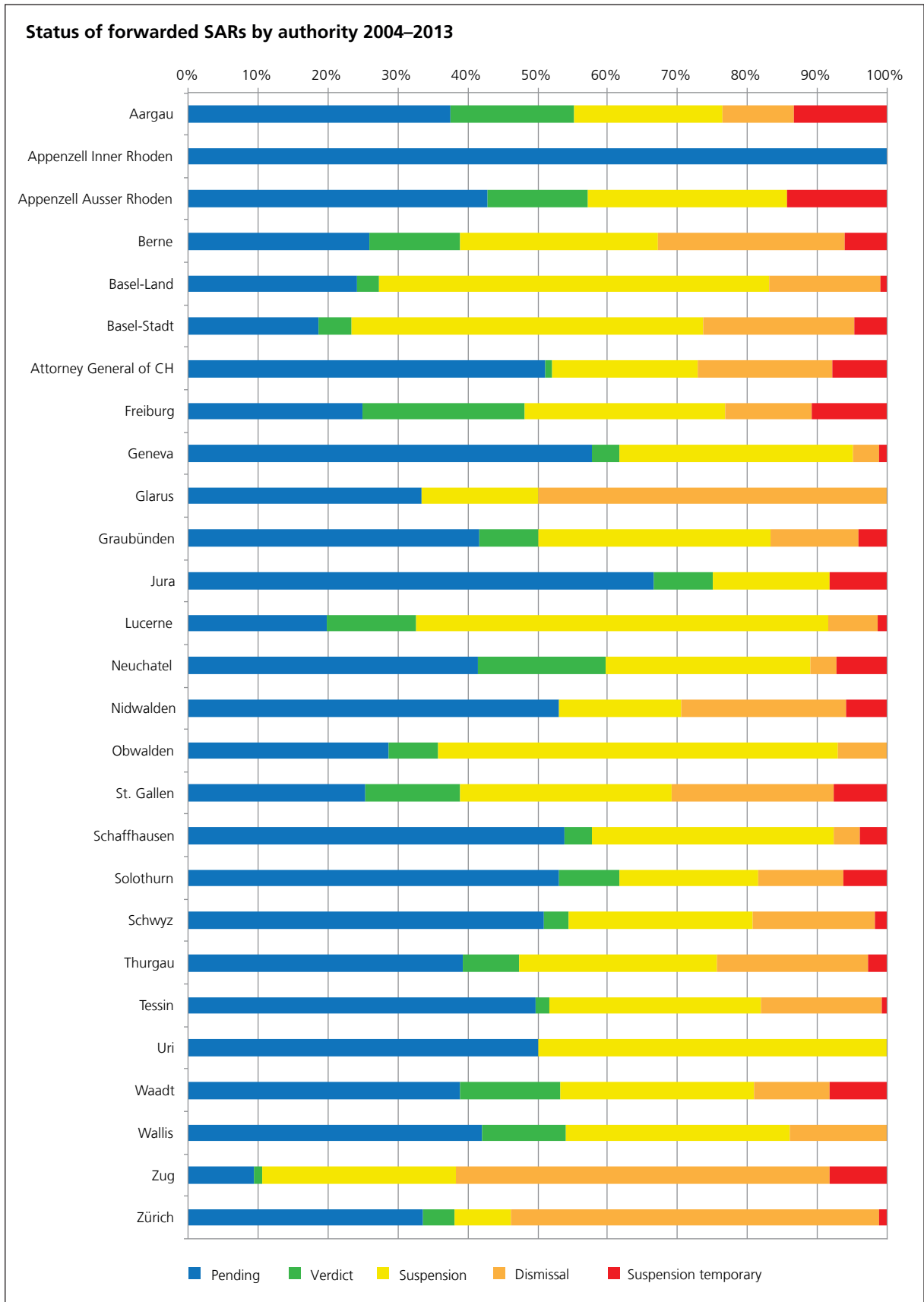
In 8.2 percent of cases (400 SARs) criminal proceedings were suspended because proceedings had already been initiated in another country.

Although the prosecution authorities have continuously processed the number of pending cases, 43.8 percent of forwarded SARs were still pending at the end of 2013 (2012: 42 percent). It is difficult to draw conclusions as to the reasons due to a multifold of factors:

- Money laundering and terrorist financing cases often have international connections, and the resulting international investigations tend to be tediously protracted and difficult;
- Experience has shown that mutual legal assistance tends to be a very labourious and time-consuming affair;
- Some of the pending SARs have already led to a conviction, but MROS has not yet been notified of this fact because Article 29 paragraph 2 AMLA only requires cantonal authorities to provide MROS with updates on pending SARs that relate specifically to Article 260^{ter} paragraph 1 (criminal organisation), Article 305bis (money laundering) or Article 305^{ter} SCC (lack of due diligence).
- The prosecution authorities do not consistently fulfil their duty to report to MROS under Article 29a paragraph 2 AMLA.



based on criminal proceedings opened in Germany following the unsolicited transmission of information by the Public Prosecutor's Office of Canton Zurich under Article 67a IMAC to the German prosecution authorities. The transmission of the information by the Zurich Public Prosecutor's Office was impermissible, it was argued, because no proceedings had been initiated in Switzerland. The Appeals Chamber upheld the appeal and, referring to previous judgments by the Federal Criminal Court, ruled that the spontaneous transmission of information under Article 67a IMAC must always be preceded by criminal proceedings in Switzerland (Article 67a paragraph 1 IMAC: "An authority prosecuting offences may, without being requested to do so, transmit to a foreign authority prosecuting offences information or evidence that it has gathered in the course of *its own investigation*, when it determines [...]").



Status of forwarded SARs by canton 2004–2013

Authority	Pending		Dismissal		Suspension		Suspension temporary		Verdict		Total	
AG	62	37,58 %	17	10,30 %	35	21,21 %	22	13,33 %	29	17,58 %	165	100,00 %
AI	8	100,00 %	0	0,00 %		0,00 %		0,00 %		0,00 %	8	100,00 %
AR	3	42,86 %	0	0,00 %	2	28,57 %	1	14,29 %	1	14,29 %	7	100,00 %
BE	72	25,90 %	74	26,62 %	79	28,42 %	17	6,12 %	36	12,95 %	278	100,00 %
BL	23	24,21 %	15	15,79 %	53	55,79 %	1	1,05 %	3	3,16 %	95	100,00 %
BS	51	18,68 %	59	21,61 %	137	50,18 %	13	4,76 %	13	4,76 %	273	100,00 %
CH	1 493	51,04 %	564	19,28 %	606	20,72 %	231	7,90 %	31	1,06 %	2 925	100,00 %
FR	14	25,00 %	7	12,50 %	16	28,57 %	6	10,71 %	13	23,21 %	56	100,00 %
GE	684	57,72 %	46	3,88 %	395	33,33 %	13	1,10 %	47	3,97 %	1 185	100,00 %
GL	2	33,33 %	3	50,00 %	1	16,67 %		0,00 %		0,00 %	6	100,00 %
GR	20	41,67 %	6	12,50 %	16	33,33 %	2	4,17 %	4	8,33 %	48	100,00 %
JU	8	66,67 %	0	0,00 %	2	16,67 %	1	8,33 %	1	8,33 %	12	100,00 %
LU	28	19,86 %	10	7,09 %	83	58,87 %	2	1,42 %	18	12,77 %	141	100,00 %
NE	34	41,46 %	3	3,66 %	24	29,27 %	6	7,32 %	15	18,29 %	82	100,00 %
NW	9	52,94 %	4	23,53 %	3	17,65 %	1	5,88 %		0,00 %	17	100,00 %
OW	4	28,57 %	1	7,14 %	8	57,14 %		0,00 %	1	7,14 %	14	100,00 %
SG	56	25,34 %	51	23,08 %	67	30,32 %	17	7,69 %	30	13,57 %	221	100,00 %
SH	14	53,85 %	1	3,85 %	9	34,62 %	1	3,85 %	1	3,85 %	26	100,00 %
SO	43	53,09 %	10	12,35 %	16	19,75 %	5	6,17 %	7	8,64 %	81	100,00 %
SZ	29	50,88 %	10	17,54 %	15	26,32 %	1	1,75 %	2	3,51 %	57	100,00 %
TG	29	39,19 %	16	21,62 %	21	28,38 %	2	2,70 %	6	8,11 %	74	100,00 %
TI	495	49,70 %	172	17,27 %	303	30,42 %	7	0,70 %	19	1,91 %	996	100,00 %
UR	1	50,00 %	0	0,00 %	1	50,00 %		0,00 %		0,00 %	2	100,00 %
VD	98	38,89 %	27	10,71 %	70	27,78 %	21	8,33 %	36	14,29 %	252	100,00 %
VS	21	42,00 %	7	14,00 %	16	32,00 %		0,00 %	6	12,00 %	50	100,00 %
ZG	16	9,41 %	91	53,53 %	47	27,65 %	14	8,24 %	2	1,18 %	170	100,00 %
ZH	491	33,65 %	771	52,84 %	117	8,02 %	16	1,10 %	64	4,39 %	1 459	100,00 %
Total	3 808	43,77 %	1 965	22,59 %	2 142	24,62 %	400	4,60 %	385	4,42 %	8 700	100,00 %

3 Typologies (selection of cases from the 2013 reporting year)

3.1 A lucrative sideline

A person from a neighbouring country of Switzerland contacted an insurance company to express interest in a life insurance policy. At the meeting with the insurance agent, however, the potential client behaved in a very odd manner. She asked specifically whether she could make the six-digit one-time deposit in cash, stating that the funds were currently in a safe at a Swiss bank. She explained that the funds had come from the sale of shares. Moreover, she had initially been unwilling to show identification, arguing that she preferred to remain anonymous at this stage of the contractual proceedings. The insurance agent's initial suspicion that the funds were of illicit origin was then exacerbated when the woman inquired whether Switzerland exchanged financial information with other countries.

The insurance agent replied that as a rule the insurance company did not accept cash. The woman then asked whether the one-time deposit could be made by placing the funds as inconspicuously as possible into a bank account or via a money order at the post office.

MROS queries found no criminal record on the person in any police database. There were, however, several reports in the media archive concerning a person of the same name in the neighbouring country who had been involved in an insolvency case. However, these reports did not mention the person's date of birth and the address did not match that of the potential client.

MROS contacted the partner FIU in the neighbouring country to ask whether the person mentioned in the insolvency proceedings and the potential client might be one and the same person. If so, then it could be concluded that the assets of creditors had been secreted away. MROS also contacted the Swiss financial intermediary where the woman had rented a safe to obtain additional information under Article 11a paragraph 2 AMLA.

The partner FIU informed MROS that the person involved in the insolvency case was not the same as the reported client. Neither the date of birth nor the address matched. Moreover, MROS concluded that the potential client's funds most likely had originated from real estate transactions and her other occupational activities. She had indeed indicated that she worked in real estate, owned several properties and worked on the side for an escort agency. The financial

intermediary asked to provide additional information under Article 11a paragraph 2 AMLA confirmed this information, which clarified the unanswered questions. The SAR was not forwarded to the prosecution authorities.

3.2 A clever waiter

A bank was contacted by a hotel claiming that several unauthorised payments had been made from its account.

Analysis of the various transactions revealed that a total of five, in some cases sizeable amounts, had been transferred from the hotel's account to the account of a person who was a client of the same bank. This person had then withdrawn these amounts shortly afterwards. Further scrutiny showed that the client in question also happened to be an employee of the hotel.

Eventually, the problem was traced back to one of the hotel's handheld debit card readers. Waiters and waitresses used this card reader to take payment from hotel restaurant customers directly at the tables. The client, who worked at the hotel restaurant as a waiter, had apparently managed to rewire the card reader to reverse the direction of payments: whenever he inserted his own debit card into the reader, the hotel's account would be debited and his own account credited.

There was therefore reasonable suspicion of fraudulent abuse of a data processing device under Article 147 SCC. The waiter had divested his employer of tens of thousands of francs in this manner between mid-June and mid-July 2013.

Further inquiries by MROS revealed no further clues. Since the matter reported by the financial intermediary was clearly the result of criminal activity on the part of the client, the SAR was forwarded to the corresponding prosecution authority.

3.3 All that glitters is not gold

The reporting financial intermediary, a precious metals trader and refiner, received a business proposition via e-mail from a person with an Asian-sounding name. Neither the person nor the e-mail address (through a commercial provider) was known to the intermediary. In this e-mail message, the sender indicated that a large sum of gold was to be put up for sale. Attached to the e-mail message was a letter, including letterhead, from a company in Switzerland. In this

letter, the company confirmed that it had been asked by a second company to locate potential buyers and serve as the clearing agent for the gold transaction. The letter claimed that this second company was also domiciled in Switzerland and had been contacted directly by a bank, which was the actual seller of the gold. The bank in question, however, was not mentioned. The business proposition was referred to as “a major gold deal” and that the sale price would be four percent below the London Gold Fix rate.

The reporting financial intermediary felt that there was something not quite right about the offer. Only professional dealers would have handled such a large gold transaction and yet the bank seeking to sell the gold was not mentioned in the offer. In addition, the reporting financial intermediary suspected that neither of the two companies mentioned were licensed to act as financial intermediaries.

A search of the database revealed that a representative of one of the companies involved had been convicted in a fraud case abroad several years prior. The financial intermediary surmised that perhaps some of the illicit gains from this fraud had been used to buy gold. This gold would then have been hoarded somewhere and now that the gold price had risen, the moment to sell had come. MROS contacted the partner FIU abroad to find out whether all of the assets in question had been seized at the time of sentencing. However, too much time had passed and records were no longer available. For this reason, a possible link between the gold and illicit gains from fraudulent activities could not be explored further and the SAR was not forwarded.

3.4 Information exchange with foreign FIUs

Reports began to appear in the media regarding the arrest of an individual in Europe in relation to a major embezzlement case in which several hundred private investors had lost their money. These reports prompted two financial intermediaries in Switzerland, which maintained a business connection with the individual, to file an SAR. The first was a law firm, which helped the client to set up three companies in Switzerland and the corresponding Swiss bank accounts. The law firm suspected that the assets used to create these companies as well as the assets held in the corresponding accounts may have originated from this embezzlement case. The second SAR was filed by the Swiss bank where the accounts had been opened. From this second SAR, MROS learnt that the bank not only maintained accounts in the names of these three companies (for which the individual was the beneficial owner) but also maintained the individual's personal accounts. Both SARs were forwarded to the corresponding prosecution authorities in Switzerland.

Following consultation with the Swiss prosecution authority, MROS contacted its partner FIU abroad to obtain information about the individual, to find out which authorities were responsible and to ascertain the current status of proceedings. This information was then conveyed to the Swiss prosecution authority, which was then able to forward all of the information gathered from the preliminary investigation to the foreign prosecution authority. With this information, the foreign prosecution authority was then able to submit a request to Switzerland for mutual legal assistance. Once the information had been relayed, the criminal proceedings in Switzerland for suspected money laundering were suspended. This was done because money laundering is considered to be a subsequent lesser offence in the European country in question. If Switzerland had prosecuted the case, there was the risk of violating the principle of *ne bis in idem* (double jeopardy), which holds that a person cannot be punished twice for the same crime. In essence, Switzerland cannot pursue proceedings in relation to an act for which a person has already been found guilty in another country.

3.5 Pump and dump schemes

A financial intermediary reported an account that had received several incoming deposits that were not readily explainable. The financial intermediary looked into the matter and discovered that the payments originated from several different companies that were all owned by the same individual. When asked for clarification, the client informed the financial intermediary that the amounts in question were mutual loans between the companies. The client then provided the bank with the signed loan contracts. Upon examination of these contracts, the financial intermediary noticed that the amount indicated in one of these contracts corresponded to another loan contract and therefore could not have served as the basis for the transaction that had effectively been carried out. Confronted with this detail, the client stated that it was merely an editing mistake and provided the financial intermediary with the revised loan contract. When the financial intermediary inquired about the beneficial owners of the transfers, the client mentioned various offshore companies. Since the financial intermediary surmised that these companies were most likely domiciliary companies, and therefore could not be considered as beneficial owners, the financial intermediary inquired again. It turned out that several private individuals abroad were the beneficial owners of the account into which the payments were being made. Looking through public sources, MROS was able to determine that these persons had been involved in

„pump and dump schemes“⁹. This information was also corroborated by the partner FIU abroad. The transactions made no economic sense since there did not seem to be any real justification as to why funds from several different companies were being transferred to the account. For this reason, and based on the reports indicating that the actual beneficial owners were suspected of involvement in asset fraud, the SAR was forwarded to the prosecution authority. A criminal investigation was immediately launched and was still pending during the reporting year.

3.6 Bitcoins purchased with incriminated money?

Through SWIFT, a Swiss financial intermediary was notified by a foreign regional bank that a EUR 5,000 payment made to the account of one of its clients was of illicit origin. It was thought that the payment may have resulted from hacking or phishing. The account holder was immediately contacted for clarification under Article 6 AMLA and explained that he had made a private sale of bitcoins (form of virtual money) through the Bitcoin exchange. Ownership of bitcoins is confirmed by means of a cryptographic key; transactions take place using a digital signature and the balance is stored in a public database. The reported incoming payment, the client explained, was from the sale of bitcoins that did indeed belong to him. The account holder provided the Swiss financial intermediary with complete documentation on the bitcoin sale as well as the exchange of correspondence that he had had with the alleged criminal purchasers. The account holder had gathered all of this additional information when he had noticed that the name of the person making the payment was not the same as the name of the person who purchased the bitcoins. The buyer explained that the purchase amount had been paid from her husband's account. The seller released the bitcoins only after obtaining this clarification and because the wire transfer included mention of the confidential bitcoin transaction code.

The account holder had previously been unable to determine who the purchaser was because bitcoin transactions are anonymous. Nevertheless, the account holder cooperated fully with the reporting financial intermediary and provided all of the related documents (chat records, etc.). Moreover, he had taken the initiative of gathering information from the localbitcoins.com platform in an attempt to identify the

purchaser and request a reversal of the transaction. MROS is currently gathering additional relevant information regarding the case.

According to a media report dated 20 January 2014, a publically accessible Bitcoin ATM was set up in the Zürcher Markthalle on 18 January 2014. The World Bitcoin Association wanted to assess demand for Bitcoin ATMs in Switzerland in a one-week pilot phase. The plan was to set up a fixed Bitcoin ATM by no later than the end of April 2014 at an as yet undisclosed location. The purchase of bitcoins at Bitcoin ATMs, however, requires a person to have already created a Bitcoin account over the Internet. Purchasers of bitcoins are able to log into the ATM using a QR code sent to their smartphone. During the pilot phase, incoming payments may only be made using Euro banknotes. However, Swiss francs will also be accepted in the future. A few minutes after the transaction has taken place, the purchased bitcoins appear in the Bitcoin account.

3.7 Corruption in South America?

A financial intermediary submitted an SAR in response to a payment that was not related to the indicated business activity of a client. The client was a company representing the interests of a European company in South America and claimed to receive commissions for this service. The end user of the products of the European company was a subsidiary of a South American state-run company. In the summer of 2012, various payments were received from the European company. Two of these payments were intended for an offshore company. When the financial intermediary asked its client about its ties to the recipient of these payments, it explained that the offshore company most likely provided lobbying services on behalf of the South American state-run company. No explanatory documents were provided in support of these transactions and the payments could not be plausibly explained.

MROS contacted a partner FIU and was told that the offshore company was a domiciliary company. In addition, the FIU provided details regarding the beneficial owner and the person acting as company director. The director's name was already on file at MROS due to a previous SAR filed in relation to a corruption and money laundering case where assets had been laundered through various offshore companies. In addition, the person had already been the subject of several criminal investigations both in Switzerland and abroad. At the time, these investigations had been dropped due to a lack of evidence. However, various news reports also were found claiming that the person had been involved

⁹ Fraudsters buy shares at a cheap price to artificially inflate the share price. They then encourage investors to buy as many of these shares as possible, which drives the share price even higher. Often investors receive spam messages or are contacted by phone with "investment tips" and told about "new developments" relating to the company. The fraudsters then sell their shareholding at a profit and investors are left holding the bag as the share price plunges.

in various offshore structures and account relationships set up for the purpose of hiding the origin of money derived from corruption and money laundering. Since the client was unable to plausibly explain why it had made these wire transfers to the offshore company and since the beneficiary of this unexplained transaction had already been reported in a previous SAR, MROS decided to forward the SAR to the Swiss prosecution authorities.

3.8 Alleged coffee trade and illegal currency exchange transactions?

A financial intermediary filed an SAR to MROS in relation to a client who had withdrawn cash at two different branches of the bank within two days. The financial intermediary suspected that the withdrawals might be the result of smurfing. Analysis of the various transactions from when the account was first opened showed that several other cash withdrawals had also taken place. The account holder was contacted by the financial intermediary for clarification. The client explained that he was involved in the international trade of coffee and the owner of a trading company based in Europe. The coffee was imported directly from African countries, shipped to a warehouse located at a European harbour and then sold wholesale to retailers. The incoming payments made to the account of the reported client nevertheless came from various offshore companies that had no apparent connection to the coffee trade. The client explained that the cash withdrawals were to cover costs for the storage and transport of coffee beans. The amounts were untaxed proceeds from the coffee trade. The financial intermediary informed the account holder that under these circumstances it could not maintain the account. The client then requested that his assets be transferred to accounts that third companies had established on his behalf with another financial intermediary. The stated aim was incidentally to enable the client to withdraw the assets in cash.

MROS's inquiries and database searches revealed that the reported account holder had been investigated in the past for fraud in relation to illegal currency exchange transactions that had resulted in a financial loss for a third institution. For this reason, there were grounds for suspicion that the cash transactions were unrelated to apparent tax evasion practices in the coffee trade – which under Swiss legislation did not constitute a predicate offence to money laundering – but rather had to do with fraudulent currency exchange transactions. The SAR was forwarded to the public prosecutor. The case was still pending at the end of 2013.

3.9 Dubious trade in Stradivarius violins

A bank reported a business connection with a Swiss trader in valuable classical stringed instruments. This business connection was closed sometime after the SAR was filed.

An internal audit had revealed that the client was accused in a neighbouring country of fraud and disloyal business management in relation to the international trade in stringed instruments. In the past, criminal investigations for similar offences had been launched against him in Switzerland as well. Analysis of the various transactions also revealed several suspicious credits and debits that were directly linked to the violin trade and with equally suspicious individuals who had been mentioned several times in the press as being alleged accomplices.

Several database entries and subsequent clarifications regarding the reported client confirmed that criminal investigations had indeed been launched outside of Switzerland. MROS forwarded the SAR to the corresponding cantonal prosecutor's office. The case was still pending at the end of 2013.

3.10 Biting the hand that feeds you

A Swiss bank reported two business connections with two young women from the same European Land. After having found various accounting irregularities, a Swiss company had asked the bank to take a look at these accounts. Specifically, several unauthorised payments of tens of thousands of Swiss francs had been made from the company account to the account of one of the women. Fictitious payment and/or invoice records had initially been added to the accounting records but were later removed. These entries had been made by the second woman, who used to work as a financial accountant with the company.

The Swiss bank then proceeded to compare the two women's bank accounts and found the unauthorised payments that had been debited from the Swiss company's account. In addition, the Swiss bank also found indications that the two women were actually one and the same person. First of all, the two women used the same address and both had indicated the same employer when opening the account. That employer turned out to be the Swiss company from which the fraudulent payments had been made. The Swiss bank contacted the Swiss company, which stated that it did not know the second person. More detailed analysis revealed that money transfers had also taken place between the two women's accounts: cash withdrawals from one account were followed shortly thereafter by cash deposits of roughly the same amounts into the second account. Based on this information, the Swiss bank concluded that the employee of the Swiss company had first embezzled funds from her employer then deposited these funds in cash into another account opened under a false (stolen) identity. This setup allowed the woman to then make personal use of these funds.

Further investigation by MROS revealed that the Swiss company in question had already filed charges against its former employee on suspicion of falsification of documents and embezzlement. It also discovered that the suspected person was apparently a repeat offender. A public prosecutor in another canton had found her guilty of similar felonies and had issued a fine. Apparently, the minor punishment and immediate dismissal from her previous employment had not dissuaded her from doing the same thing to her new employer.

MROS investigations also revealed that the ID card of the second reported person had been reported stolen only a few months prior to when the second account had been opened. Apparently the employee of the Swiss company had planned everything carefully. She first found a job as a bookkeeper, earned the trust of her employer, opened an account with the stolen ID card and then began transferring funds from her employer's account to the account that had been opened using the stolen ID. She then covered her tracks by removing the accounting records. To make matters worse, the FIU in her home country informed MROS that she had acted in a similar fashion there, too. She had stolen massive amounts from her previous two employers and had been fired on the spot after her scheme had been discovered. At the time, she had told her previous employer that she was moving to Switzerland where she found employment. Rigorous data protection, apparently doctored employment certificates and insufficient verification by the new employer had apparently all played in the woman's favour, enabling her to pursue her criminal activities and repeatedly divest her employers of their assets. The corresponding public prosecutor's office is currently investigating this case of falsification of documents and embezzlement.

3.11 Money mule for African fraudsters

A money transmitter became suspicious of a Swiss national who regularly received money orders from third parties from Europe (outside Switzerland). The person's behaviour was odd because he would pick up the cash from one branch and then go to another branch of the same money transmitter to send practically the entire amount to Africa. Although the financial intermediary did not have any solid grounds for suspicion, it found this behaviour unusual enough to submit an SAR under Article 305^{ter} paragraph 2 SCC.

Further investigation by MROS revealed that the suspicious person in previous years had himself been the victim of advance fee fraud. He had been conned into believing that he would receive a loan if he paid the corresponding fees in advance. MROS investigators actually recognised the name of one of the recipients in Africa because it was so out of the

ordinary. Further investigation revealed that this Swiss national had already been the subject of a previous SAR sent to MROS. On that occasion, the African-domiciled fraudsters had targeted a Swiss national for advance fee fraud and had remitted the money to Africa. The public prosecutor who had investigated the case came to the conclusion that the Swiss national had been used as a money mule to transfer the illicit gains from this fraudulent activity and was therefore guilty of money laundering. In this case, it seemed that the circumstances were practically identical.

The African fraudsters, who have been preying on victims in western countries for years, were now using Swiss nationals to transfer incriminated money out of the country. In this case, they had advertised their "services" in various forums in Europe, offering low-interest loans in exchange for advance fees or commissions to secure bogus customs clearance. The victims' money had to be sent to the Swiss person (i.e. the money mule), who was presented as a customs official or lawyer. The money mule then immediately forwarded the cash to Africa even though they must have known – based on personal experience – that the money was illicit in nature. Thanks to the money transmitter's very detailed monitoring of transactions, it was able to uncover transactions and procedures that would otherwise have never been detected due to the relatively small amounts. This gave rise to the justified suspicion that the Swiss national had received cash from fraudulent activities and had then transferred this cash to another location abroad for the purpose of blurring the paper trail. The SAR was forwarded to the cantonal prosecution authority. The case was still pending at the end of 2013. The investigators are currently seeking to prove that the money mule person acted intentionally.

3.12 Money laundering network linked to trafficking in stolen watches?

A financial intermediary opened a salary account in the name of a new client X. A proxy was given to Y, one of the children of X. Analysis of initial transactions on the account revealed that the funds deposited into the account did not correspond to the announced incoming salary payments but rather to income from a commercial activity relating to watchmaking.

The financial intermediary contacted X for clarification. It turned out that this account was effectively being used by Y as part of his commercial activity of buying-selling watches. Y had wanted to establish a new company but because of his prior bankruptcy record, he had asked one of his parents to serve as company director and to open a salary account for his own personal use, without indicating Y's name on the account.

During this clarification process, the bank asked him to provide invoices that he had issued or received in relation to these transactions. Y was initially cooperative but then mentioned a confidentiality agreement that he had signed with some of his suppliers that prevented him from providing certain complementary documents. The financial intermediary therefore decided to close the account on the grounds of violation of trust. There were also reports that a watchmaking company in the region had been the victim of a major theft of several watches of a certain value. Based on this information, the bank once again suspected a possible link between its client and trafficking of stolen watches. It therefore decided to file an SAR to MROS.

The MROS investigation revealed that Y was already known to Swiss judicial authorities in relation to various criminal cases. Moreover, it was confirmed that several watch thefts had been reported and that investigations into the possible existence of a watch trafficking network were currently underway. MROS therefore decided to forward the SAR to the corresponding cantonal prosecution authority. Criminal proceedings were launched but investigations in relation to these proceedings did not provide any indication that Y was guilty of handling stolen goods or involved in money laundering. The proceedings were therefore closed.

Criminal activities in the watchmaking industry

The Swiss watchmaking industry has enjoyed a veritable boom in recent years and growth prospects in this sector remain high. This success has drawn the attention of a large number of criminals. As a result, Swiss watchmaking companies based in the Lake Geneva basin face numerous challenges when it comes to securing and monitoring their premises. Watchmaking professionals have been forced to take increasingly stringent measures to reinforce their security systems.

Faced with an increasing number of thefts in this sector, the cantonal and cross-border police authorities are working closely together and have introduced new tools to help them more effectively counter the wave of break-ins observed in recent years. This cooperation has already produced tangible results. In 2013, several important cases were elucidated, which led to the dismantling of corresponding criminal networks. And police forces continue to intensify their efforts in this area. The Cantonal Police of Neuchâtel, for instance, has recently created a new position devoted exclusively to this type of crime to strengthen the security of watchmaking companies in the region.

3.13 Suspected fraud on the foreign exchange market

A financial intermediary (A) received a request from FINMA regarding the account of a company (B). A third party had filed a complaint because the funds he had deposited into the account of that company had disappeared. Company B had been created for the purpose of receiving dividends and making investments on behalf of the account of X and Y, both beneficial owners of the account and presented as business partners.

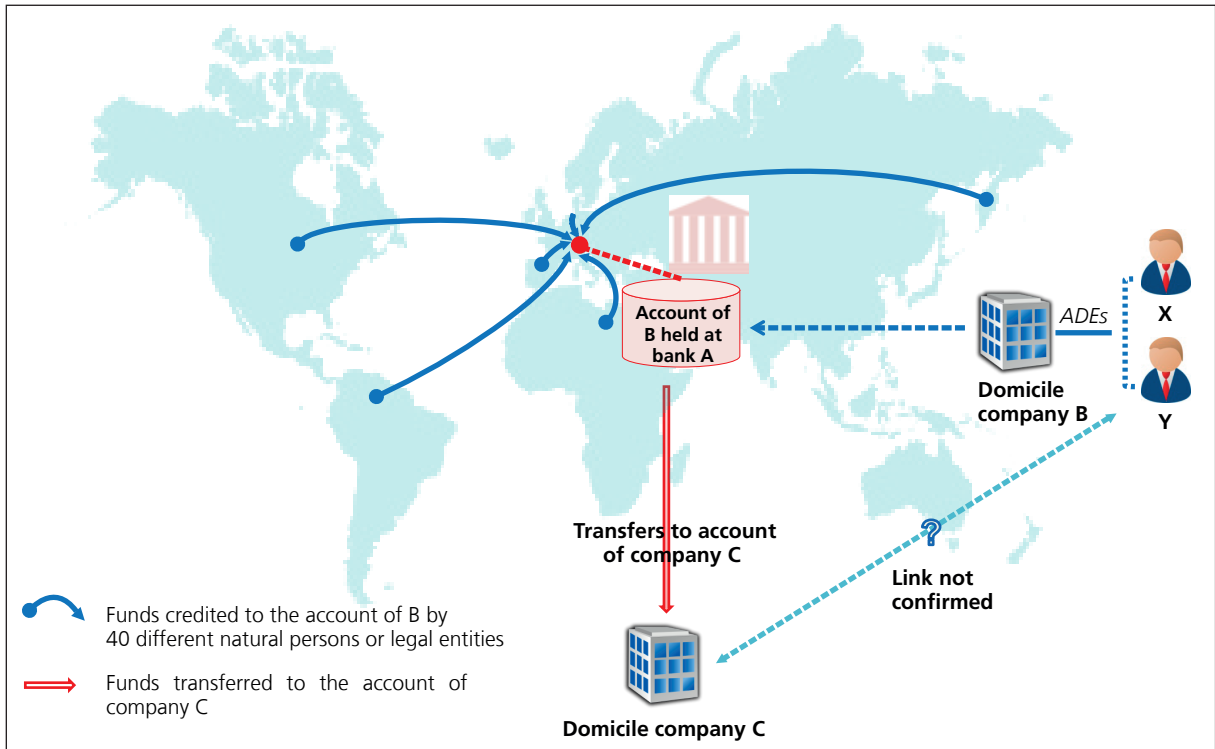
When analysing the account transactions, the financial intermediary noticed that several unusual transactions had been made. There were a large number of incoming payments ranging from tens of thousands to hundreds of thousands of francs. Moreover, these amounts came from around 140 different natural persons and legal entities residing in different countries around the world. Most of the funds were then paid to the account of a holding company (C) whose beneficial owners were unknown.

The financial intermediary decided to contact its client for clarification. X explained that the unusual activity observed on this account resulted from the fact that he managed several different companies that belonged to the same group but were situated in different jurisdictions. These companies offered an online platform for foreign exchange trading, stock trading and investment advice over the Internet. The payments made to this account opened in Switzerland came from various clients of these companies that wished to invest through these online platforms.

MROS began gathering information about these companies, which were not licensed as stock brokers or derivative investment advisers. Moreover, some of the companies were even on a blacklist. In addition, several recent postings had been made on various forums regarding difficulties that clients had encountered trying to get their money back. Several of these postings referred to the group as a forex scam. Based on this information, MROS felt that there were enough indications of a fraudulent pyramid scheme (Ponzi scheme) or embezzlement to justify forwarding the SAR to the corresponding prosecution authorities.

3.14 Asset manager involved in a case of breach of trust or money laundering for organised crime

A financial intermediary (A) was informed by a third party of the disappearance of a self-employed asset manager (X), with whom he had a business relationship. An article appearing in the international press confirmed that X's body and the body of his wife had been found buried and showed



strangulation marks. As a result, the local police had launched a murder investigation.

This prompted the financial intermediary to begin a complete review of the accounts over which X had the power to manage and/or power of signature. Among these accounts was an account for which Y was the beneficial owner. Although informed of the death of his asset manager, Y did not wish to meet with the bank and revoked the powers previously given to X in favour of a third person.

In addition, during its analyses, the financial intermediary discovered that the vast majority of the funds leaving the account of Y (for a total of several million Swiss francs) had been transferred to internal and external accounts for which X was the beneficial owner. The financial intermediary also found it odd that while the account had lost several million Swiss francs since it was opened, Y had never made any effort to obtain an explanation.

This behaviour, unusual to say the least, prompted the financial intermediary to carry out a more in-depth investigation of its client. It turned out that Y had been sentenced to three years in prison in relation to a lending scam in his country back in 2000. Between 1994 and 1995, he had used fake diamonds as collateral to secure loans for a jewellery shop that he ran. The proceeds from this fraud were

then used to fund an Asian criminal organisation in which Y was alleged to be a member. According to the information appearing in the client’s profile, the funds used to open the account had originated from the sale of a jewellery shop belonging to Y.

X managed an investment fund on behalf of well-to-do clients. According to the press, the motive of the murders was revenge. Indeed, the presumed murderer of the couple had claimed to have incurred a major financial loss after having entrusted his assets to X, while X lived a luxurious lifestyle both in Switzerland and abroad. At the same time, investigations conducted by MROS brought additional details regarding the criminal organisation that Y was presumed to be a member of. MROS was also able to shed light on a probable involvement of Y in a money laundering case. Moreover, a foreign FIU had also submitted a request for information about X in relation to this murder case.

The SAR was forwarded to the corresponding public prosecutor’s office. The investigations carried out by the prosecution authorities should enable them to determine whether X was merely guilty of fraud or breach of trust towards his clients or whether he actually laundered money on behalf of a group of individuals with ties to a criminal organisation.

3.15 Major money laundering network dismantled in Europe

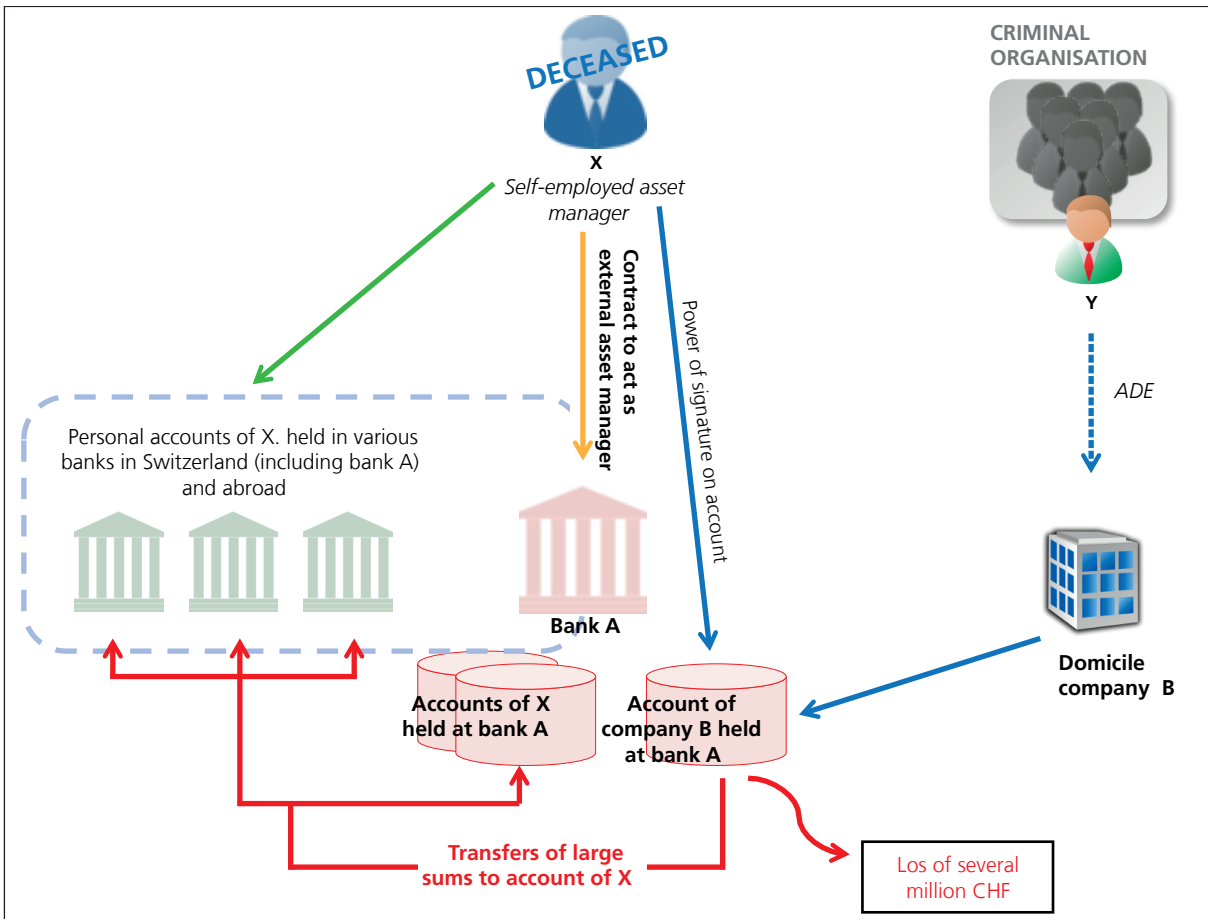
A financial intermediary (A) reported three business relationships to MROS after several articles appeared in the international press. These press articles mentioned the discovery of a major money laundering network in Northern Europe. A foreign public prosecutor had accused four individuals (W, X, Y and Z) and a financial services company of involvement in these money laundering activities. It was claimed that this group had laundered tens of millions of euros. According to the prosecution authorities investigating the case, the four individuals paid third parties to open accounts in the name of different companies for their own purposes.

Of the four persons mentioned, two (i.e. X and Y) each maintained a business relationship with the financial intermediary as well as a bank account for a domicile company (E) for which they were the beneficial owners. According to the press, the money laundering activities had started sometime in 2009–2010. It was also during this period that X and Y had opened their accounts with the financial intermediary in Switzerland.

The first payments into the account of X took place in 2010 and the debits were almost exclusively linked to payment of credit card bills. Between January and October 2010, several amounts had also been credited to the account of the domicile company E. These amounts had come from other companies (G and H). Then, the amounts received were rapidly transferred within a matter of days to the personal account of Y. In 2011, these funds were once again transferred to the account opened by Y and yet again transferred to the account of a third company (I). In most cases, this final transfer occurred on the same day.

MROS conducted additional investigations. It turned out that the criminal police in country C had been conducting an ongoing investigation of this case for several years already.

X and his associates had to find and recruit front men who would then be asked to open bank accounts in the name of various companies. Later, these persons would convey information about the status of the accounts and provide the e-banking access codes. X and Y then provided all of the



false documents required (contracts, forms, orders...) and then made the necessary arrangements for cash withdrawals. The origin of the funds placed in the various accounts by the members of this criminal organisation, as well as the final beneficiaries of this money laundering scheme, had not yet been identified by the foreign prosecution authorities. This case was forwarded to the corresponding Swiss prosecution authority, which then initiated criminal proceedings.

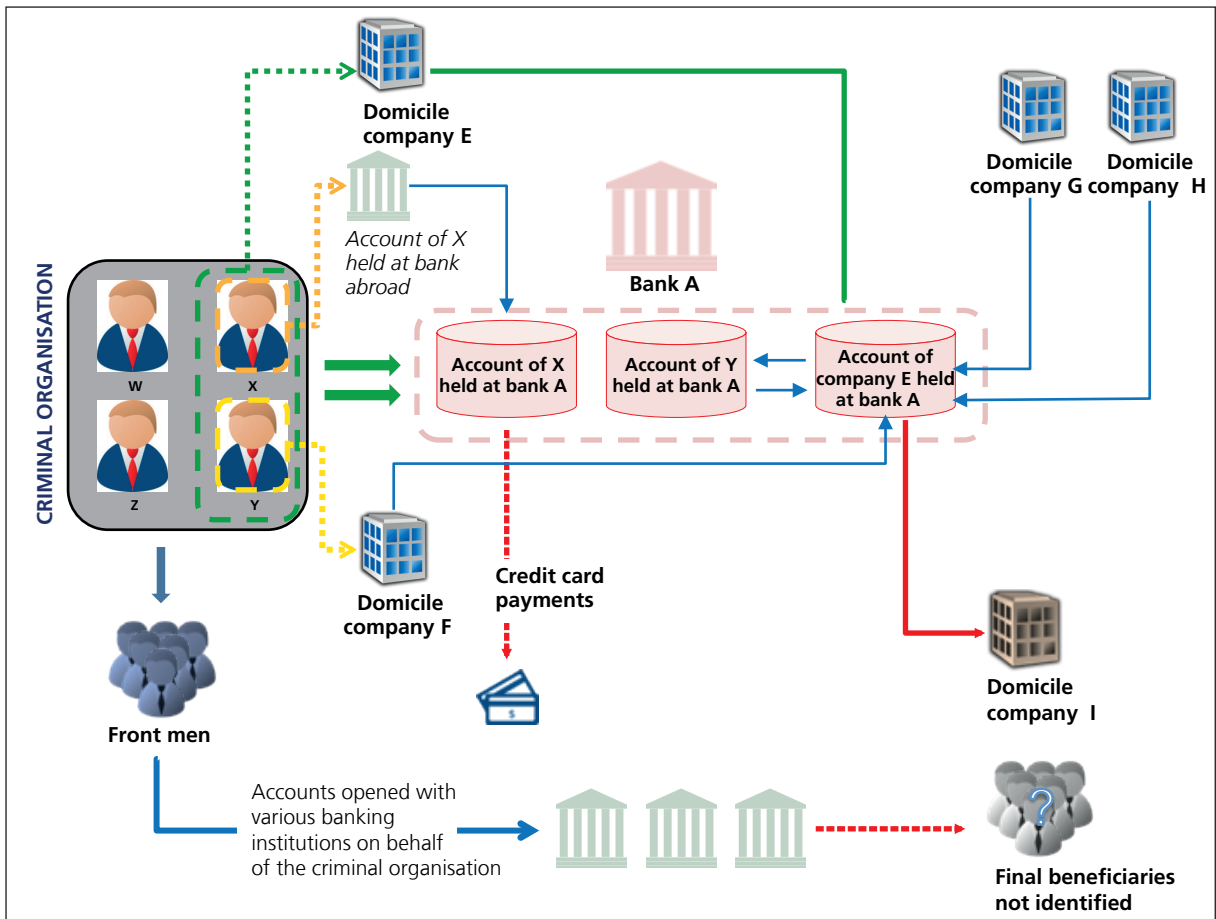
3.16 VAT carousel fraud

A Swiss-based company (X), belonging to a foreign group (Y) and involved in the distribution of oil products, had a business relationship with a financial intermediary (A). The bank manager responsible for the account of company X at bank A was informed by a third party that the group Y was suspected of having orchestrated a massive VAT carousel fraud. The fraud amounted to hundreds of millions of francs and an order was issued abroad to freeze various accounts linked to the activities of these companies. According to information relayed by the press, Z, the director of company X, was considered as the mastermind behind this

very highly structured fraud. A multitude of front companies had been created and then liquidated in order to enable the sale of oil products, billing VAT to domestic buyers without declaring the amounts to the tax authorities. The persons arrested in connection with this case were found guilty of several counts of falsification of documents and money laundering.

During analysis of the flow of funds through the account, no transaction in particular had been flagged as being unusual. In fact, the assets deposited in the account of company X mostly came from its own accounts opened abroad to cover local administrative costs. Moreover, the amounts in question were quite small. The financial intermediary nevertheless decided to report this business relationship to MROS because it was not able to completely rule out the possibility that illicitly obtained funds had been deposited into the account.

Given the obligation to reach a decision within 5 days following receipt of an SAR (Art. 10 para. 2 AMLA), MROS had initially decided not to pursue the case, due to a lack of



clearly established facts proving involvement of company X in the money laundering scheme. It did, however, contact foreign FIUs in order to obtain more detailed information about this case and the period in which the illicit activities had taken place. The replies received from these FIUs enabled MROS to confirm the possible link between company X and the claims made against company Y. Based on this new information, the initially closed SAR was forwarded to the corresponding prosecution authorities.

3.17 Works of art and a criminal organisation?

Several transactions linked to the purchase of works of art were made on the account of a client. Upon receipt of the funds linked to these acquisitions, the beneficial owner (X) carried out payment orders to a foreign bank account in the name of a company domiciled with an international law firm.

After analysing the situation, the financial intermediary felt that the explanations provided by its client were insufficient and rather unclear. Indeed, the person (Y) who transferred the funds to the account X did not have enough assets in the account to transfer such sums. Moreover, Y and X lived in the same town of a European country and the use of a bank account in Switzerland for business purposes did not seem very plausible.

After the account was frozen, X provided a certificate of authenticity for various works of art that proved that he was the owner. MROS noticed that the signature on this certificate was completely different from the one presented when the bank account was opened with the financial intermediary. Afterwards, MROS asked an art expert at Fedpol to appraise the works of art that had been used for the dubious transactions. It turned out that the stated worth indicated by X was exorbitant and absolutely did not reflect the true market value of these works of art. In light of this information, it seemed probable that X and Y were acting as front men for third parties or criminal organisations present in the region.

The SAR was forwarded to the corresponding prosecution authorities. However, the information in their possession did not justify the opening of a preliminary investigation.

3.18 Terrorism or financing of Islamist organisations?

A major inflow of cash on behalf of a company situated in Switzerland prompted a financial intermediary to file an SAR to MROS in relation to company (X), which was active in the sale of products and services in the telecommunication and electronics business. While examining the various transactions made on the account, the financial intermediary noticed several large cash deposits originating from the Middle East.

During its analyses, MROS noticed that other persons from the Middle East held seats on the board of directors of companies located at the same address and with a business purpose similar to the one indicated for company X. MROS looked deeper into the matter and was informed that one of these companies was owned by an individual who had been involved in terrorist activities back in the 1990s. In addition, other persons linked either directly or indirectly to this case were involved in various Islamic foundations. According to the managers of company X, the telephone cards were manufactured by a European supplier (Y) and sold to clients in Switzerland and elsewhere in Europe, mainly in cash. When the financial intermediary asked for clarification, X explained that Y sent the telephone cards directly to X's customers after these cards were issued or produced. However, MROS managed to obtain confirmation from the Swiss customs authorities that Swiss customers of X had never received merchandise sent by Y. Verification of the invoices provided to the financial intermediary also showed that the profit from these telephone cards was minimal and revealed other implausible details.

In addition, it was observed that the cash amounts deposited into the account of X were very considerable indeed. This detail, while not conclusive on its own, served as an indication of the scale of the true activity of X, who nonetheless seemed to be in dire financial straits. The SAR and MROS analysis were forwarded to the corresponding prosecution authorities so that they could draw their own conclusions regarding the legitimacy of the transactions made by X.

4 From the MROS Office

4.1 Legislative amendment of 21 June 2013 and new powers given to MROS in the area of money laundering

Adopted by the Swiss Parliament on 21 June 2013, the amendment of the Money Laundering Act did not prompt calls for a referendum. The revised act came into effect on 1 November 2013.

The amendment grants three main powers to MROS: the power to exchange financial data with foreign FIUs; the power to obtain information from financial intermediaries that have not submitted a SAR; and the power to sign memorandums of understanding (MoU) directly with foreign FIUs.

Since 1 November 2013, MROS has exchanged financial data with foreign FIUs. This data is used only for information purposes. With prior authorisation from MROS, foreign FIUs may also provide this financial data to the prosecution authorities in their country. In order to give this authorisation, MROS refers to Article 30 paragraph 4 and paragraph 5 AMLA, which establishes the conditions under which this information may be transferred.

The revised AMLA also authorises MROS to negotiate and sign memorandums of understanding (MoU) directly with foreign FIUs. These are purely technical arrangements, which only establish the terms for the exchange of information. Since this legislative amendment entered into force, MROS has not signed any such MoUs. It has nevertheless received various offers that it is currently considering. It is worth remembering that domestic legislation requires some countries in the Egmont Group to sign an MoU before they can exchange information with a foreign FIU. It is therefore in the interest of both MROS and foreign FIUs to conclude MoUs.

4.1.1 New Article 11a AMLA

Since 1 November 2013, MROS has been authorised to formally request information both from financial intermediaries that have submitted a SAR (to obtain additional details) as well as from financial intermediaries that have not submitted such a SAR. The new Article 11a AMLA addresses certain difficulties encountered by MROS investigators seeking to shed light on money laundering and terrorism financing.

Article 11a paragraph 1 only formalises existing MROS practices, establishing a legal basis for MROS to request additional information from financial intermediaries that

have submitted a SAR. Application of this provision should not be overly difficult.

4.1.2 Gathering information from third-party financial intermediaries

By virtue of Article 11a paragraph 2 AMLA, MROS may also contact financial intermediaries that have not submitted an SAR. When analysing incoming SARs, MROS often finds that transactions converge towards one or more financial intermediaries. Before 1 November 2013 (i.e. the date when Art. 11a came into effect), MROS did not have the authority to contact these other financial intermediaries. Its analysis was limited exclusively to the transactions concerning the financial intermediary that had submitted the SAR. When forwarding SARs to the corresponding public prosecutor's office, MROS drew attention to the transactions involving other financial intermediaries. Moreover, if MROS felt that there were sufficiently clear indications that other financial intermediaries were under an obligation to submit a SAR, the matter would be reported to FINMA. This spontaneous reporting, provided for under Article 10 paragraph 2 MROSO, remains in force.

MROS is only authorised to contact a third-party financial intermediary to obtain documents (i.e. making use of its new power) if this request is based on information provided in a SAR submitted by another Swiss financial intermediary. In other words, MROS can request additional information only if it has received an SAR requiring in-depth analysis and additional information from other financial intermediaries.

In order to obtain this additional information, MROS uses suitable forms based on Article 11a paragraph 1 or paragraph 2. These forms indicate the list of documents to be provided. MROS selects those that are deemed relevant to the case under analysis.

4.1.3 First questions on application

Since this legislative amendment came into effect on 1 November 2013, the first cases of application of Article 11a paragraph 2 AMLA have given rise to a few practical questions that should be addressed.

- a) The first question relates to the status of the MROS request. Could one consider that the MROS request form submitted by virtue of Article 11a paragraph 2 AMLA constitutes adequate grounds for suspicion and therefore automatically triggers submission of a SAR by virtue of Article 9 AMLA? The question is a legitimate one: after all, the request for information has come directly from Switzer-

land's own FIU, which is responsible for analysing cases of money laundering, its predicate offences and financing of terrorism. Can't the financial intermediary merely provide the requested information without submitting a SAR?

MROS wishes to clarify that the information request form alone does not constitute adequate grounds for suspicion. As it happens, the original SAR may have been triggered by the existence of a simple suspicion by virtue of Article 305^{ter} paragraph 2 SCC, i.e. the right to report. In addition, the system of SARs established by Swiss lawmakers in 1998 is intended to avoid the automatic submission of SARs. In order to submit a SAR to MROS, the financial intermediary must itself have specific reasons justifying this suspicion on the basis of elements at its disposal. We can therefore affirm that an MROS request made by virtue of Article 11a paragraph 2 AMLA must not automatically trigger a SAR.

Nevertheless, the financial intermediary cannot ignore the fact that its client is the subject of an information request made by Switzerland's FIU and that this information request, in turn, arose in relation to an SAR submitted by another financial intermediary. The third-party financial intermediary is therefore required to carry out clarifications under Article 6 paragraph 1 AMLA, to determine whether it also has specific grounds for suspicion. If such is the case, then it will send a SAR to MROS (by virtue of either Art. 9 AMLA or 305^{ter} para. 2 SCC), including the documents that MROS has requested by virtue of Article 11a paragraph 2 AMLA. If there are no specific grounds for suspicion, then the financial intermediary will merely provide MROS with the information requested by virtue of the aforementioned provision.

- b) Another question of application relates to the requirement placed on financial intermediaries not to inform their client. This gag order applies to MROS information requests made by virtue of Article 11a paragraph 4 in relation to mandatory SARs submitted under Article 10a paragraph 1 AMLA. The latter provision states that financial intermediaries must not inform the persons concerned or any third parties that it has submitted a SAR to MROS. This gag order remains in place for as long as the assets remain frozen. Here we find that application of this gag order becomes difficult within the framework of MROS information requests made under Article 11a paragraph 2. Third-party financial intermediaries have no way of knowing whether the original SAR that prompted the MROS information request was a mandatory SAR based on Article 9 AMLA or a voluntary SAR based on Article 305^{ter} paragraph 2 SCC. It

therefore does not know whether the assets in question have been frozen and if so, from when to when.

How long does a gag order associated with MROS information requests made under Article 11a paragraph 4 AMLA remain in effect? One possible interpretation would be to consider that the five-day period begins from the moment when the financial intermediary sends the documentation requested by MROS (without submitting an SAR). However, MROS will not inform the third-party financial intermediary of subsequent action taken in relation to the original SAR because this right to be informed is only enjoyed by the financial intermediaries that submitted the original SAR.

This interpretation is unsatisfactory in many respects. First of all, how does the gag order apply during the timeframe that MROS has given the financial intermediary to prepare the documentation? What about after the five-day period that starts from the moment when the financial intermediary provides MROS with the requested information? It is possible that after this five-day period, MROS is still in the process of analysing the case (e.g. when the original SAR is based on Art. 305^{ter} para. 2 SCC). Informing the client before or after the five-day period would not only put MROS's analysis at risk but also any subsequent criminal proceedings that might follow.

The solution to these questions is provided in a draft bill on implementation of the FATF Recommendations¹⁰. The new Article 10a paragraph 1 AMLA provides for a perpetual gag order. Applied to Article 11a paragraph 4, this would mean that the third-party financial intermediary that receives an information request from MROS would be under an absolute requirement to never inform its client that MROS has asked for information concerning this client. This perpetual gag order would apply from the moment in which the MROS information request is received. Adopted by the Federal Council in its 13 December 2013 session, this provision reflects the general aims of lawmakers in relation to AMLA: namely to provide financial intermediaries, MROS and the prosecution authorities with optimal legal conditions that enable them to identify, carry out in-depth analysis and prosecute money laundering and terrorist financing cases. Informing the client of an MROS information request would not only be superfluous, it might also create problems for MROS analysis and for any subsequent criminal investigation. We should also point out that MROS information requests are based on suspicion, not on hard evidence. Once the proposed amendment contained in the Federal Council's draft bill is adopted, the client must never be informed by the financial intermediary. He/she may only

¹⁰ Federal Act on Implementation of the Recommendations of the Financial Action Task Force (FATF), revised in 2012, FF 2014, 685, p. 698.

be informed if MROS forwards the case to the prosecution authorities and in that case it is the prosecution authorities that will contact the client.

Based on the general wishes of lawmakers, MROS recommends that financial intermediaries not notify their client when MROS makes an information request.

4.2 New securities violations considered as predicate offences to money laundering

On 1 May 2013, a major amendment to the Stock Exchange Act (SESTA, SR 954.1) came into effect.

Two violations, namely insider trading and price manipulation became felonies – i.e. predicate offences to money laundering – if the aggravating circumstance of a profit exceeding CHF 1 million applies.

In 2013, MROS received seven SARs relating to these two infractions. Among these, six concerned cases in which insider trading and price manipulation were the presumed predicate offences. Of these cases, four were forwarded to the corresponding prosecution authorities. According to the new Article 44 SESTA, the Office of the Attorney General of Switzerland now has the exclusive authority to investigate such matters.

Questions were raised by financial intermediaries in relation to these types of situations. What happens, for example, if the CHF 1 million threshold is not reached by a client with one financial intermediary but the latter is aware of the existence of other accounts held by its client with other financial intermediaries (without knowing the exact amount of the assets deposited)? How should one apply in practice the requirement that a security be listed on a Swiss stock exchange or entity similar to a stock exchange if the security in question is actually listed on a foreign stock exchange?

Financial intermediaries that raised the question concerning the CHF 1 million threshold decided to send a voluntary SAR to MROS by virtue of the right to report (Art. 305^{ter} para. 2 SCC). It is indeed difficult for a financial intermediary to turn a blind eye to the fact that its client has deposited funds with other financial intermediaries. In such cases, MROS has often made use of the new power given to it by Article 11a paragraph 2 AMLA to request information from third-party financial intermediaries that had not submitted an SAR.

With regards to the requirement that a security be listed on a Swiss stock exchange or entity similar to a stock exchange, the Office of the Attorney General of Switzerland has issued the following clarification:

“In order to fall under the scope of Article 40 and 40a SESTA, the securities must be tradable on a Swiss stock exchange or entity similar to a stock exchange (Art. 2 let. a SESTA as well as Art. 3 SESTA); in other words, the security only needs to be tradable, not necessarily listed in the strict sense. A security traded exclusively abroad will not be taken into account.¹¹”

The attention of financial intermediaries must nevertheless also include securities that are exclusively traded outside of Switzerland within the context of a designated offence. Indeed, funds resulting from such a transaction could lead to money laundering in Switzerland even if the underlying infraction is not covered as such by Swiss legislation – or at least not under Article 40 or 40a SESTA respectively. This arises from the abstract double jeopardy principle that the Federal Supreme Court has confirmed¹². According to this principle, an infraction committed abroad may be a predicate offence to money laundering if – by hypothetically transposing the situation to Switzerland – it would constitute a felony¹³. In order to apply this transposition in the case of stock market offences, it is important to ask whether – given the hypothesis that the perpetrator had acted in Switzerland on a security traded in Switzerland¹⁴ – it would have to be considered as a case described in Article 40 or 40a SESTA.

Moreover, a simple accounting gain can suffice; a jump in stock market price following publication of a confidential fact would be enough for the condition to apply¹⁵. There is no need for the person to have sold his/her securities or derivatives at the right time; the condition of pecuniary

¹¹ See Federal Council Dispatch of 31 August 2011 on Amendment of the Stock Exchange Act, FF 2011 p. 6354; see Koenig Daniela, *Das Verbot von Insiderhandel: eine rechtsvergleichende Analyse des schweizerischen Rechts und der Regelungen der USA und der EU*, Zurich 2006, p. 138; Leuenberger Christian, *Die materielle kapitalmarktstrafrechtliche Regulierung des Insiderhandels de lege lata und de lege ferenda in Switzerland: unter besonderer Berücksichtigung verschiedener moral-theoretischer und ökonomischer Konzepte sowie eines Vergleichs mit dem US-amerikanischen Bundesrecht*, Zurich 2010, p. 320 ss; Niggli Marcel Alexander/Wanner Marianne, *Basler Kommentar – Strafrecht II*, Niggli et al. (éd.), 3^{ème} édition, Bâle 2013, N. 15 ad Art. 161 bis CP.

¹² Decision of the Federal Supreme Court 136 IV 179, JdT 2011 IV 143; see earlier: Decision of the Federal Supreme Court 118 Ib 543, point 3.

¹³ Decision of the Federal Supreme Court 136 IV 179, point 2.3.4, JdT 2011 IV 143, point 2.3.4.

¹⁴ Since the person had acted in a third country by making a transaction on a security negotiated in this latter jurisdiction.

¹⁵ With regards to the condition of pecuniary advantage under previous legislation: see Christian Leuenberger, *Die materielle kapitalmarktstrafrechtliche Regulierung des Insiderhandels de lege lata und de lege ferenda in Switzerland*, Zurich 2010, p. 391 as well as the references in nbp 1607; also see: Silvan Hürlimann, *Der Insiderstrafatbestand: rechtsvergleichende Studie der schweizerischen und der US-amerikanischen Regelung unter Berücksichtigung der EU-Richtlinien und der aktuellen Entwicklungen im Finanzmarktrecht*, Zürich Bâle Genève 2005, p. 95; more nuanced: Peter Böckli, *Insiderstrafrecht und Verantwortung des Verwaltungsrates*, Zurich 1989, p. 74 ss.

advantage applies even if the security later drops below its initial purchase price after the initial increase in stock price following publication of the confidential fact.”

4.3 Changes to the SAR submission system

In its Annual Report 2012, MROS provided a detailed presentation of the SAR submission system sent to the Federal Council for approval on 27 February 2013. MROS now provides an update of the current legislative situation.

The consultation procedure lasted until 1 July 2013. On 4 September, the Federal Council formally took note of the results of the popular consultation¹⁶. With regards to the SAR submission system, the Federal Council initially decided to maintain the proposal to suppress the automatic freezing of assets for a five-day period in the case of mandatory SARs submitted by virtue of Article 9 AMLA. This is the system of deferred freezing of funds under Article 9a of the draft AMLA¹⁷ – that MROS presented in its Annual Report 2012 – which is desired by the Federal Council. This is reflected both in its Dispatch¹⁸ and in the draft bill¹⁹ adopted on 13 December 2013.

Responding to requests by interested parties, the Federal Council also decided to maintain the right to report (Art. 305^{ter} para. 2) despite the proposal to suppress this right. However, this right is not conceived as being separate from the freezing of assets. The draft bill of 13 December 2013 provides that Article 9a (deferred freezing of assets in the case of urgency) shall also apply in the case of SARs submitted by virtue of Article 305^{ter} paragraph 2 SCC.

The Federal Council also took into account the request made by other interested parties concerning the setting of a deadline for the handling of SARs by MROS. As it happens, the draft bill submitted for popular consultation provided that only the duty to report under Article 9 AMLA would remain in effect. No deadline for the handling of SARs by MROS was set. In its draft bill of 13 December 2013, the Federal Council established a deadline of 30 working days for the handling of such SARs by MROS. This deadline only applies to SARs submitted to MROS under the duty to report (Art. 9 AMLA). Voluntary SARs submitted by virtue of the right to report under Article 305^{ter} paragraph 2 SCC are not subject to any maximum deadline. In the latter case, it is the current situation that subsists.

4.4 Decisions of prosecution authorities

4.4.1 Decision of the Federal Criminal Court

In its judgment of 25 October 2012, the written explanation of which was sent to the parties on 17 January 2013, the Federal Criminal Court (hereinafter: FCC), in its ruling in the case SK.2011.27, acquitted a self-employed asset manager (hereinafter: the accused) of various counts of providing support to a criminal organisation, of serious violation of the Narcotics Act and of aggravated money laundering.

Between the months of September 1997 and April 2004, the accused had had accounts opened, reactivated or closed on behalf of his main client, a Spanish industrialist active in the food industry and real estate (hereinafter D.). Eleven accounts had been opened in the name of offshore companies or trusts, and major cash deposits had been made on some of these accounts. The client in question was sentenced to ten years in prison in Spain and was ordered to pay two fines in relation to very large shipments of narcotics made by a criminal organisation (see judgment of 16 November 2009 of the Spanish National Court in Madrid). With the help of the accused, D had managed to transfer the capital to his accounts in Switzerland without any physical or accounting transfers thanks to offsetting transactions.

In order to prove the illicit origin of the laundered assets, there must be evidence showing that a predicate offence as such has occurred. There must also be evidence showing that the laundered assets in question came from that same predicate offence. Therefore, the link between the assets and the predicate offence must be strong enough to exclude any and all legitimate doubt.

In this case, the FCC considered that the organisation to which D had provided support satisfied the criteria of a criminal organisation under Swiss law and that these facts

¹⁶ See: <http://www.news.admin.ch/message/index.html?lang=fr&msg-id=50108>

¹⁷ Concerning this article 9a, the Federal Council made certain additional clarifications, referring to questions raised during consultation. For instance, what should be done if, during the period of MROS analysis, the client concerned asks his/her financial intermediary to transfer all or part of his/her assets to another financial intermediary based in Switzerland (without the conditions of Art. 9a para. 2 seeming to apply)? In such cases, the first financial intermediary would notify the second of the SAR being processed by MROS. However, it is possible that certain financial intermediaries might find themselves in a situation where the second financial intermediary described above (i.e. the one receiving the funds referred to in the SAR submitted to MROS) refuses to accept these funds. In its Dispatch dated 13 December 2013, the Federal Council clearly prohibits such a refusal (Federal Council Dispatch, p. 667). Indeed, not accepting these assets would have the effect of tipping off the client that he/she is the subject of an SAR being analysed by MROS. This would go against Art. 10a para. 1 of the draft bill to implement the revised FATF Recommendations which, as mentioned above, stipulate that a client may not be informed under any circumstances whatsoever.

¹⁸ Federal Council Dispatch on implementation of the Recommendations of the Financial Action Task Force (FATF), revised in 2012 (FF 2014, 585).

¹⁹ Federal Act on Implementation of the Recommendations of the Financial Action Task Force (FATF), revised in 2012, FF 2014, 685.

could be deemed sufficient in proving the predicate offence required by Article 305bis SCC. The indictment indicated that the criminal activity of the accused had begun in 1997 and continued until March 2003. The previously mentioned criminal organisation had decided to import cocaine by a shipping route in 2002. The planning, preparation and technical execution of the importation of cocaine had begun in September 2002 and continued until October 2003. The specific illicit activities consisted in dispatching the drugs from Colombia (point of origin) and importing them to Spain (country of destination) and included transport. The drugs did not reach Spanish territory because they were seized by the Spanish authorities. In addition, no pecuniary advantage was derived from this drug trafficking operation.

In light of the foregoing, the proven activities of D in relation to drug trafficking occurred after the funds in question had reached Switzerland. Therefore, there cannot be any link between these funds, the funds managed by the accused and the crime committed by D.

The Swiss investigation also revealed transactions linked to a major case of cigarette trafficking in which D was claimed to have been involved back in the 1990s. The FCC nevertheless disregarded this information because this type of trafficking was not considered a felony under Swiss law, at any rate not prior to 1 February 2009, the date when Article 14 paragraph 4 ACLA went into effect. Under these circumstances, the FCC considered that the funds managed by the accused in Switzerland on behalf of D could not be considered the result of a predicate offence and that he must be acquitted of the accusation of money laundering.

5 International scene

5.1 Egmont Group

The Egmont Group has revised the formal and material content of its fundamental documents in order to take the large increase in membership into account.

The revision should also include the revised FATF Recommendations of February 2012. In the revised interpretative notes on Recommendation 29, it was noted that FIUs should seek to become members of the Egmont Group and adhere to the Egmont Group Statement of Purpose as well as the Principles for Information Exchange between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases. The Egmont Group continues to refrain from a single definition of what constitutes a financial intelligence unit and refers to FATF Recommendation 29 and corresponding interpretive note contained in the Charter.

Both sides wish to make better use of synergies between the FATF and the Egmont Group.

The Warning of Suspension issued to MROS in 2011 due to a lack of authority to forward financial information to foreign FIUs was lifted during the plenary session in 2013. On 1 November 2013, the corresponding amendments to the Swiss Anti-Money Laundering Act came into force.

New members

At the end of the reporting year, the Egmont Group was comprised of 139 FIUs. During its Plenary Meeting in 2013, the Egmont Group approved eight new members from the following jurisdictions:

Algeria

CTRF (Financial Intelligence Processing Unit)

Bangladesh

BFIU (Bangladesh Financial Intelligence Unit)

Bolivia

UIF (Financial Investigations Unit)

Burkina Faso

CENTIF (The National Financial Information Processing Unit)

The Holy See (Vatican City State)

AIF (Financial Intelligence Authority)

Seychelles

Seychelles FIU

Togo

CENTIF (Togo Financial Intelligence Unit)

Trinidad and Tobago

FIU of Trinidad and Tobago

MROS will continue its work within the Egmont Group. In 2013, exchanges with foreign FIUs increased considerably.

5.2 GAFI/FATF

The Financial Action Task Force (FATF) is an intergovernmental organisation. It was founded with the objective of analysing methods of money laundering and elaborating strategies against money laundering and terrorist financing at the international level. MROS is represented within the FATF as part of the Swiss delegation.

New FATF evaluation methodology

The FATF has adopted a new methodology for assessing technical compliance with the FATF Recommendations and the Effectiveness of AML/CFT systems. The new methodology sets out how the FATF will determine whether a country is sufficiently compliant with the 2012 FATF Standards and whether its AML/CFT system is working effectively. This document can be viewed online on the FATF website.

Third and fourth cycles of mutual evaluations

The third cycle of mutual evaluations should be completed during the first half of 2014. The procedures and process for the FATF's fourth cycle of mutual evaluations were adopted during the plenary meeting held in October. MROS took an active part in revising these standards.

High-risk and non-cooperative jurisdictions

The FATF publishes and continually updates lists of countries whose anti-money laundering and financing of terrorism legislation is deemed insufficient or at least insufficiently detailed and opaque. These include countries that have made a commitment to implement an action plan and are making progress, as well as countries that have not committed to an action plan or that have adopted an action plan but have not made sufficient progress in addressing deficiencies. The latest list may be viewed on the FATF website.

Typologies publications

All of the studies conducted and finalised by working groups in 2013 have been posted to the FATF website:

The report on "Terrorist Financing in West Africa" was the result of a joint effort by the Inter Governmental Action Group against Money Laundering in West Africa (GIABA) and FATF. The study was conducted mainly for the purpose of identifying the various methods used to collect, transfer and finance the activities of terrorist organisations in West Africa.

- The report on "The role of Hawala and other similar service providers in money laundering and terrorist financing" highlights the various types of AML/CFT risks encountered by existing hawalas and other similar service providers (HOSSPs).
- The report on "Money laundering and terrorist financing through trade in diamonds" was jointly conducted by the FATF and the Egmont Group. This report, which Switzerland also contributed to, is based on an analysis of specific case studies as well as on consultation with the private sector.
- The report on "Money Laundering and Terrorist Financing Related to Counterfeiting of Currency" examines the mechanisms used to integrate the illicit gains derived from trade in counterfeit currency so as to finance terrorism and other crimes relating to money laundering.
- The report on "Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals" presents a detailed study of red flag indicators of ML/TF specifically associated with legal professions. The report is based on analysis of numerous case studies as well as on information gleaned from a questionnaire sent to FATF members and the private sector. Switzerland also took part in this study.

Current typologies projects in 2014

The FATF is now working on two typologies projects that should be completed over the course of this year.

The FATF currently seeks to identify the risks of misuse of non-profit organisations for the financing of terrorism. This project is entitled "Risk of Terrorist Abuse in the NPO Sector" and should shed light on the various techniques used to finance terrorism through NPOs. Analysis will be based on case studies.

The second project underway relates to "Money Laundering from Drug Trafficking in Afghanistan". This study involves the analysis of financial flows arising from drug trafficking in this geographical area. The study also presents indicators and a list of countries used as financial hubs for such trafficking.

Two new projects will also be launched in 2014:

One study will be devoted to analysis of money laundering through the physical transportation of cash across borders in relation to drug trafficking and other criminal activities.

6 Internet links

6.1 Switzerland

6.1.1 Money Laundering Reporting Office

www.fedpol.admin.ch/

Federal Office of Police / MROS

www.fedpol.admin.ch/content/fedpol/en/home/themen/kriminalitaet/geldwaescherei/meldeformular.html

SAR form MROS

6.1.2 Supervisory authorities

www.finma.ch/

Swiss Financial Market Supervisory Authority FINMA

www.esbk.admin.ch/

Federal Gaming Commission

6.1.3 Self-regulating organisations

www.arif.ch/

Association Romande des Intermédiaires Financières (ARIF)

www.oadfct.ch/

OAD-Fiduciari del Cantone Ticino (FCT)

www.oarg.ch/

Organisme d'Autorégulation des Gérants de Patrimoine (OAR-G)

www.polyreg.ch/

PolyReg

www.sro-sav-snv.ch/

Self-regulating Organization of the Swiss Bar Association and the Swiss Notaries Association

www.leasingverband.ch/46/SRO.html

SRO- Schweizerischer Leasingverband (SLV)

www.sro-treuhanduisse.ch

SRO-Schweizerischer Treuhänderverband (STV)

www.vsv-asg.ch/

SRO-Verband Schweizerischer Vermögensverwalter (VSV)

www.vqf.ch/

Verein zur Qualitätssicherung von Finanzdienstleistungen (VQF)

www.sro-svv.ch/

Self-regulation organisation of the Swiss Insurance Association

www.sfama.ch/

Swiss Funds & Asset Management Association SFA

www.svig.org/

Schweizer Verband der Investmentgesellschaften (SVIG)

6.1.4 National associations and organisations

www.swissbanking.org

Swiss Bankers Association

www.swissprivatebankers.com

Swiss Private Bankers Association

www.sv.ch

Swiss Insurance Association

6.1.5 Others

www.ezv.admin.ch/

Federal Customs Association

www.snb.ch

Swiss National Bank

www.bundesanwaltschaft.ch

Office of the Attorney General of Switzerland OAG

www.seco.admin.ch/themen/00513/00620/00622/index.html

State Secretariat for Economic Affairs SECO / economic sanctions based on the Embargo Act

www.bstger.ch

Federal Criminal Court

6.2 International

6.2.1 Foreign reporting offices

www.egmontgroup.org/about/list-of-membersList_of_all

Egmont members, partially with link to the homepage of the corresponding country

6.2.2 International organisations

www.fatf-gafi.org

Financial Action Task Force on Money Laundering

www.unodc.org/

United Nations Office on Drugs and Crime

www.egmontgroup.org/

Egmont Group

www.cfatf-gafic.org/

Caribbean Financial Action Task Force

6.3. Other links

www.europa.eu/

European Union

www.coe.int

European Council

www.ecb.int

European Central Bank

www.worldbank.org

World Bank

www.bka.de

Bundeskriminalamt Wiesbaden, Germany

www.fbi.gov

Federal Bureau of Investigation, USA

www.interpol.int

INTERPOL

www.europol.net

Europol

www.bis.org

Bank for International Settlements

www.wolfsberg-principles.com

Wolfsberg Group

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