



REPORT

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OFFICE SWITZERLAND MROS**

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TOPICS

Statistics

Typologies

From the MROS office

International scene

Internet Links

MROS

15th Annual Report

May 2013

2012

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Federal Office of Police

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1. Introduction

With the number of Suspicious Activity Reports (SARs) generating a total asset value of more than CHF 3 billion, the Money Laundering Reporting Office Switzerland (MROS) witnessed a similar record high in 2012 as in 2011. The number of reports submitted to MROS in 2012—although slightly less than in 2011—remained high, at 1,585 SARs. The high reporting volume in 2011 was a result of exceptional circumstances, especially political upheaval in certain countries and the high number of SARs from the payment services sector. These exceptional circumstances were not repeated in 2012. Leaving aside the reports submitted in connection with the exceptional circumstances mentioned, the number of SARs submitted in 2012 was in fact higher than in 2011. The last two years can therefore both be considered record years with regard to reporting volume.

A special feature of the year under review was the relatively low number of complex cases. These cases involve a large number of natural persons and legal entities that all require verification by MROS. These cases are generally combined into a single analysis. However, despite the low number of complex cases in 2012, MROS still had more work because each case required a separate analysis.

With regard to suspected predicate offences, fraud remained at the top of the table. However, the number of SARs involving this offence was slightly lower in 2012, like overall reporting volume. SARs involving other predicate offences, such as bribery and embezzlement, increased. The number of cases involving bribery as a suspected predicate offence was even higher than in 2011 when—as MROS observed—both bribery and embezzlement rose considerably on account of political upheaval in certain countries.

In 2012, MROS actively participated in two important legislative projects. The first involved the revision of the Anti-Money Laundering Act (AMLA) to allow MROS to exchange information with financial intelligence units abroad, a requirement of the Egmont Group. After undergoing consultation, the draft amendment was accepted by the Federal Council on 27 June 2012 and forwarded to the Federal Assembly. The amendments were adopted by the Council of States on 11 December 2012 and by the National Council on 21 March 2013.

The second legislative project concerns enacting legislation to apply the revised FATF Standards of 16 February 2012. A working group, headed by the Secretary of State for International Financial Matters, has worked on several fronts to fully meet international standards. The legislative project and its explanatory note are currently in the consultation process. An essential element of the project concerns modifying the system of submitting SARs and therefore directly relates to MROS. It mainly aims to do away with the automatic freezing of assets for five days as provided for by Article 10 AMLA when a financial intermediary submits a SAR by virtue of Article 9 AMLA. This will give MROS the time it

requires to conduct an in-depth analysis, which is often difficult at present due to the five-day deadline. In addition, the right to report by virtue of Article 305^{ter} paragraph 2 Swiss Criminal Code is to be abolished. Both these points were criticised by the Financial Action Task Force during its last evaluation of Switzerland.

Bern, May 2013

Judith Voney, Attorney
Head of the Money Laundering Reporting Office Switzerland MROS

Federal Department of Justice and Police FDJP
Federal Office for Police, Directorate Staff
MROS Section

2. Annual MROS statistics

2.1. Overview of MROS statistics 2012

Summary of reporting year (1 January 2012 – 31 December 2012)

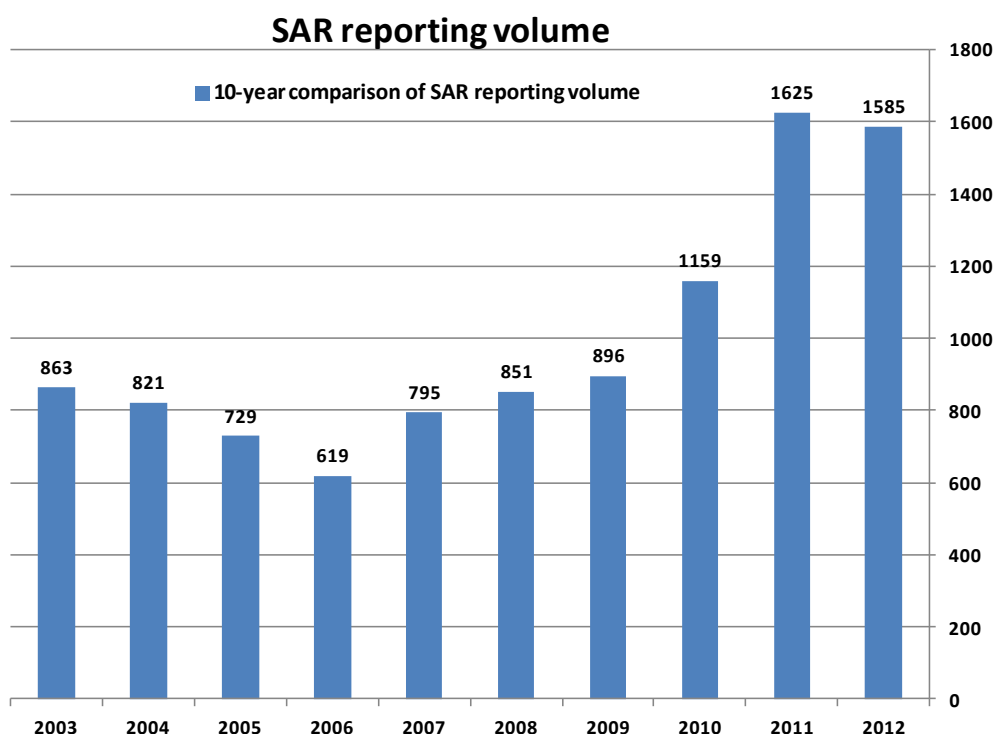
SAR reporting volume	2012		+/-	2011	
	Absolute	Relative		Absolute	Relative
Total number of SARs received	1585	100.0%	-2.5%	1625	100.0%
Forwarded SARs	1355	85.5%	-7.9%	1471	90.5%
Non-forwarded SARs	230	14.5%	49.4%	154	9.5%
Pending SARs	0	0.0%	N/A	0	0.0%
Type of financial intermediary					
Bank	1050	66.2%	-2.8%	1080	66.4%
Payment services sector	363	22.9%	-4.2%	379	23.3%
Fiduciary	65	4.1%	4.8%	62	3.8%
Asset manager / Investment advisor	49	3.1%	81.5%	27	1.7%
Attorney	12	0.7%	-61.3%	31	1.9%
Insurance	9	0.6%	-18.2%	11	0.7%
Credit card company	22	1.4%	120.0%	10	0.6%
Casino	6	0.4%	0.0%	6	0.4%
Foreign exchange trader	0	0.0%	-100.0%	7	0.4%
Securities trader	1	0.1%	N/A	0	0.0%
Other	4	0.2%	33.3%	3	0.2%
Loan, leasing and factoring business	1	0.1%	-80.0%	5	0.3%
Commodity and precious metal trader	3	0.2%	200.0%	1	0.1%
Currency exchange	0	0.0%	-100.0%	3	0.2%
Amounts involved in CHF					
(Total effective assets at time of report)					
Total asset value of all SARs received	3'150'575'049	100.0%	-4.0%	3'280'578'413	100.0%
Total asset value of forwarded SARs	2'832'005'244	89.9%	-12.1%	3'222'909'651	98.2%
Total asset value of pending SARs		0.0%	N/A	0	0.0%
Total asset value of non-forwarded SARs	318'569'806	10.1%	452.4%	57'668'762	1.8%
Average asset value of SARs (total)	1'987'745			2'018'817	
Average asset value of forwarded SARs	2'090'041			2'190'965	
Average asset value of pending SARs	0			0	
Average asset value non-forwarded SARs	1'385'086			374'472	

2.2. General remarks

The 2012 reporting period was characterised by the following developments:

1. Small decrease in the total number of SARs over the previous reporting period;
2. High total asset value, as in 2011;
3. Small decrease in the number of SARs forwarded to prosecution authorities.

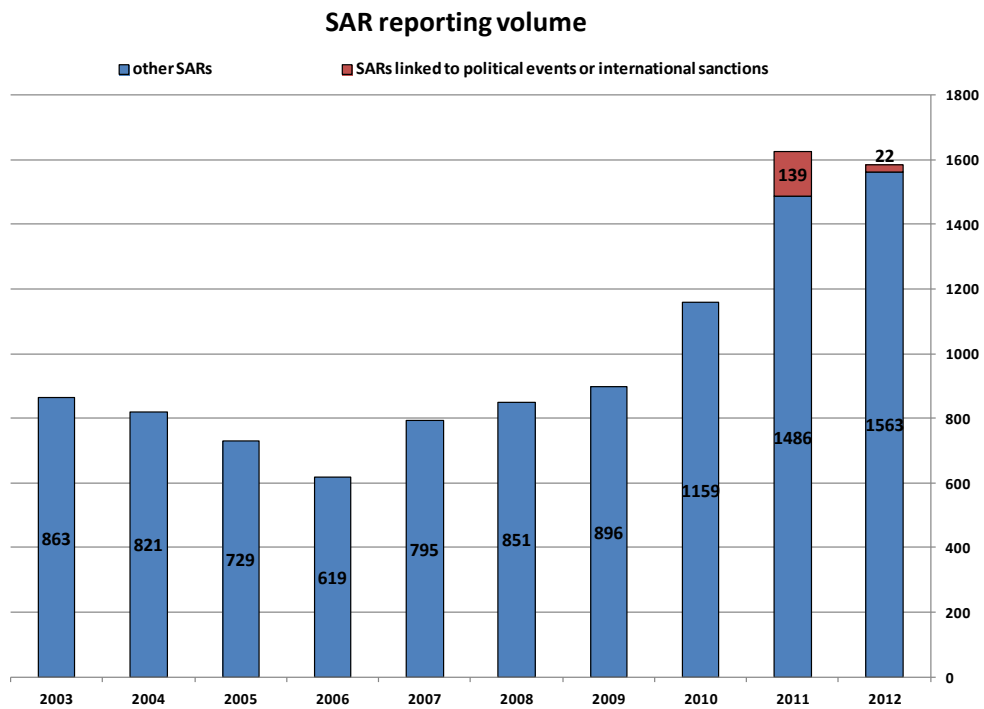
2.2.1 Total number of SARs



In the 2012 reporting period, MROS received a total 1,585 SARs. This was 40 fewer than in 2011. This decrease should not mislead us into drawing any hasty conclusions, especially since the 2011 reporting period was exceptional for two reasons: firstly, political upheaval in certain countries resulted in an increase in SARs from the *banking sector* and, secondly, there was a noticeable increase in SARs from the *payment services sector* (due mainly to the clean-up of accounts by one money transmitter).

Whereas political upheaval in certain countries in the Middle East and North Africa was behind 139 of the SARs submitted in 2011, MROS received only 22 SARs in 2012 in connection with these events. The decrease of 40 SARs in 2012 must therefore be put into perspective, since overall reporting volume in 2012 was not influenced by any exceptional circumstances or underlying factors. In other words, leaving aside the

SARs submitted in connection with the political upheaval of 2011, the number of SARs in 2012 was higher than in 2011. This is illustrated in the graph below. The same conclusion is reached if we consider the other reason for the increase in reporting volume in 2011, namely the increase in SARs from the *payment services sector*. MROS continued receiving SARs from this category in 2012, albeit at a lower level than in the previous year. Therefore, we can conclude that the upward trend in reporting volume since 2006 continued in 2012.



As in the previous years, MROS received most reports in 2012 again from the *banking sector* (1,050 SARs). At approximately 66 percent of total reporting volume, this figure remained unchanged over 2011. It should be noted at this point that complex cases often result in multiple SARs due to the high number of business connections reported. In 2011, several complex cases from this sector generated multiple SARs, raising reporting volume accordingly. In 2012, only one case from the banking sector triggered multiple—to be precise, 26—SARs. In general, this sector did not yield particularly complex cases in 2012.

In second place, behind the *banking sector*, was the *payment services sector*, with 363 SARs. This figure was only slightly below the exceptionally high 2011 level of 379 SARs (see chapter 2.2.2). If we consider the total number of reports from the *banking sector* and *payment services sector* together, it is clear that the overwhelming majority of SARs in 2012 came from these two categories (1,413 SARs).

The category *fiduciary* continued its upward trend of the last few years, submitting 65 SARs in 2012 (2011: 62 SARs).

There was also an increase in the category *asset managers*; with 49 SARs, this category submitted nearly twice as many reports in 2012 as in the previous reporting period (2011: 27 SARs). However, it is too early to speak of a trend because the figure for 2010 was similarly high (40 SARs), only to fall in 2011 to 27 SARs, before rising again to 49 SARs in 2012. The increase in 2012 was partly due to three complex cases that generated 10 SARs owing to the high number of business connections involved.

The number of SARs from the category *credit card company* more than doubled in 2012. This category also involved two complex cases, one generating 8 SARs and the other generating 3 SARs.

When MROS deals with a complex case, it generally combines all the reports it receives on the same case into a single analysis. In 2012, MROS received few complex cases, meaning that most of the cases 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 in 2012 (2.31 days) than in the previous reporting year (2011: 2.02 days). It should be noted here that MROS is required to process SARs submitted under Article 9 AMLA within 5 days. MROS also tries to process SARs submitted by virtue of Article 305^{ter} paragraph 2 SCC within the same time frame.

2.2.2 SARs from the payment services sector

As indicated above, the *payment services sector* was the second largest contributor of SARs behind the *banking sector*. With 363 SARs in 2012, this sector submitted only slightly fewer reports than in the previous reporting period (2011: 379 SARs), which was considered to be an exceptional year. In fact, 2011 marked a clean break with the previous years because of the exceptionally high number of SARs from the sub-category *money transmitters*, which was due to one financial intermediary cleaning up his accounts retroactively and reporting a large number of suspicious transactions that had already been carried out. MROS continued receiving SARs from this category in 2012, albeit at a lower level than in the previous year. Furthermore, the most complex case from this sub-category in 2012 (generating no fewer than 48 SARs) came from the same financial intermediary. Another complex case triggered 13 SARs, and three further cases generated a total of 21 SARs. There was also an increase in reporting volume from the other sub-category *providers*, from 141 SARs in 2011 to 187 SARs in 2012 (+46 SARs).

In general, we can see a sharp increase in the number of SARs from the *payment services sector* in the last two reporting periods. The increase was especially pronounced between 2010 and 2011, when reporting volume from this category increased from 184 SARs to 379 SARs. However, it is still too early to speak of a clear upward trend. In fact, if we look at the figures from several years ago, we see that MROS received 460 SARs from the payment services sector in 2003. The statistics of the next few years will show whether the upward trend will continue in future.

Year	Total SARs	in %	Payment services sector	in %	-of which providers	in %	-of which money transmitters	in %
2003	863	100	460	53	130	28	330	72
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	1159	100	184	16	123	67	61	33
2011	1625	100	379	23	141	37	238	63
2012	1585	100	363	23	187	52	176	48
Total	9943	100	2873	29	1080	38	1793	62

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

Out of the 1,585 SARs submitted to MROS in 2012, 542 SARs, or 34 percent, were submitted under Article 305^{ter} paragraph 2 SCC (*right to report* or *voluntary SARs*), and 1,043 SARs, or nearly 66 percent, were submitted under Article 9 AMLA (*duty to report* or *mandatory SARs*).

Between 2009 and 2010, the number of voluntary SARs increased more than twofold. This increase was due to the revision of the Anti-Money Laundering Act in 2009. 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 2011 reporting year witnessed a significant increase in voluntary SARs; from 471 in 2010 to 625 in 2011. In 2012, however, the number of voluntary SARs fell to 542. It should be noted again that the significant increase in voluntary SARs in 2011 was due to the overall increase in reporting volume in that year on account of political upheaval in North Africa and the Middle East.

The statistics of the last few years reveal that individual financial sectors follow different practices with regard to what type of SAR they submit. As in previous years, the 2012 statistics show that voluntary reporting was chosen especially by the *banking sector* (80 percent of voluntary SARs) and the sub-category *providers* from the payment services sector (14 percent of voluntary SARs). The sub-category *money transmitters*, however, made little use of the right to report.

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. At draft amendment of the Anti-Money Laundering Act, aimed at abolishing voluntary SARs, is currently in the consultation phase (see chapter 4.5).

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

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.

If one takes into consideration SARs from the banking sector only, the figures show that this category of financial intermediaries submitted more mandatory than voluntary SARs in 2012 (as opposed to 2011). However, there is a considerable difference between *foreign-controlled banks* and *major (Swiss) banks*. Whereas *foreign-controlled banks* submitted more mandatory SARs (63.5 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 (57.5 percent).

Type of bank	Art. 9 AMLA	in %	Art. 305 ^{ter} para. 2 SCC	in %	Total
Other institution	14	33.3	28	66.7	42
Foreign-controlled bank	221	63.5	127	36.5	348
Asset management bank	72	62.6	43	37.4	115
Branch of foreign bank	1	50.0	1	50.0	2
Major bank	131	42.5	177	57.5	308
Cantonal bank	49	61.2	31	38.8	80
Private banker	66	91.7	6	8.3	72
Raiffeisen bank	40	62.5	24	37.5	64
Regional and savings bank	17	89.5	2	10.5	19
Total	611	58.2	439	41.8	1050

Financial intermediary	Type of SAR	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Banks	Total	302	342	294	359	492	573	603	822	1080	1050	5917
	9 AMLA	275	313	258	271	307	392	401	426	536	611	3790
	305 ^{ter} SCC	27	29	36	88	185	181	202	396	544	439	1688
Supervisory authorities	Total	2		2	5	1	1	4		1		16
Casinos	Total	8	2	7	8	3	1	5	8	6	6	54
	9 AMLA	8	2	7	8	2	1	5	4	3	1	41
	305 ^{ter} SCC					1			4	3	5	13
Foreign exchange trader	Total	2	1	1	1			5	6	7		23
	9 AMLA			1	1			5	6	5		18
	305 ^{ter} SCC	2	1						0	2		5
Securities trader	Total		2	2		2	5	2	4		1	19
	9 AMLA		2	2		2	5	2	1		1	16
	305 ^{ter} SCC								3			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	2	1	1	7	4	1	11	1	5	1	34
	9 AMLA	2	1	1	3	4	1	10	1	5	1	29
	305 ^{ter} SCC				4			1				5
Credit card company	Total	1	2			2	2	10	9	10	22	58
	9 AMLA	1	2			2	2	3	6	6	20	42

	305 ^{ter} SCC							7	3	4	2	16
Attorney	Total	9	10	8	1	7	10	11	13	31	12	112
	9 AMLA	9	9	8	1	7	10	11	12	27	11	105
	305 ^{ter} SCC		1						1	4	1	7
Commodity and precious metal trader	Total	1				1	5	1	1	1	3	13
	9 AMLA	1				1	5	1	1	1	3	13
	305 ^{ter} SCC											
Fiduciary	Total	47	36	31	45	23	37	36	58	62	65	440
	9 AMLA	44	36	31	43	20	35	34	58	57	60	418
	305 ^{ter} SCC	3			2	3	2	2		5	5	22
other FI	Total	1	7		1	2		1	4	2	4	22
	9 AMLA	1	7		1	2		1	4	2	4	22
	305 ^{ter} SCC											
Asset manager / investment advisor	Total	18	13	18	6	8	19	30	40	27	49	228
	9 AMLA	17	13	17	6	5	16	29	38	21	42	204
	305 ^{ter} SCC	1		1		3	3	1	2	6	7	24
Insurance	Total	8	8	9	18	13	15	9	9	11	9	109
	9 AMLA	8	7	7	15	12	12	9	9	8	7	94
	305 ^{ter} SCC		1	2	3	1	3	0		3	2	15
Distributor of investment funds	Total	3	3	5		1	1					12
	9 AMLA	2	3	4			1					10
	305 ^{ter} SCC	1	0	1								2

Payment services, divided into	Total	459	391	348	164	231	185	168	184	379	363	2872
a) providers	9 AMLA	127	87	32	22	27	46	86	65	91	109	692
	305 ^{ter} SCC	2	10	25	39	73	32	20	58	50	78	387
b) money transmitters	9 AMLA	268	255	257	102	129	104	61	57	236	173	1642
	305 ^{ter} SCC	62	39	34	1	2	3	1	4	2	3	151

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 305^{bis} 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 serve the financing of terrorism.

Only 22 SARs were submitted in 2012 under Article 9 paragraph 1 (b) AMLA (one more than in 2011). Of these 22 SARs, eight were forwarded to the prosecution authorities (2011: 9 SARs), bringing down the proportion of forwarded SARs in connection with attempted money laundering to 36 percent (2011: approximately 43 percent). Out of the eight SARs forwarded to the prosecution authorities in 2012, one was dismissed. A second SAR was the subject of a ruling by the competent prosecution authority suspending proceedings. The remaining 6 are still pending.

Since the entry into force of Article 9 paragraph 1 (b) AMLA in 2009, MROS has received a total of 72 SARs by virtue of this article, 27 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 approximately 38 percent. Of the 27 SARs forwarded to prosecution authorities, four cases were dismissed, nine cases were suspended and once case resulted in a conviction⁴. Thirteen of the 27 cases are still pending.

Let us remember that 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. As mentioned above (see chapter 2.2.4), a financial intermediary 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

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, of forgery and falsifying identity documents, not of money laundering, however (due to insufficient proof).

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 but instead files the case, the aim of prevention will have been achieved because the client will not have succeeded in introducing criminal assets into legal circulation or in financing terrorism. With the case on file, 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.

Financial intermediary	Type of SAR	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Banks	Total	302	342	294	359	492	573	603	822	1080	1050	5917
	of which Art. 9 (1)b AMLA	2	4	10	9	16	6	15	9	13	13	97
Supervisory Authority	Total	2		2	5	1	1	4	0	1		16
Casinos	Total	8	2	7	8	3	1	5	8	6	6	54
	of which Art. 9 (1)b AMLA											0
Foreign exchange trader	Total	2	1	1	1			5	6	7		23
	of which Art. 9 (1)b AMLA									2		2
Securities trader	Total		2	2		2	5	2	4		1	18
	of which Art. 9 (1)b AMLA											0
Currency exchange	Total		3	3	2	1	1	1		3		14
	of which Art. 9 (1)b AMLA											0
Loan, leasing, factoring and non-recourse financing	Total	2	1	1	8	4	1	11	1	5	1	35
	of which Art. 9 (1)b AMLA											0
Credit card company	Total	1	2			2	2	10	9	10	22	58
	of which Art. 9 (1)b AMLA								1			1
Attorney	Total	9	10	8	1	7	10	11	13	31	12	112

	of which Art. 9 (1)b AMLA											0
Commodity and precious metal trader	Total	1			1	5	1	0	1	1	3	13
	of which Art. 9 (1)b AMLA											0
Fiduciary	Total	47	36	31	45	23	37	36	58	62	65	440
	of which Art. 9 (1)b AMLA							1	1	2	4	8
Other FI	Total	1	7		1	2		1	4	2	4	22
	of which Art. 9 (1)b AMLA											0
Asset manager / Investment advisor	Total	18	13	18	6	8	19	30	40	27	49	226
	of which Art. 9 (1)b AMLA								2	1		3
Insurance	Total	8	8	9	18	13	15	9	9	11	9	109
	of which Art. 9 (1)b AMLA										3	3
Distributor of investment funds	Total	3	3	5		1						12
	of which Art. 9 (1)b AMLA											0
Payment services	Total	459	391	348	164	231	185	168	184	379	363	2872
	of which Art. 9 (1)b AMLA									3	2	5

2.2.5 Proportion of SARs forwarded to the prosecution authorities

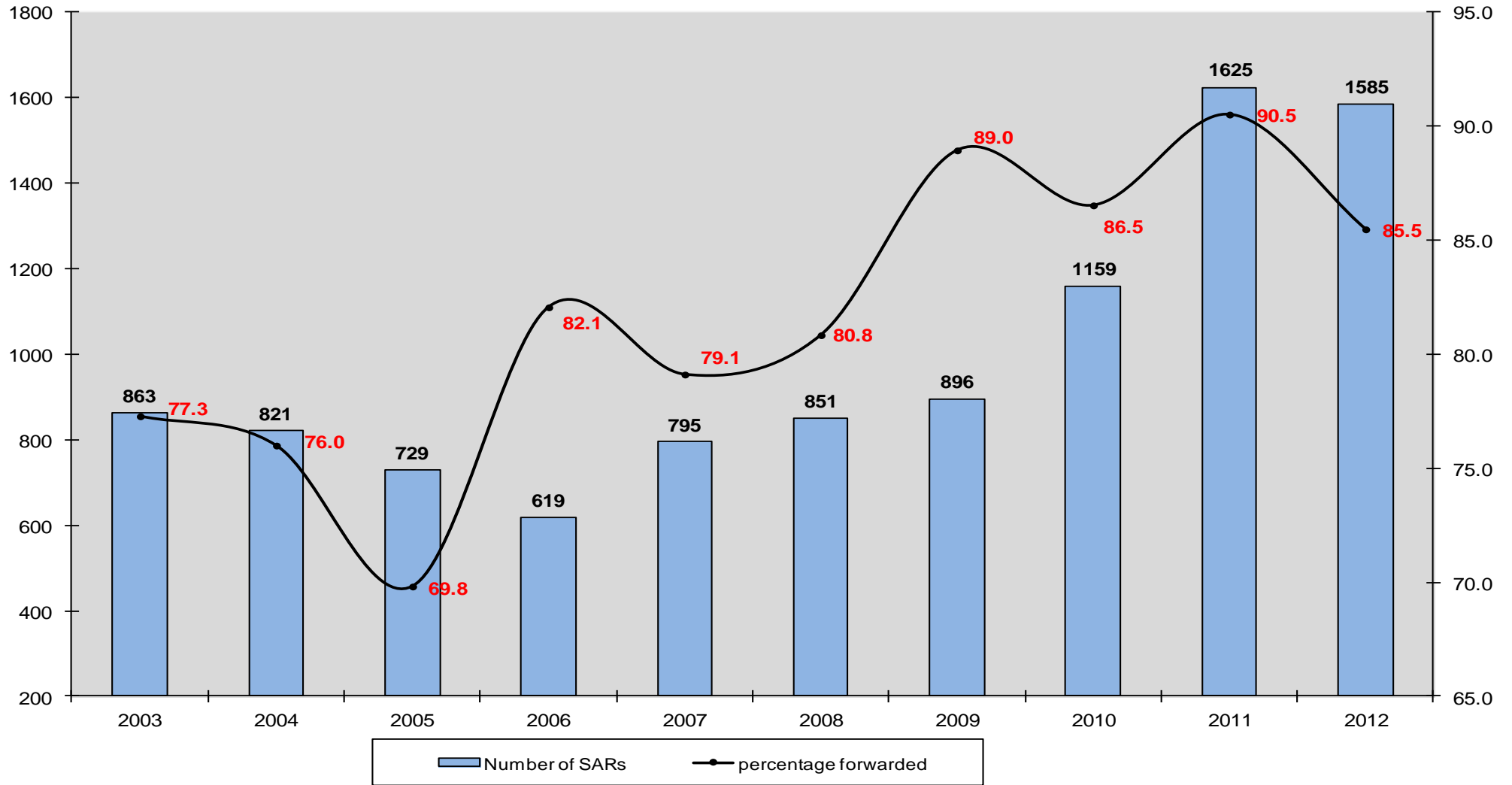
The proportion of forwarded SARs, while remaining high, was lower in 2012 than in 2011. As already mentioned, 2011 was an exceptional year, also with regard to the proportion of forwarded SARs (90.5 percent). This was due to the fact that, in 2011, SARs in connection with political events in certain countries contributed to a general increase in the proportion of forwarded SARs. At 85.5 percent, the proportion of forwarded SARs in 2012 came closer to the general average of 83 percent for the years 2003-2012.

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: 87 percent of mandatory SARs (Art. 9 AMLA) were forwarded to the prosecution authorities compared to 85 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 seriously.

In general, the percentage of forwarded SARs from all sectors was high. Like every year, the *banking sector* was top of the list again in 2012, despite a slightly lower proportion of forwarded SARs: 88.4 percent in 2012 as opposed to 93 percent in 2011. The consistently high proportion from the banking sector is probably due to the considerable resources that banks allocate to their investigations and invest in their compliance teams. As for the *payment services sector*, there was a slight decrease in the proportion of forwarded SARs, from 86 percent in 2011 to 81 percent in 2012.

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 2003 – 2012



Financial intermediary category	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Bank	96.0%	91.8%	92.2%	94.4%	92.1%	87.4%	90.7%	90.5%	93.0%	88.4%	91.1%
Supervisory authority			100.0%	100.0%		100.0%					100.0%
Casino	62.5%	50.0%	85.7%	75.0%	66.7%	100.0%	80.0%	50.0%	50.0%	16.7%	61.1%
Foreign exchange trader	100.0%	0.0%	100.0%	100.0%			100.0%	83.3%	57.1%		78.3%
Securities trader		100.0%	100.0%		100.0%	83.3%	50.0%	25.0%		100.0%	72.2%
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%	100.0%	75.0%	50.0%	100.0%	90.9%	100.0%	100.0%		82.9%
Credit card company	100.0%	100.0%			100.0%	100.0%	100.0%	66.7%	100.0%	100.0%	93.1%
Attorney	100.0%	100.0%	75.0%	0.0%	85.7%	80.0%	100.0%	69.2%	93.5%	95.5%	86.6%
Commodity and precious metal trader	100.0%			100.0%	100.0%			0.00%	100.0%	33.3%	69.2%
Self-regulating organisation			100.0%	100.0%	100.0%		100.0%		100.0%		100.0%
Fiduciary	95.7%	91.7%	100.0%	88.9%	82.6%	91.9%	86.1%	79.3%	85.5%	72.3%	86.1%
Other FI	100.0%	100.0%			100.0%			25.0%	100.0%	100.0%	77.3%
Asset manager / investment advisor	94.4%	92.3%	83.3%	33.3%	75.0%	52.6%	83.3%	77.5%	92.6%	85.7%	81.1%
Assurance	87.5%	87.5%	88.9%	72.2%	61.5%	86.6%	66.7%	44.4%	54.5%	77.8%	73.4%
Distributor of investment funds	66.7%	100.0%	60.0%								66.7%
Payment services	61.7%	58.6%	46.0%	57.3%	51.9%	60.5%	84.5%	81.5%	86.3%	81.0%	66.6%
a) of which providers	76.9%	79.4%	59.6%	83.6%	66.0%	87.2%	97.2%	88.6%	87.9%	79.6%	80.6%
b) of which money transmitters	54.5%	51.7%	41.2%	40.8%	38.2%	40.2%	62.9%	67.2%	85.3%	82.5%	63.6%
Total	77.3%	76.0%	69.8%	82.1%	79.1%	80.8%	89.0%	86.5%	90.5%	85.5%	83.0%

2.2.6 SARs involving substantial levels of assets

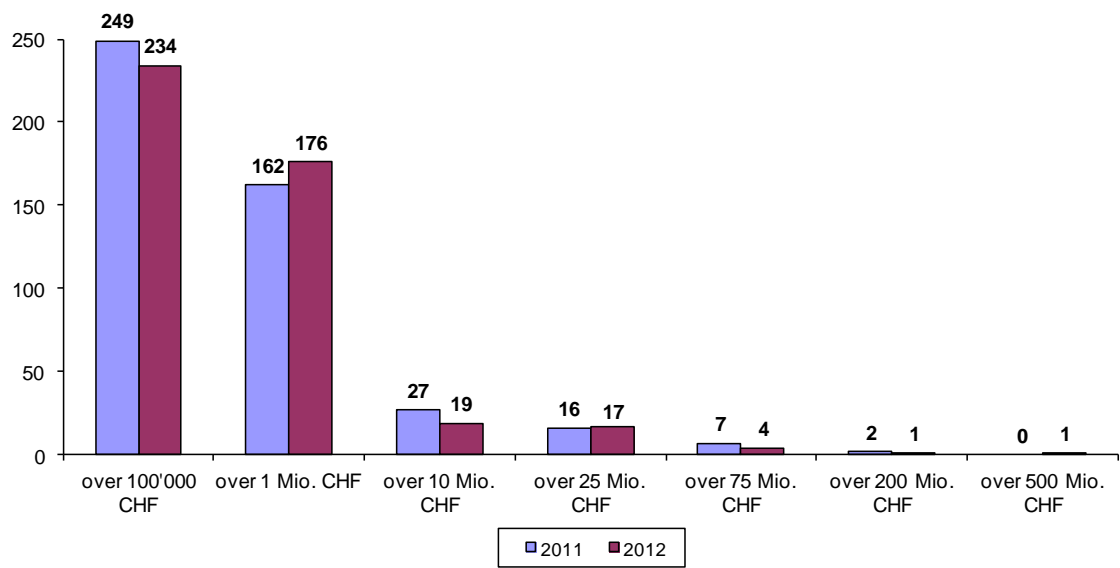
Total asset value in 2012 came close to its 2011 level: whereas reporting volume in 2011 generated CHF 3.3 billion, total asset value in 2012—whilst remaining high—was slightly less, at CHF 3.15 billion. Once again, the high level of asset value in 2011 was—amongst other reasons—a result of political upheaval in certain countries, a factor that was not present in the 2012 reporting period. It is still too early to speak of an upward trend: the statistics of the next few years will show whether the increase will continue. To explain the 2012 increase, we must look more closely at overall reporting volume and the number of SARs involving substantial asset value.

In 2012 six SARs involved an asset value of more than CHF 75 million, making a total of CHF 1.4 billion, whereas in 2011 eight SARs involved an asset value of more than CHF 100 million, making a total of CHF 1.5 billion.

Among the six SARs generating substantial assets, one SAR involved assets exceeding CHF 500 million, whereas in 2011 four SARs relating to the same case involved assets of more than CHF 500 million. The SAR involving substantial assets of more than CHF 500 million (and involving the predicate offences of document forgery and fraud) was submitted by virtue of Article 305^{ter} paragraph 2 SCC, the other five SARs by virtue of Article 9 AMLA. Of the six SARs generating substantial assets, five came from the banking sector and one—with a total asset value of CHF 200 million—came from an asset manager.

Furthermore, 60 percent of total asset value in 2012 came from mandatory SARs and 40 percent from voluntary SARs. This shows, once again, that financial intermediaries place equal amounts of 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 2012 the rounded average of substantial assets involved in a SAR was nearly the same as in 2011 (2012: CHF 1.9 million, 2011: CHF 2 million).

**Number of SARs involving substantial assets
2011/2012**

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 7 percent.*

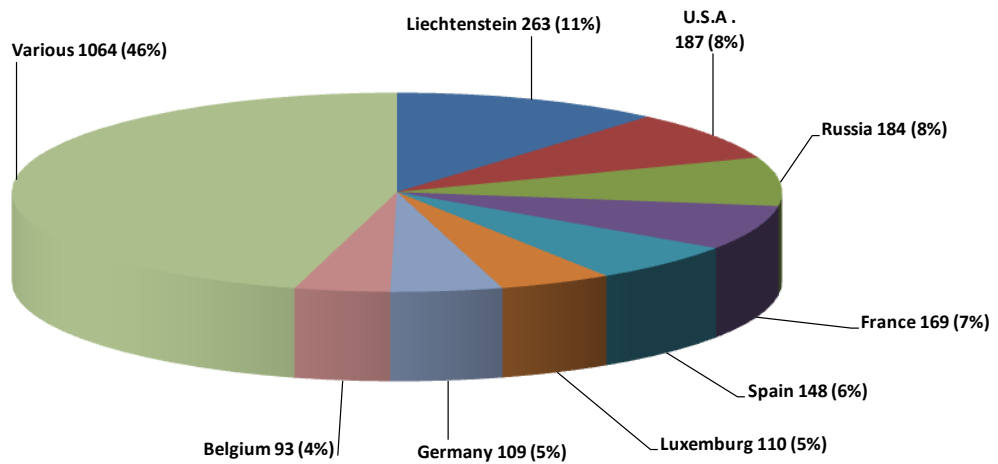
In the 2012 reporting year, MROS replied to 598 inquiries in 82 countries. This is slightly more than in 2011 (580 inquiries). There was a noticeable increase of 7 percent in the number of natural persons and legal entities mentioned: 2,327 in 2012 compared to 2,174 in 2011. These figures confirm the upward trend in the number of mutual administrative requests from foreign FIUs—an increase of 54 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 decrease in the number of foreign FIU inquiries that MROS was unable to answer on formal grounds (2012: 16, 2011: 48). Most of these inquiries either had no direct connection to Switzerland (so-called fishing expeditions), or concerned specific financial information that may only be provided by virtue of a mutual legal assistance request. If sufficient legal grounds are lacking in an FIU inquiry, MROS cannot disclose the requested information. Pertinent legislation is currently being amended (see Chapter 4.3.).

In 2012, MROS responded to FIU inquiries within an average of six working days following receipt.

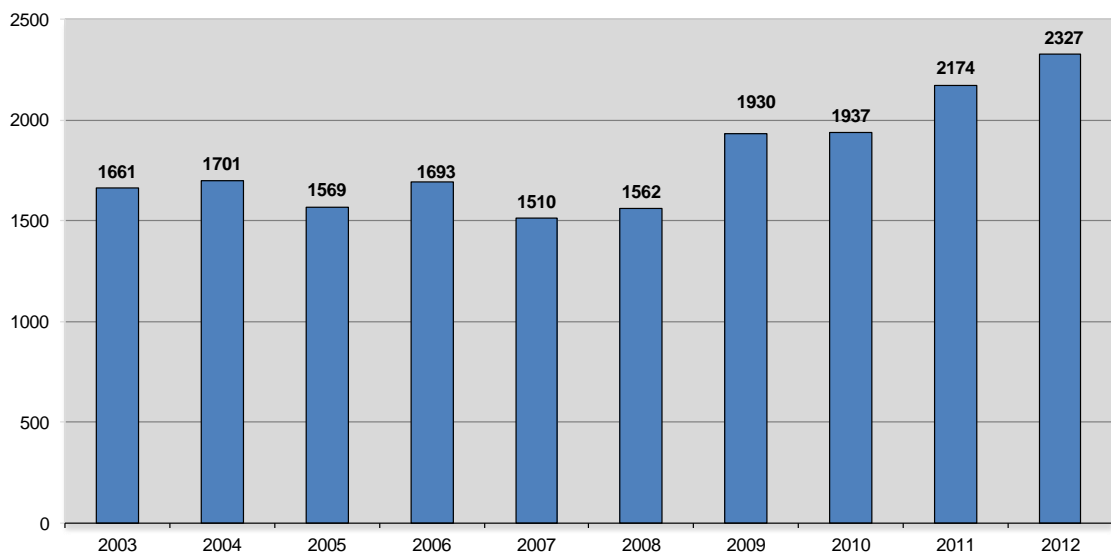
2012: 2,327 natural persons / legal entities

2012



For comparison: 2003 - 2012

Number of natural persons/legal entities mentioned in foreign FIU inquiries to MROS



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 a 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 nearly 7 percent in the number of natural persons/legal entities mentioned in MROS inquiries to foreign FIUs.

In the 2012 reporting year, MROS sent 205 (2011: 159) inquiries on 1,066 natural persons or legal entities (2011: 999) to 69 foreign FIUs. Although overall reporting volume decreased by 2.5 percent in 2012 over the previous reporting period, the number of MROS inquiries to foreign FIUs increased by 6.7 percent, which indicates that SARs are becoming increasingly complex. The foreign FIUs took an average of 24 working days to reply to each request.

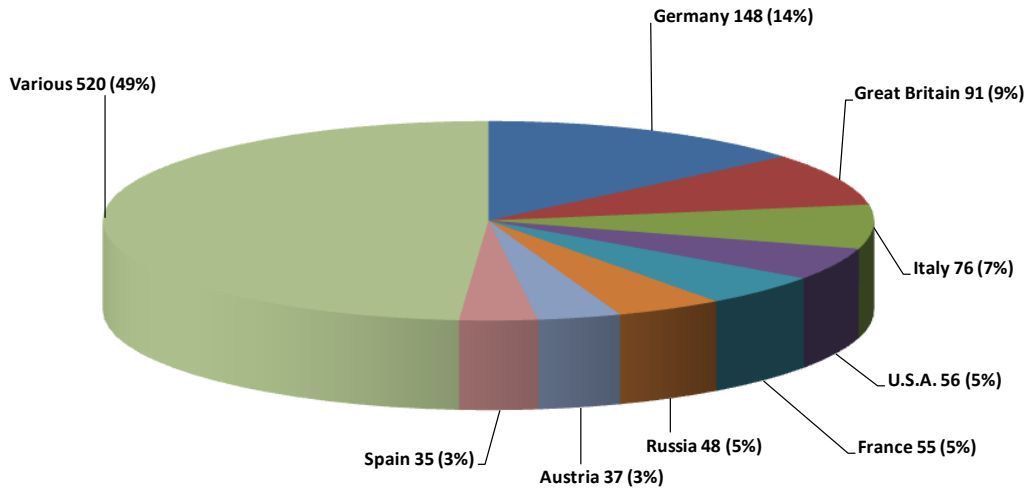
MROS's key partners in this respect are the FIUs in France, Germany, Great Britain, Italy and the U.S.A.

MROS sent inquiries to foreign FIUs to obtain information regarding an average of 89 natural persons or legal entities each month, compared to 83 in 2011.

MROS sent inquiries to foreign FIUs in relation to 205 of the 1,585 SARs it received in 2012 (nearly 13 percent of all incoming SARs).

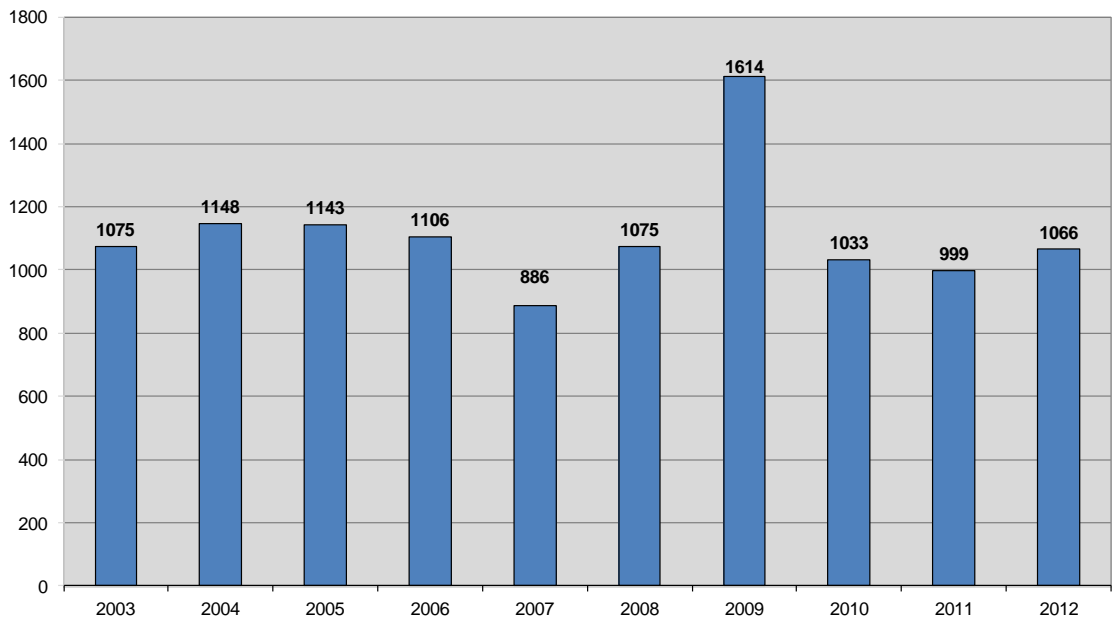
2012: 1,066 natural persons/legal entities

2012



For comparison: 2003 - 2012

Number of natural persons/legal entities mentioned in MROS inquiries to foreign FIUs



2.4. The search for terrorist funds

The number of SARs involving terrorist financing increased from 10 in 2011 to 15 in 2012. Of these 15 SARs, only three concerned individual cases, whereas the remaining 12 SARs related to two cases generating six SARs each. One single case involved assets of CHF 7.45 million, constituting 99.75 percent of the total asset value involved in 2012. The remaining 14 SARs involved either no assets, or assets of between a few hundred and a few thousand Swiss Francs only. The increase from 10 to 15 SARs involving terrorist financing must therefore be put into perspective.

None of the SARs submitted to MROS in 2012 revealed a connection to any of the official terrorist lists. Most of the 15 SARs were submitted based on information the financial 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.

With the exception of one SAR, MROS forwarded all the reports to the prosecution authorities, including both cases generating 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. In the remaining 13 cases proceedings were opened in connection with money laundering, membership of a criminal organisation or other offences. Of these 13 cases, one was temporarily suspended because suspicion of membership of a criminal organisation could be neither substantiated nor completely refuted. The prosecution argued that the group in question was not continuously active and therefore it was possible that suspicion against the group could be substantiated through additional evidence at a later date.

Status of forwarded SARs in connection with terrorist financing

Status	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Dismissal	4	7	13	2	3	4	3	3	3	1	43
Pending		2				1	1	3	6	12	25
Suspension		1	2					4			7
Temp. suspension	1	1	3	3		1				1	10
Judgement						1					1
Total	5	11	18	5	3	7	4	10	9	14	86

Year	Number of SARs			Factors arousing suspicion				Asset value	
	Total	Terrorist funding (TF) SARs	TF in % of total number of SARs	Bush ⁵	OFAC ⁶	Taliban-Liste ⁷	Other	In connection with TF	TF in % of total asset value reported
2003	863	5	0,6%	3	1	1	0	153'922.90	0.02%
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%
TOTAL	9'943	104	1.0%	10	9	15	70	95'650'371.65	0.63%

⁵ <http://www.finma.ch/archiv/gwg/e/dokumentationen/gesetzgebung/sanktionen/index.php>

⁶ <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

⁷ <http://www.seco.admin.ch/themen/00513/00620/00622/index.html?lang=de> (available in German, French and Italian only)

The following table shows the 15 suspected terrorist funding SARs submitted in 2012 in detail:

a) Location of reporting financial intermediary

	No. of SARs	%
Zurich	7	46%
Geneva	6	40%
Bern	1	7%
St. Gallen	1	7%
Total	15	100%

b) Type of financial intermediary

	No. of SARs	%
Bank	11	73%
Asset manager	3	20%
Money transmitter	1	7%
Total	15	100%

c) Type of reporting bank

	No. of SARs	%
Major bank	6	54.5%
Foreign-controlled bank	4	36.4%
Raiffeisen bank	1	9.1%
Total	11	100.0%

d) Nationality and domicile of client

Country	Nationality		Domicile	
Switzerland	5	33%	8	53%
Cyprus	4	27%	4	27%
Sri Lanka	2	13%	2	13%
BVI ⁸	2	13%	0	0%
Libya	1	7%	0	0%
Pakistan	1	7%	0	0%
USA	0	0%	1	7%
Total	15	100%	15	100%

e) Nationality and domicile of beneficial owner

Country	Nationality		Domicile	
Russia	6	40%	0	0%
Switzerland	4	26%	8	53%
Sri Lanka	2	13%	0	10%
Libanon	1	7%	0	10%
Libya	1	7%	0	0%
Pakistan	1	7%	0	0%
Lithuania	0	0%	6	40%
USA	0	0%	1	7%
Total	15	100%	15	100%

⁸ British Virgin Islands

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

Nearly 86 percent of all SARs came from 4 cantons with a highly-developed financial services sector or with centralised compliance centres.

As to be expected, the majority of SARs in 2012 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, 1,362 (nearly 86 percent) of the 1,585 SARs were submitted by financial intermediaries from the cantons of Zurich, Geneva, Bern and Ticino. Whilst MROS received more SARs from financial intermediaries in Bern and Ticino in 2012 than in 2011, the opposite was true for Zurich and Geneva, whose financial intermediaries submitted fewer SARs in 2012 than in the previous reporting period. The reason for this decrease is possibly due to fewer SARs in 2012 in connection with the political upheaval in North Africa and the Middle East—SARs that were mainly submitted by financial intermediaries from the international financial centres of Zurich and Geneva.

In contrast to the previous reporting period and in keeping with all the other cantons, financial intermediaries from Basel-Stadt and St. Gallen submitted less than 5 percent of total reporting volume in 2012.

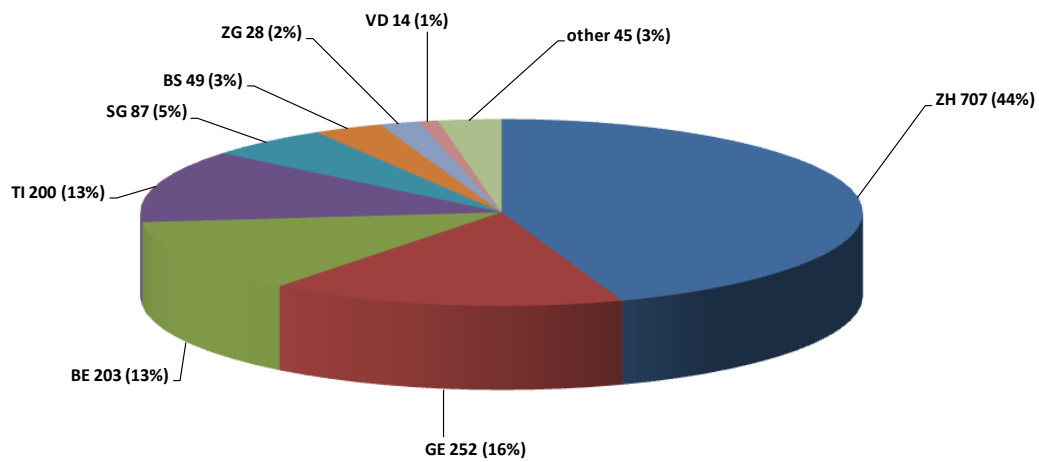
In 2012, MROS did not receive a single SAR from financial intermediaries from the cantons of Thurgau, Nidwalden, Glarus and Appenzell Ausser Rhoden. This may be due, in part, to the centralisation of compliance centres (see chapter 2.5.2), and also to the orientation of the financial sector in these cantons according to individual local or regional needs.

Legend

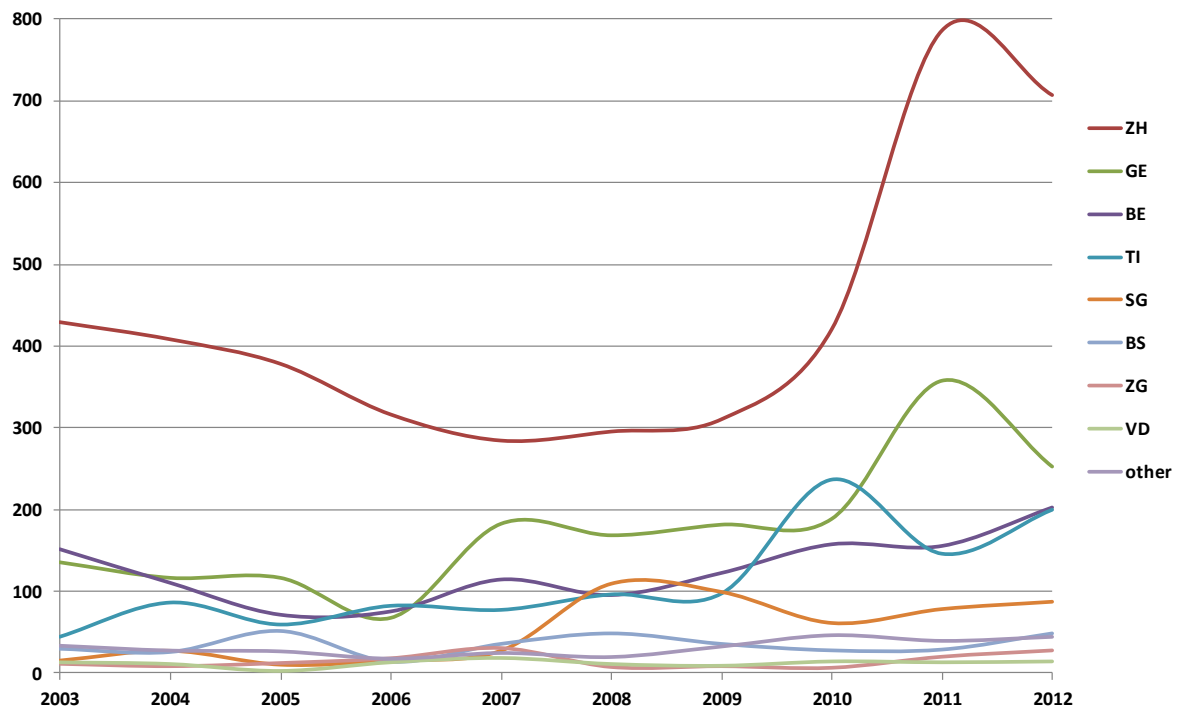
AG	Aargau	GR	Graubünden	SZ	Schwyz
AI	Appenzell Inner Rhoden	JU	Jura	TG	Thurgau

AR	Appenzell Ausser Rhoden	LU	Lucerne	TI	Ticino
BE	Bern	NE	Neuchatel	UR	Uri
BL	Basel-Landschaft	NW	Nidwalden	VD	Vaud
BS	Basel-Stadt	OW	Obwalden	VS	Valais
FR	Fribourg	SG	St. Gallen	ZG	Zug
GE	Geneva	SH	Schaffhausen	ZH	Zurich
GL	Glarus	SO	Solothurn		

2012



2003 to 2012



For comparison 2003 – 2012

Canton	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
ZH	429	408	378	316	284	295	310	420	786	707	4333
GE	135	116	116	67	182	168	181	188	357	252	1762
BE	152	111	72	76	115	96	123	158	156	203	1262
TI	44	86	59	82	77	96	97	237	146	200	1124
SG	15	27	10	15	27	109	99	61	78	87	528
BS	30	26	52	14	36	49	36	28	29	49	349
ZG	11	8	12	18	31	7	8	6	20	28	149
VD	13	11	3	13	18	11	9	14	13	14	119
NE	7	3	6	2	7	6	7	12	4	4	58
FR	3	9	8	2	1			2	8	9	42
GR	3	5	1	2	4	3		7	5	11	41
LU	1	1	3	5	5	1	5	7	5	7	40
AG	3	2	1	3	1	3	6	3	7	1	30
SZ			3	1	2	1	3	7		5	22
TG	6	3		2	1	1	2				15
BL		2	2		1		1	2	3	1	12
SO	5		1			1	1		1	1	10
SH	1		1		1		2	1	1	1	8
JU	1					2	1	1	2	1	8
NW	1		1			1	2		3		8
AI					1		1	3		2	7
OW	1	1			1		1	2		1	7
VS	1	1		1						1	4
GL	1	1				1	1				4
AR									1		1
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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.

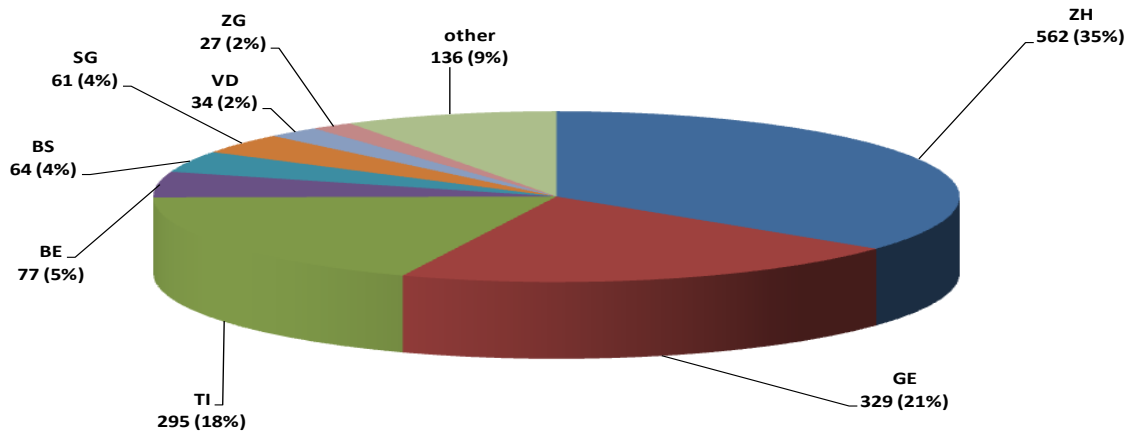
It is mainly the major banks and payment services providers that have established regional compliance centres. The financial intermediaries based in the various cantons send their reports to the appropriate regional compliance centre, which then drafts the SAR to MROS. However, these SARs do not necessarily 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 Code⁹ 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 nearly 86 percent of all SARs in 2012 (as in previous years) came from financial intermediaries domiciled in Zurich, Geneva, Bern and Ticino, only around 79 percent of the reported business connections actually took place in these four cantons.

Legend

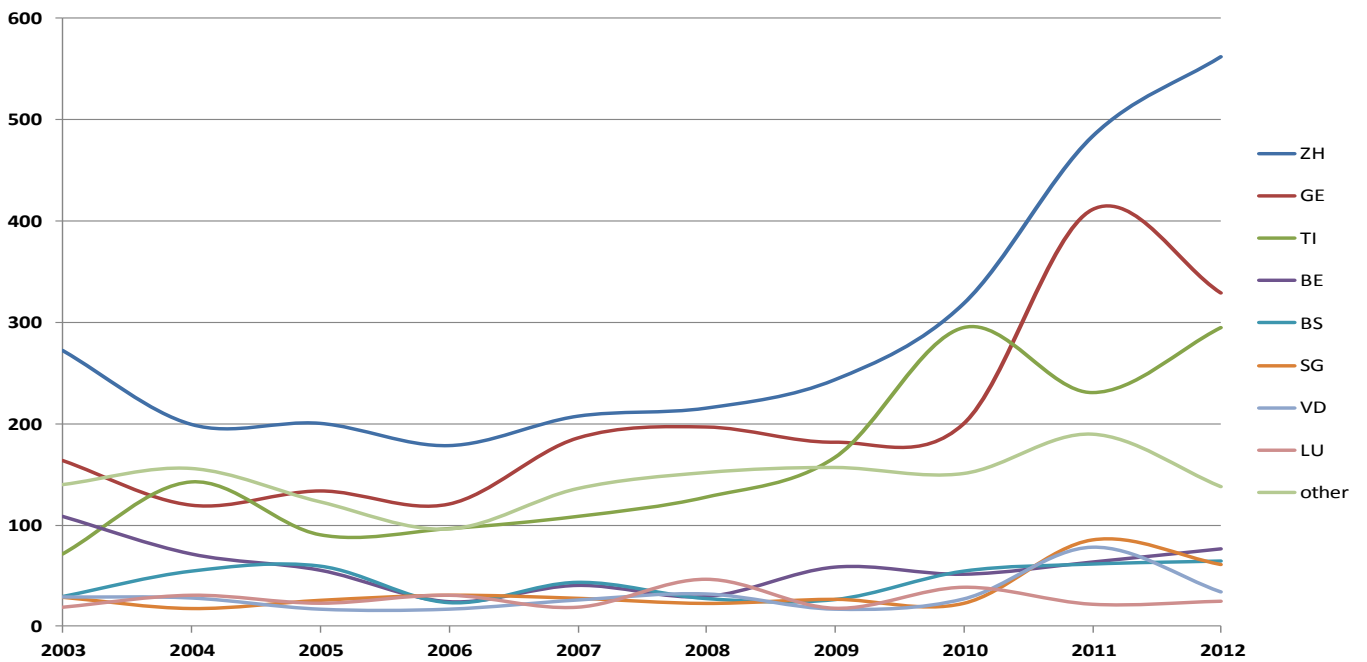
AG	Aargau	GR	Graubünden	SZ	Schwyz
AI	Appenzell Innerrhoden	JU	Jura	TG	Thurgau
AR	Appenzell Ausserrhoden	LU	Lucerne	TI	Ticino
BE	Bern	NE	Neuchâtel	UR	Uri
BL	Basel-Landschaft	NW	Nidwalden	VD	Vaud
BS	Basel-Stadt	OW	Obwalden	VS	Valais
FR	Fribourg	SG	St. Gallen	ZG	Zug
GE	Geneva	SH	Schaffhausen	ZH	Zurich
GL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

⁹ Criminal Procedure Code of 5 October 2007 (CrimPC; SR 312.0)

2012



2003 - 2012



For comparison: 2003 - 2012

Canton	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
ZH	272	199	200	178	207	215	243	318	483	562	2877
GE	164	120	134	121	186	197	182	200	411	329	2044
TI	72	143	91	97	109	128	167	295	231	295	1628
BE	109	72	56	25	41	30	59	52	64	77	585
BS	29	54	59	23	43	27	26	54	61	64	440
SG	29	18	26	31	28	23	27	23	85	61	351
VD	29	28	17	17	26	32	17	27	78	34	305
LU	19	31	23	31	19	47	18	39	22	25	274
ZG	16	15	22	40	40	19	10	22	28	27	239
FR	4	29	15	5	16	19	41	24	24	23	200
AG	17	30	12	11	8	16	19	13	47	14	187
NE	23	11	22	12	12	10	8	13	6	9	126
BL	3	4	5	1	7	23	21	24	14	6	108
SO	20	12	10		6	20	12	9	13	5	107
VS	15	9	11	10	10	6	3	10	11	10	95
GR	10	14	2	3	5	5	5	9	16	19	88
TG	14	6	7	7	7	7	18	3	5	7	81
GL	5	8	4	2	9	6	6	6	6		52
SZ	2	5	5	2	6	4	4	9	3	6	46
JU	6	10	4	3	1	5	2	3	2	3	39
SH	3	1	2		3	1	2	1	6	4	23
OW	1	1			1	6	2	2	1	1	15
NW	1	1	1			3	2		6		14
AI					4		1	3	1	2	11
AR			1						1	2	4
UR					1	2	1				4
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

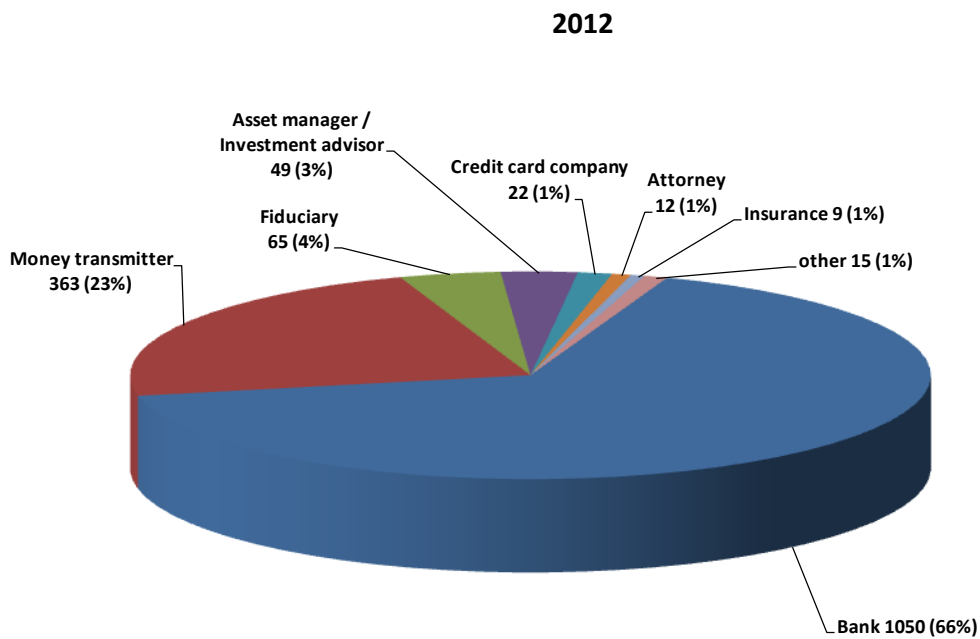
2.5.3 Type of financial intermediary

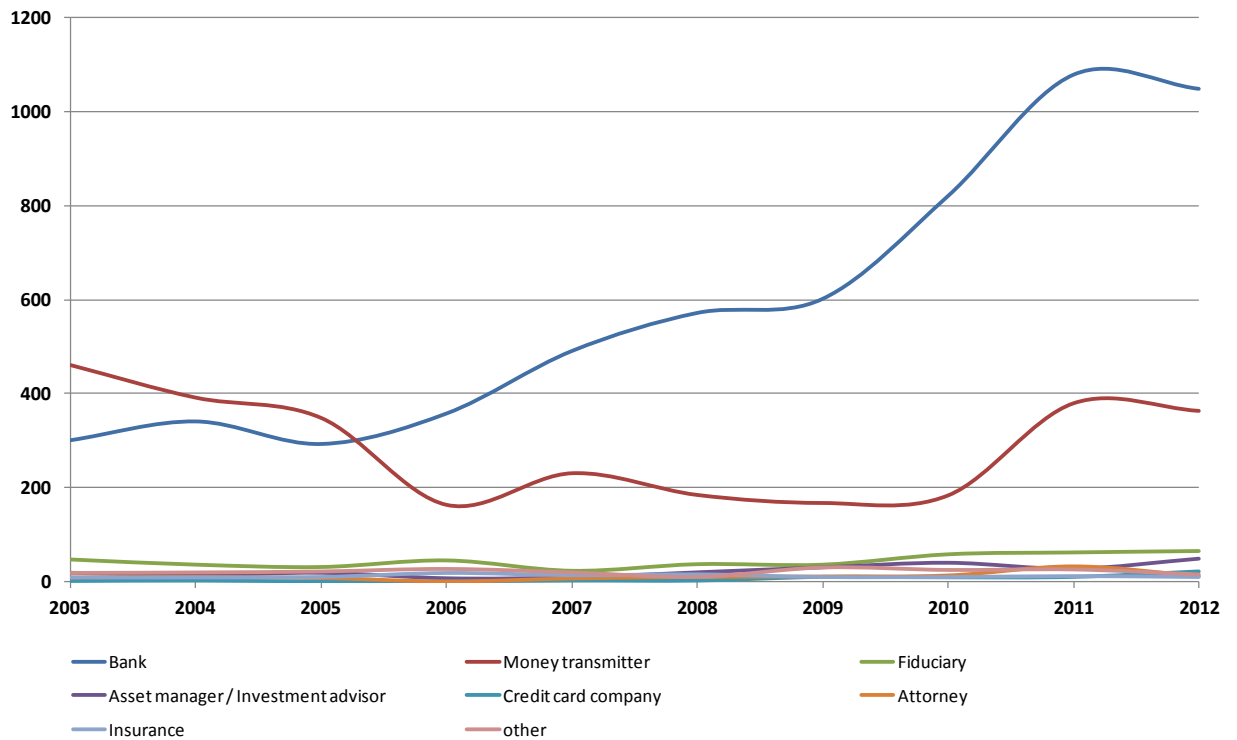
What the chart represents

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 second consecutive year.
- Two-thirds of incoming SARs again from the banking sector.
- Near twofold increase in SARs from asset managers.
- Dramatic fall in SARs from attorneys.



2003 - 2012**Proportion of SARs forwarded to the prosecution authorities in 2012 by category**

Financial intermediary category	% forwarded	% not forwarded
Bank	88.4%	11.6%
Casino	16.7%	83.3%
Foreign exchange trader	100.0%	0.0%
Loan, leasing and factoring business	0.00%	100.0%
Credit card company	95.5%	4.5%
Attorney	75.0%	25.0%
Commodity and precious metal trader	33.3%	66.7%
Fiduciary	72.3%	27.7%
Other FI	100.0%	0.00%
Asset manager/Investment advisor	85.7%	14.3%
Insurance	77.8%	22.2%
Payment services	81.0%	19.0%
Total	85.5%	14.5%

For comparison: 2003 - 2012

Financial intermediary category	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Bank	302	342	294	359	492	573	603	822	1080	1050	5917
Payment services	460	391	348	164	231	185	168	184	379	363	2873
Fiduciary	47	36	31	45	23	37	36	58	62	65	440
Asset manager/Investment advisor	18	13	18	6	8	19	30	40	27	49	228
Attorney	9	10	8	1	7	10	11	13	31	12	112
Insurance	8	8	9	18	13	15	9	9	11	9	109
Casino	1	2			2	2	10	9	10	22	58
Credit card company	8	2	7	8	3	1	5	8	6	6	54
Loan, leasing and factoring business	2	1	1	8	4	1	11	1	5	1	35
Foreign exchange trader	2	1	1	1			5	6	7		23
Other FI	1	7		1	2		1	4	2	4	22
Securities trader		2	2		2	5	2	4		1	18
Currency exchange		3	3	2	1	1	1		3		14
Distributor of investment funds	1			1	5	1		1	1	3	13
Self-regulating organisation	3	3	5		1						12
Commodity and precious metal trader	1		1	3	1		4		1		11
Supervisory authorities			1	2		1					4
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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

- *At two-thirds of overall reporting volume, proportion of SARs from the banking sector continues to be very high and unchanged over 2011.*
- *Most SARs from major banks and foreign-controlled banks.*
- *Increase in SARs from private bankers.*

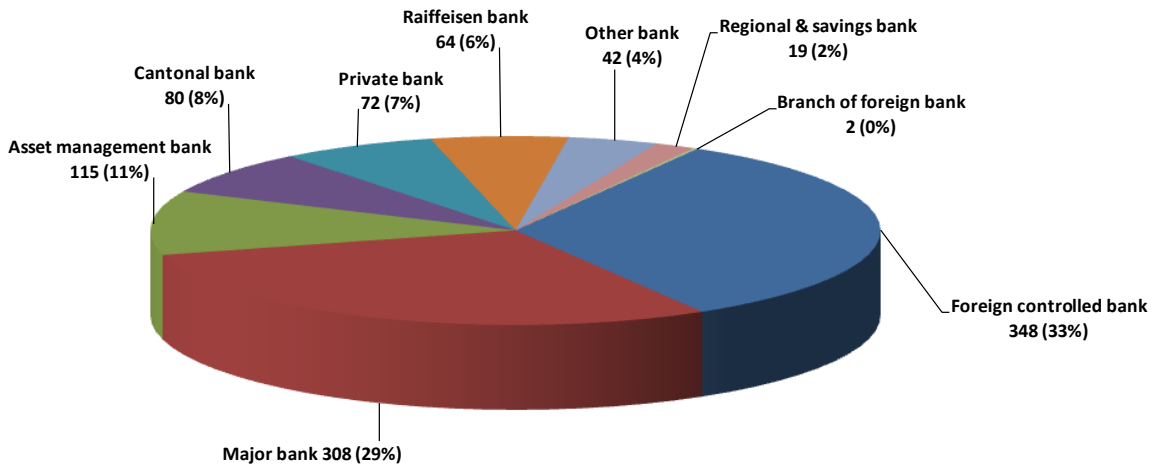
For the second consecutive year, MROS received more than 1,000 SARs from the banking sector. Although the banking sector submitted fewer SARs in 2012 than in the previous reporting period in absolute terms, the proportion of SARs from this sector remained unchanged over 2011 (66 percent).

Year	Total number of SARs	SARs from the banking sector	Percentage of SARs from the banking sector
2003	863	302	35%
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%

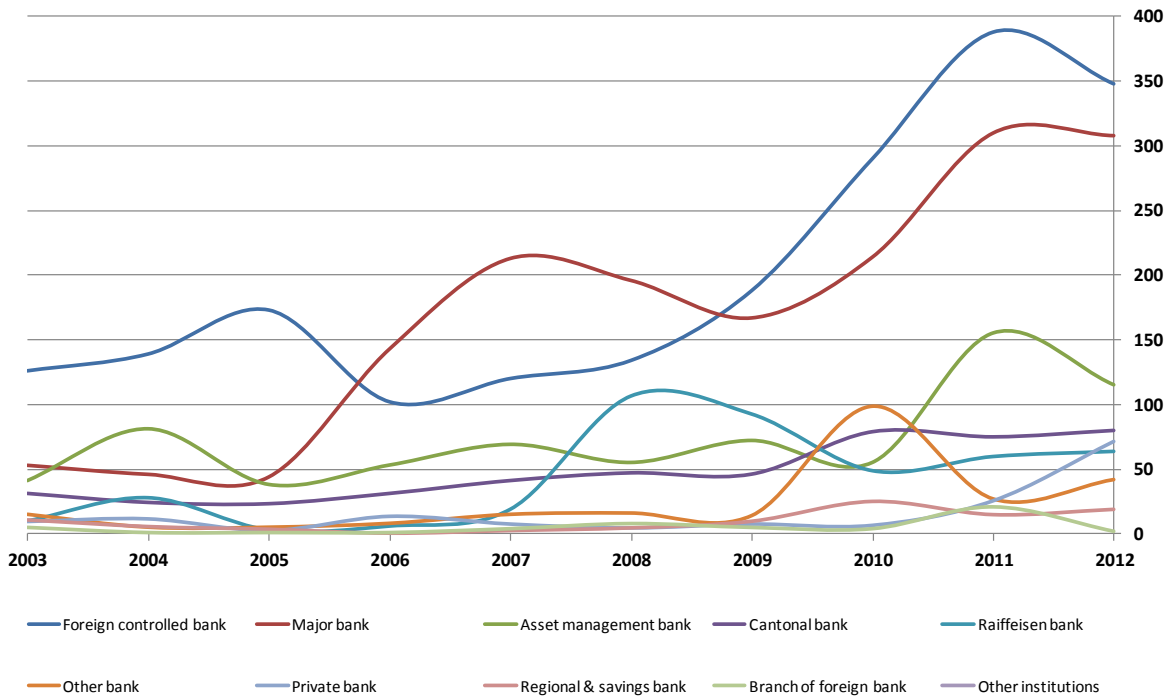
Unlike the years 2006 to 2009, most of the SARs submitted to MROS in 2012 from the banking sector came from *foreign-controlled banks*, with 33 percent (2011: 36 percent). In second place were the *major banks* in Switzerland, with a share of 29 percent (2011: nearly 29 percent). Whilst there was a dramatic increase in SARs from *asset management banks* in the previous reporting period (2011: 155 SARs), their number fell to 115 in 2012, thus heading back in the direction of its ten-year average of between 50 and 100 SARs per year. There was an increase in the number of SARs from the three categories *cantonal bank*, *private bank* and *other bank*, whereby the

increase from the category *private bank* was the most significant. This increase is due to the fact that several small cases and three large cases generated multiple SARs.

2012



2003 - 2012



For comparison: 2003 - 2012

Type of bank	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Foreign-controlled bank	126	139	173	102	120	134	188	290	388	348	2008
Major bank	53	46	44	143	213	196	167	214	310	308	1694
Asset management bank	41	81	38	53	69	55	72	55	155	115	734
Cantonal bank	31	24	23	31	41	47	46	79	75	80	477
Raiffeisen bank	10	28	3	6	19	107	93	49	60	64	439
Other bank	15	5	5	8	15	16	14	99	27	42	246
Private bank	10	12	3	14	8	5	8	7	26	72	165
Regional and savings bank	11	6	4	1	3	5	10	25	15	19	99
Branch of foreign bank	5	1	1	1	4	8	5	4	21	2	52
Other institution									2		2
Bank with special business circle									1		1
Total	302	342	294	359	492	573	603	822	1080	1050	5917

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

- *More than two-thirds of all SARs were triggered by external indications and information, as in the 2011 reporting period.*
- *The category “high-risk countries” no longer appears in the statistics as a factor arousing suspicion.*
- *The category “transitory account” appears for the first time in the statistics as a factor arousing suspicion, with 2 percent of overall reporting volume.*

The main factor arousing suspicion in 2012 was, once again, *media reports* (29 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* (13 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 more than two-thirds of all SARs submitted to MROS in 2012. 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.

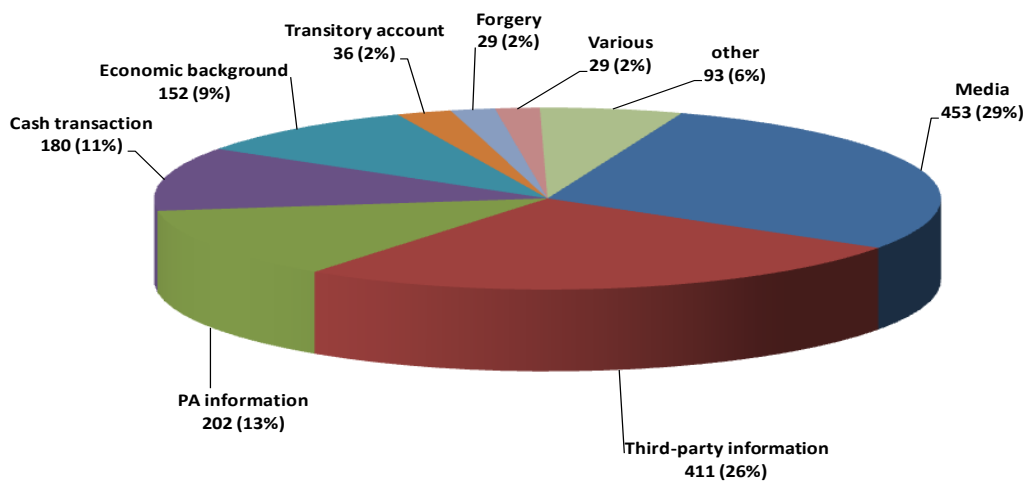
The category *high-risk countries*, which appeared in the 2011 statistics due to the clean-up of accounts by one financial intermediary from the payment services sector, is no longer a significant category. Instead, it has been replaced by the category *transitory accounts*¹⁰. The increase in reports from this category is due to one complex case that generated 21 SARs, and a smaller case that generated 3 SARs.

¹⁰ See A30 in the annex to the FINMA Anti-Money Laundering Ordinance, SR 955.033.0

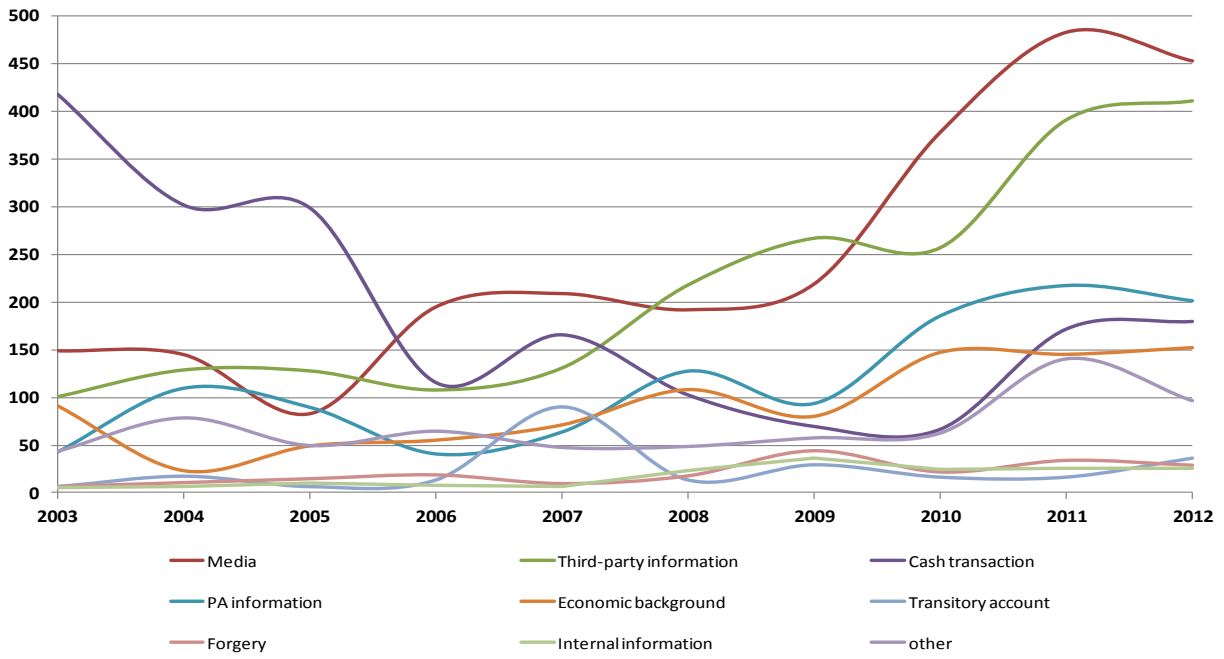
Legend

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.

2012



For comparison: 2003 - 2012



For comparison: 2003 - 2012

Factors	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Media	149	145	83	195	209	192	219	378	483	453	2506
Third-party information	101	129	128	108	131	218	267	257	391	411	2141
Cash transaction	418	302	299	116	166	103	70	67	172	180	1893
PA information	43	110	90	41	64	128	94	186	218	202	1176
Economic background	91	23	49	55	71	108	80	147	145	152	921
Transitory account	6	17	6	13	90	13	29	16	16	36	242
Forgery	7	11	15	19	10	18	44	22	34	29	209
Internal information	5	6	10	8	7	23	36	24	26	26	171
Various	15	32	7	5	5	8	3	9	14	29	127
Currency exchange	8	3	6	12	11	9	9	23	14	17	112
Opening of account		18	9	13	21	13	9	13	5	11	112
High-risk countries	2	3	3	1	1	2	2	3	81	2	100
Cheque transaction	8	8	8	4	4	1	7	4	20	20	84
Securities	3	5	12	10	3	13	12	4	2	4	68
Loan transaction	2	3		7		1	4	1	1	5	24
Audit/supervisory board				7	1		10	2			20
Smurfing		1	3					1	1	7	13
Precious metals	1	3		1	1		1	1	1		9
Life insurance	2	1	1	2				1		1	8
Trust activity	1			2		1					4
Non-cash cashier transaction	1	1							1		3
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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 constant at 30 percent.*
- *The category "organised crime" remains at a record high of 6 percent of reporting volume.*
- *Decrease in predicate offence category "money laundering".*
- *Increase in predicate offence categories "bribery" and "embezzlement" despite non-recurrence of the political events of 2011.*
- *Fall in SARs from predicate offence category "drugs".*

Since 2006, *fraud* has been the most frequently suspected predicate offence; this category accounted for nearly one-third of all SARs submitted in 2012 (30 percent) and remained near its 2011 level (31 percent). 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 third time in 2012 the category *fraudulent misuse of a computer*, which mainly comprises phishing cases, 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 39 SARs in 2012 (2011: 51 SARs). The slower increase in SARs from this category over the previous reporting periods shows that although phishing remains a topical subject, the numerous media reports and alerts issued about "financial agents" or "money mules" are beginning to make an impact.

The category *money laundering* came in second place with a total of 209 SARs (2011: 252, 2010: 129). These SARs involve occurrences that cannot be directly associated with a particular predicate offence, but which suggest acts of money laundering due to the *modus operandi* involved.

The suspected predicate offence category *drugs* was no longer so predominant and, with 97 SARs (2011: 161 SARs), slipped from third to fifth place. This decrease was due to a money transmitter who carried out a one-time clean-up of his accounts in 2011 and, as a result, submitted numerous SARs with *drugs* as a predicate offence. This clean-up action temporarily boosted the number of SARs from this category in 2011, but was not repeated in 2012.

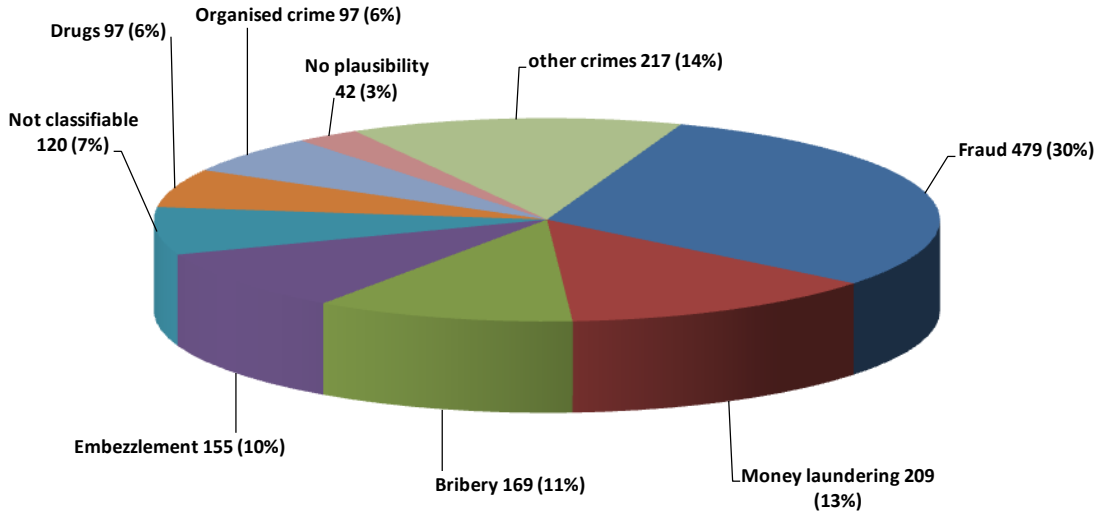
The category *drugs* was overtaken by the suspected predicate offence categories *bribery* (169 SARs) and *embezzlement* (155 SARs), both categories exhibiting a continuing upward trend from 2011. The significant increase in SARs from both these categories in 2011 was due, in part, to the political events surrounding the Arab Spring, since bribery, corruption and the embezzlement of public funds are typical offences committed by the ruling authoritarian elite.

There was a two-fold increase in the number of SARs from the category *abuse of authority*, from 4 SARs in 2011 to 8 SARs in 2012. Appropriately, there was also an increase in assets involved. The increase in SARs from this category (and related assets) is probably due to financial intermediaries paying these client relations particular attention as a result of the political events mentioned above.

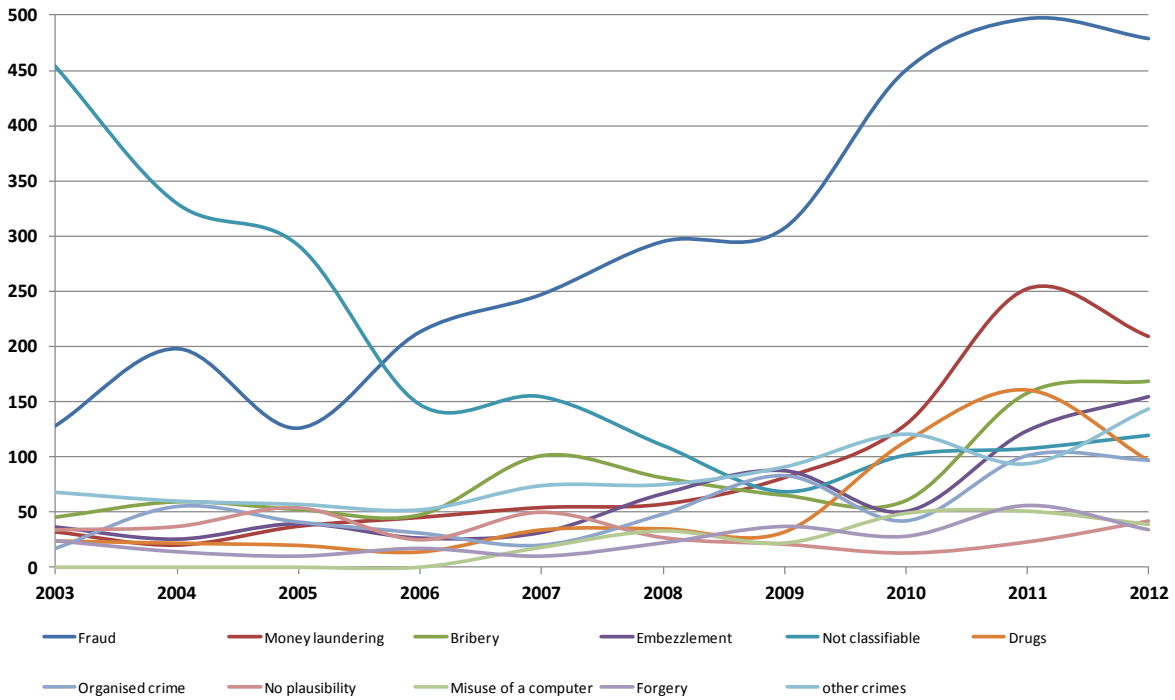
The number of reports from the category *criminal organisation* remained high (2012: 97 SARs, 2011: 101 SARs). SARs from the category *other property offences* increased more than fourfold, from 7 in 2011 to 32 in 2012. This category includes offences related to bankruptcy and debt collection, and SARs from this category were often based on suspected fraudulent bankruptcy and fraud against seizure (Art. 163 SCC), meaning that a debtor (i.e. an account holder) was suspected of concealing or disposing of assets to the prejudice of his creditors. Assets that are lawfully gained but concealed or disposed of to the prejudice of a creditor are considered illgotten gains if bankruptcy proceedings are commenced against a debtor or a certificate of unsatisfied claims is issued in this respect. The financial intermediary therefore has a duty to report these assets to MROS.

MROS received a record number of 19 SARs from the category *human trafficking/sexual offences*. One major case in this category generated 11 SARs and was reported to MROS by the financial intermediary on account of a cash transaction. The remaining SARs were triggered by media reports or third-party information.

2012



2003 - 2012



For comparison: 2003- 2012

Predicate offence	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Fraud	128	198	126	213	247	295	307	450	497	479	2940
Not classifiable	454	330	292	148	155	111	69	102	108	120	1889
Money laundering	32	20	37	45	54	57	81	129	252	209	916
Bribery	45	59	52	47	101	81	65	60	158	169	837
Embezzlement	37	26	40	27	32	67	88	51	124	155	647
Drugs	24	22	20	14	34	35	32	114	161	97	553
Organised crime	17	55	41	31	20	48	83	42	101	97	535
No plausibility	34	37	54	25	50	27	21	13	23	42	326
Forgery	24	14	10	17	10	22	37	28	56	34	252
Fraudulent misuse of a computer					18	33	22	49	51	39	212
Dishonest business management	14	4	10	11	21	12	20	44	25	32	193
Other property offences	7	14	12	13	22	22	36	10	7	32	175
Terrorism	5	11	20	8	6	9	7	13	10	15	104
Theft	17	6	9	8	4	3	4	12	19	7	89
Arms dealings	9	6		1	12	8	3	4	9	12	64
Other crimes	5	9	2	9	3	3	5	5	3	7	51
Blackmail	2	3	1	1		4	2	20	6	1	40
Human trafficking / sexual offences	2	3	1		3	4	3	3	1	19	39
Organised smuggling							5	7	3	5	20
Violent crimes	2	2	1		1	9		1	1		17
Abuse of authority									4	8	12
Counterfeiting	3		1				4			1	9
Counterfeit consumer goods	2	2			1	1		2	1		9
Robbery									4	2	6
Product piracy							2			2	4
Smuggling of migrants									1	1	2
Lack of due diligence in handling assets				1	1						2
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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.

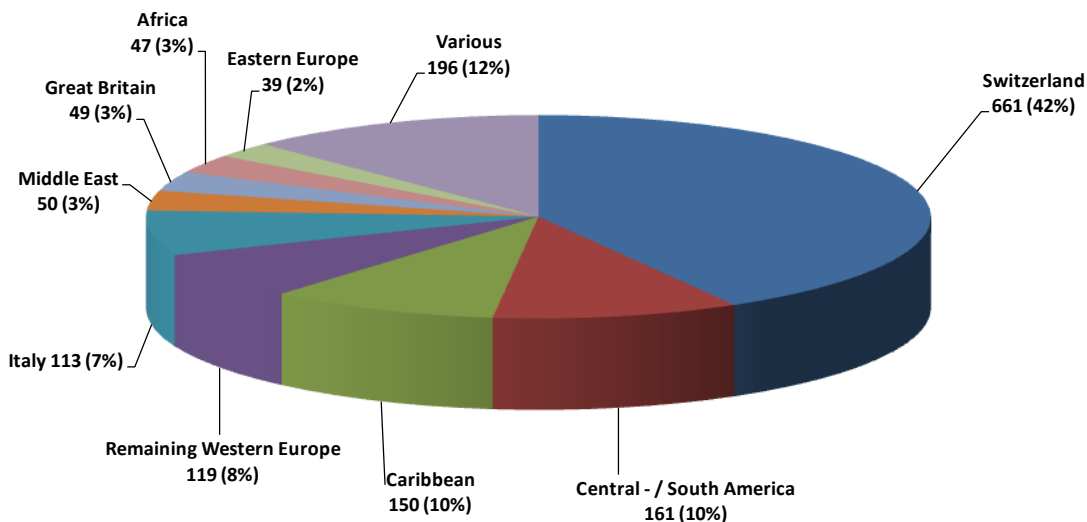
Chart analysis

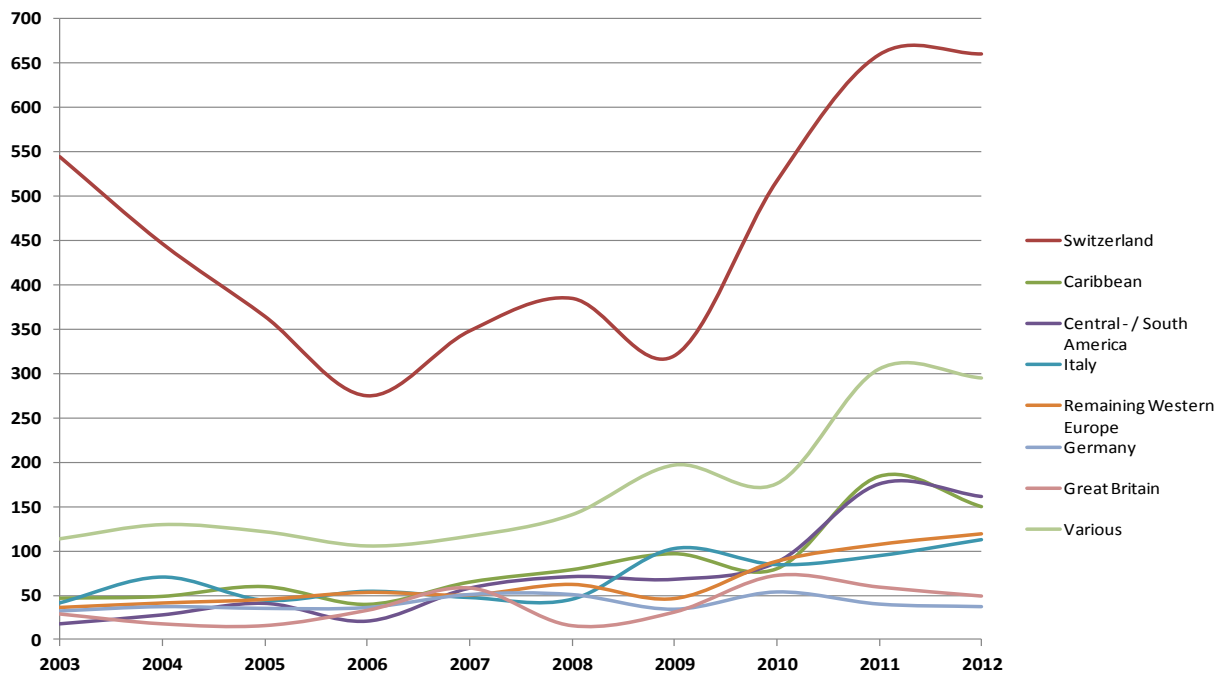
- *Little relative change in the number of clients domiciled in Switzerland: 2012: 42 percent, 2011: 40 percent.*
- *Proportion of clients domiciled in the Caribbean, Central or South America remained virtually unchanged (2012: nearly 10 percent, 2011: 11 percent) due to the general increase in the number of registered domicile companies.*
- *Absolute decrease in the number of clients domiciled in Western Europe (including Switzerland) from 961 in 2011 to 942 in 2012. Germany no longer figures in the statistics (2012: 37 SARs or 2 percent, 2011: 40 SARs)*

Legend

Remaining Western Europe	Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Malta, Monaco, Netherlands, Portugal and San Marino
Various	Germany, North America, Asia, France, Scandinavia, C.I.S., Australia/Oceania and Unknown

2012



2003 - 2012**For comparison: 2003 – 2012**

Domicile of client	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Switzerland	545	447	365	275	348	385	320	517	660	661	4523
Caribbean	47	49	60	40	65	79	97	80	184	150	851
Central / South America	18	28	41	21	58	71	68	87	175	161	728
Italy	42	71	45	55	48	46	103	85	95	113	703
Remaining Western Europe	36	41	45	53	50	62	46	88	107	119	647
Germany	32	37	35	36	51	51	34	54	40	37	407
Great Britain	29	18	16	33	58	16	31	72	59	49	381
Middle East	19	16	17	9	20	19	22	27	84	50	283
North America	11	19	25	25	20	23	23	48	38	36	268
France	14	18	17	12	18	22	58	26	32	34	251
Africa	24	18	13	8	12	11	16	22	66	47	237
Asia	11	12	15	26	19	22	29	16	17	19	186
Eastern Europe	11	17	13	14	9	10	10	11	17	39	151
C.I.S.	9	15	2	7	3	13	15	9	21	27	121
Australia /Oceania	5	9	6	1	7	13	17	5	17	21	101
Scandinavia	4	5	6	3	8	5	6	10	7	10	64
unknown	6	1	8	1	1	3	1	2	6	12	41
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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.

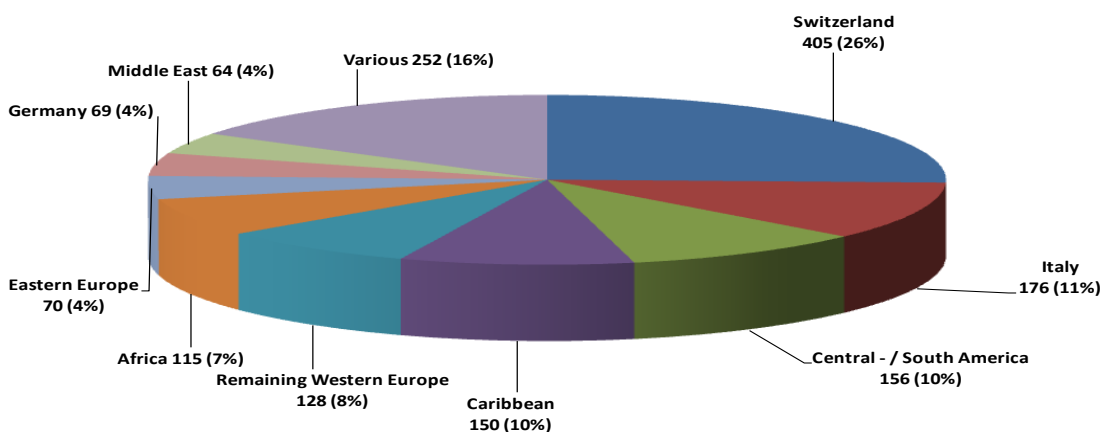
Chart analysis

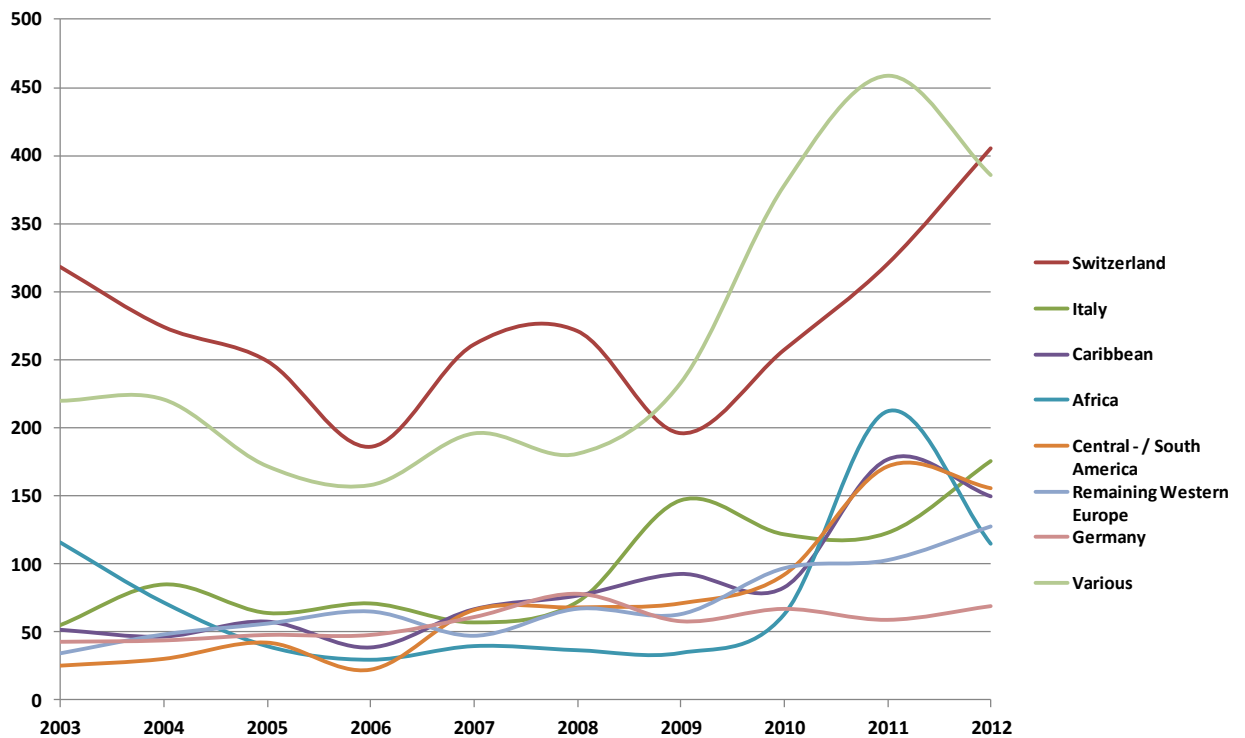
- Increase in SARs involving Swiss clients: 2012: 405 (26%), 2011: 320 (20%).
- The number of SARs involving Italian clients moves up from fifth position in 2011 (123 SARs or 7%) to second position in 2012 (176 SARs or 11%).
- Following the record number of SARs involving African clients in 2011, fall in reporting volume from this category in 2012.

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, Asia, Scandinavia, Australia/Oceania and Unknown

2012



2003 - 2012**For comparison: 2003 – 2012**

Nationality of client	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Switzerland	318	274	249	186	261	271	196	257	320	405	2737
Italy	55	85	64	71	57	72	147	122	123	176	972
Caribbean	52	47	58	39	67	77	93	83	177	150	843
Africa	116	72	40	30	40	37	35	63	212	115	760
Central / South America	25	30	42	22	66	68	71	92	172	156	744
Remaining Western Europe	34	48	56	65	47	67	63	97	103	128	708
Germany	43	44	48	48	61	78	58	67	59	69	575
Middle East	57	49	33	16	22	21	31	38	102	64	433
Great Britain	33	22	15	34	56	11	33	73	82	52	411
Eastern Europe	38	40	35	25	24	25	27	36	62	70	382
Asia	18	24	22	26	29	23	23	103	45	30	343
France	15	19	18	19	19	28	42	45	55	45	305
North America	21	23	28	24	23	24	29	48	37	39	296
C.I.S.	20	23	8	8	8	24	18	15	49	41	214
Australia /Oceania	6	11	5	1	6	12	17	6	16	21	101
Scandinavia	9	8	3	4	9	10	11	12	10	13	89
unknown	3	2	5	1		3	2	2	1	11	30
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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.

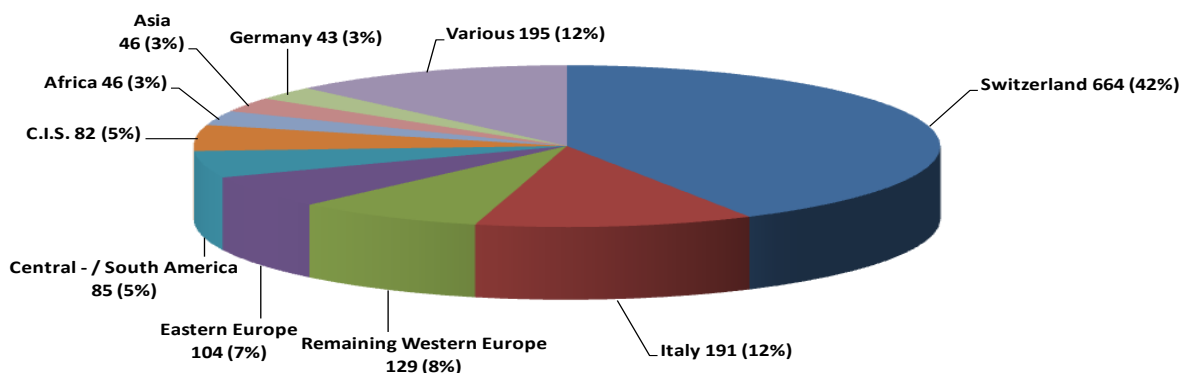
Chart analysis

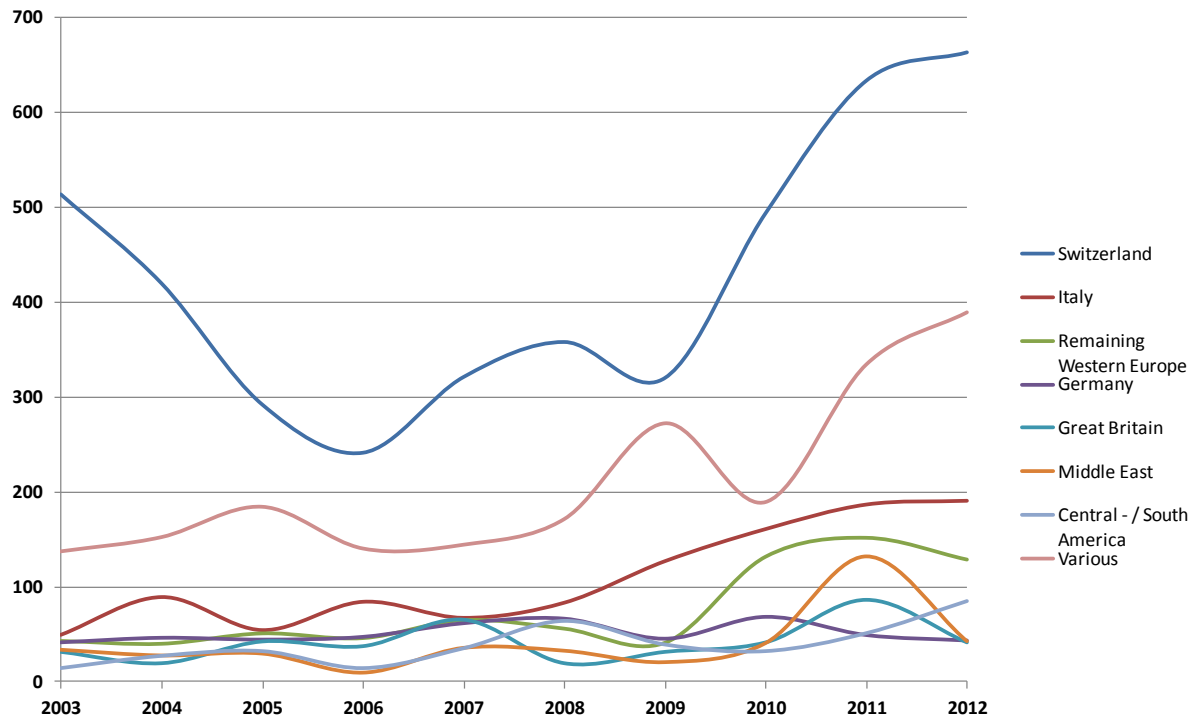
- Proportion of Swiss-based beneficial owners remains stable (2012: 42%, 2011: 39%, 2010: 43%).
- Proportion of beneficial owners from Western Europe remains stable
- Significant increase in beneficial owners domiciled in Eastern Europe (2012: 104 SARs or 7%, 2011: 32 SARs).
- Significant increase in beneficial owners domiciled in C.I.S. nations (2012: 82 or 5%, 2011: 47 or 3%).

Legend

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

2012



2003 - 2012**For comparison: 2003 – 2012**

Domicile of beneficial owner	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Switzerland	514	420	292	241	321	358	320	494	634	664	4258
Italy	49	89	54	84	67	83	127	161	187	191	1092
Remaining Western Europe	43	40	51	46	65	56	41	132	152	129	755
Germany	41	46	44	47	62	67	45	69	49	43	513
Great Britain	31	19	42	37	65	19	31	41	86	41	412
Middle East	34	28	30	10	36	33	21	41	132	43	408
Central / South America	14	27	32	14	35	64	39	32	51	85	393
Africa	38	26	35	17	21	22	19	24	100	46	348
North America	16	32	29	32	27	28	34	48	45	32	323
France	18	20	29	18	23	26	63	35	45	39	316
Eastern Europe	15	20	33	22	13	18	24	21	32	104	302
C.I.S.	13	18	8	15	7	31	52	21	47	82	294
Asia	14	14	24	29	27	24	49	23	23	46	273
Scandinavia	5	5	11	4	21	5	7	12	12	19	101
Caribbean	4	7	4	1	2	6	21	3	18	13	79
unknown	8	1	7	1	1	3	2	2	6	8	39
Australia/Oceania	6	9	4	1	2	8	1		6		37
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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.

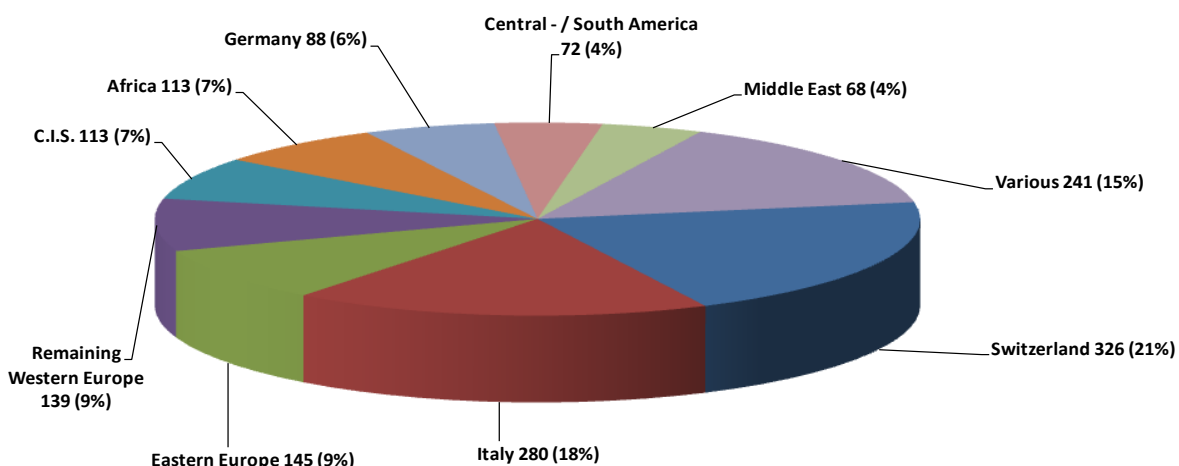
Chart analysis

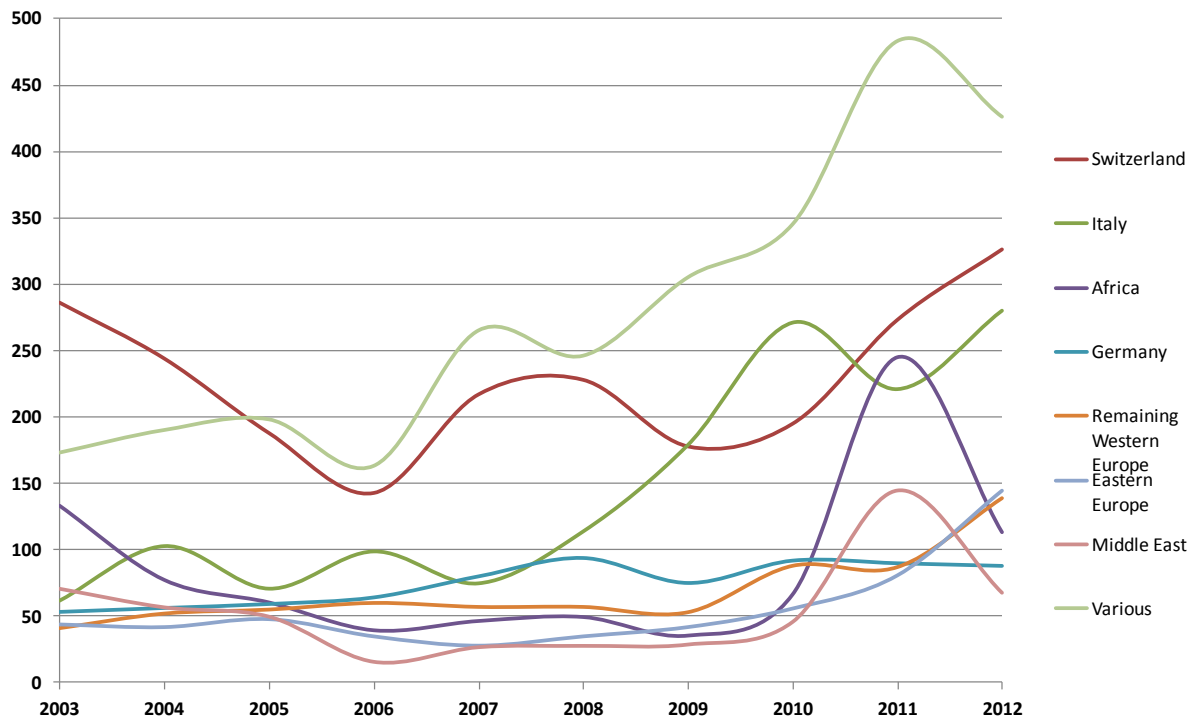
- Further increase in proportion of SARs mentioning Swiss nationals as beneficial owners, reaching a record high since 2003 (2012: 326 SARs or 21 percent).
- Number of SARs with Italian nationals as beneficial owners reaches a record high since 2003 (2012: 280 or 18 percent, 2011: 221 or 14 percent).
- Only 7 percent of beneficial owners are African nationals (2011: 15 percent).

Legend

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

2012



2003 - 2012**For comparison: 2003 – 2012**

Nationality of beneficial owner	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Switzerland	286	244	188	143	217	228	178	195	273	326	2278
Italy	62	103	71	99	75	114	179	271	221	280	1475
Africa	133	77	60	39	46	49	35	66	245	113	863
Germany	53	56	59	64	80	94	75	92	90	88	751
Remaining Western Europe	41	52	55	60	57	57	53	88	87	139	689
Eastern Europe	44	42	48	35	28	35	42	56	81	145	556
Middle East	71	57	50	16	27	28	29	46	145	68	537
Great Britain	32	17	23	38	83	16	33	39	141	52	474
C.I.S.	23	30	17	16	17	43	60	30	91	113	440
Asia	20	27	27	28	40	33	44	110	51	54	434
France	20	23	42	27	30	36	43	57	69	50	397
Central- / South America	21	31	31	11	37	60	43	39	44	72	389
North America	28	34	42	35	31	31	55	47	50	36	389
Scandinavia	10	8	6	5	21	12	12	14	19	25	132
Caribbean	9	3	3		4	5	9	6	14	11	64
Australia/Oceania	7	15	3	2	2	7	3	1	3	5	48
unknown	3	2	4	1		3	3	2	1	8	27
Total	863	821	729	619	795	851	896	1159	1625	1585	9943

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 Code of Criminal Procedure serve as the frame of reference.

Chart analysis

- *Relative and absolute decrease in forwarded SARs.*
- *Slight increase in the number of SARs forwarded to the Office of the Attorney General.*

MROS received a total of 1,585 SARs in 2012 (2011: 1,625). Following careful analysis, it forwarded 1,355 of these reports to prosecution authorities (2011: 1,471). This represents a decrease in the proportion of forwarded SARs to 85.5 percent (2011: approx. 91 percent)

In 2012, MROS forwarded 484 SARs (2011: 467) to the Office of the Attorney General of Switzerland (OAG). This figure represents both a relative and an absolute increase over the previous reporting period (2012: 36 percent, 2011: 32 percent).

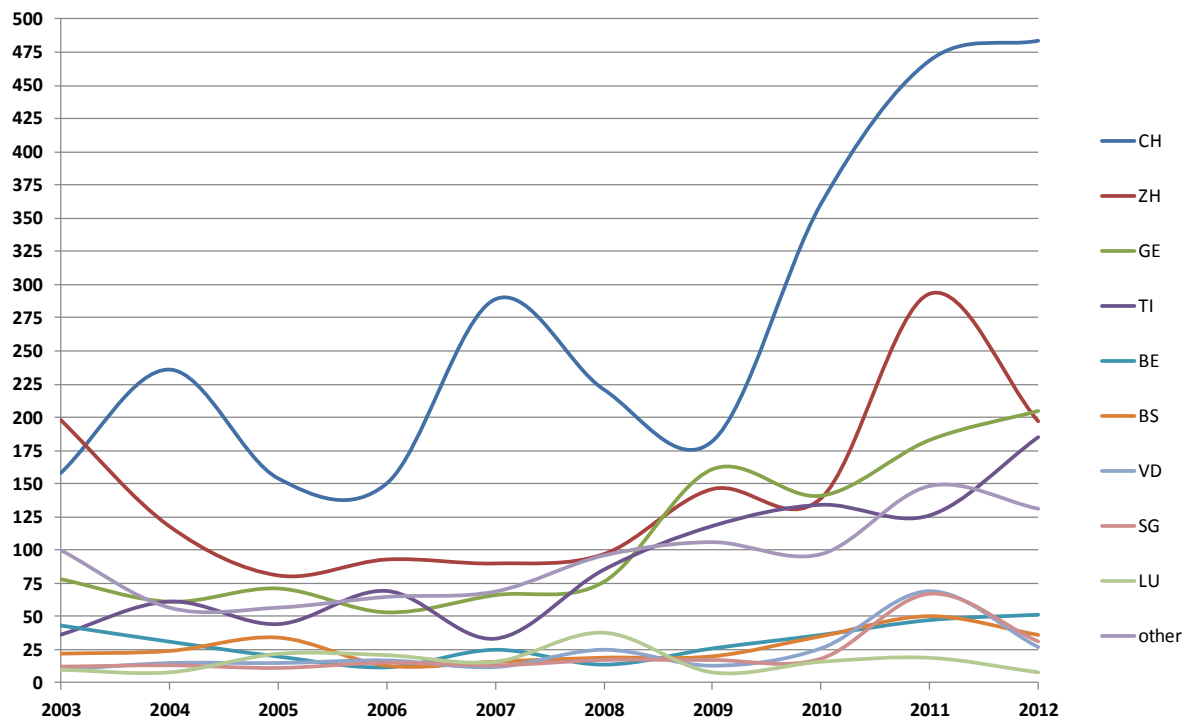
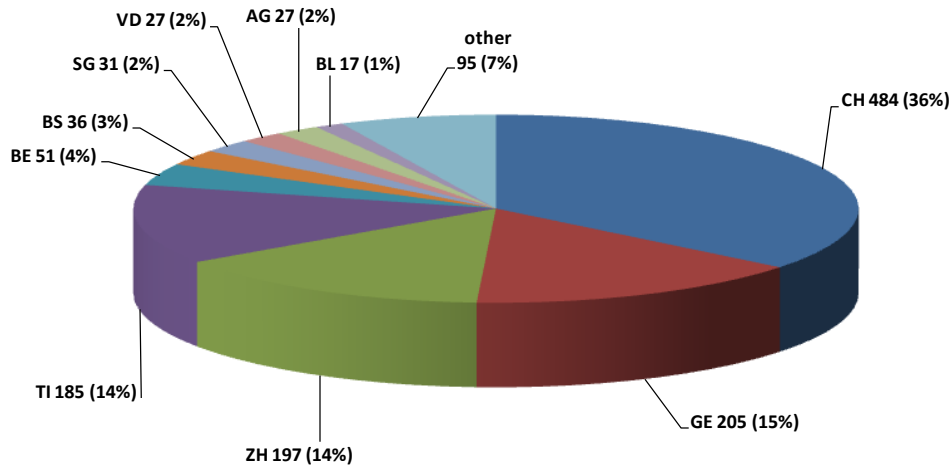
The remaining 1,101 SARs were forwarded to 23 cantonal prosecution authorities. Whereas the majority of SARs in 2011 were forwarded to the prosecution authorities of Zurich (2012: 197 SARs or 14 percent, 2011: 284 SARs or 19 percent), this changed in 2012, with Geneva receiving the most SARs (2012: 205 SARs or 15 percent, 2011: 185 SARs or 13 percent). The absolute and relative difference in the volume of SARs forwarded to these two cantons was minor, however. Around 53 percent of the 1,101 SARs forwarded to cantonal prosecution authorities (587 SARs) were forwarded to the cantons of Zurich, Geneva and Ticino (2011: 51 percent or 587 SARs).

Legend

AG	Aargau	GL	Glarus	SO	Solothurn
AI	Appenzell Innerrhoden	GR	Graubünden	SZ	Schwyz
AR	Appenzell Ausserrhoden	JU	Jura	TG	Thurgau
BE	Bern	LU	Lucerne	TI	Ticino
BL	Basel-Landschaft	NE	Neuchâtel	UR	Uri
BS	Basel-Stadt	NW	Nidwalden	VD	Vaud
CH	Switzerland	OW	Obwalden	VS	Valais
FR	Fribourg	SG	St. Gallen	ZG	Zug

GE	Geneva	SH	Schaffhausen	ZH	Zurich
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2012



For comparison 2003 – 2012

Authority	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
CH	158	236	154	150	289	221	182	361	469	484	2704
ZH	198	118	81	93	90	97	146	139	293	197	1452
GE	78	61	71	53	66	76	161	141	183	205	1095
TI	36	61	44	69	33	85	118	134	126	185	891
BE	43	31	20	12	25	14	26	36	47	51	305
BS	22	24	34	13	16	19	20	35	50	36	269
VD	10	15	15	17	12	25	13	26	69	27	229
SG	12	13	11	15	13	17	17	18	67	31	214
ZG	10	8	22	21	16	38	8	16	19	8	166
AG	10	12	5	13	10	9	9	14	49	27	158
LU	8	10	11	17	14	25	11	13	9	15	133
NE	19	8	16	4	5	8	9	7	10	8	94
BL	4	2	4	4	10	18	13	13	8	17	93
SO	19	8	4	4	3	13	16	5	14	1	87
TG	4	1	3	4	3	3	22	7	9	14	70
SZ	3	6	2	7	4	2	5	8	8	8	53
FR	2	2	4	3	4	2	5	5	10	16	53
VS	13	3	1	5	5	1	3	9	7	5	52
GR	6	2	4	3	2	2	4	9	6	7	45
SH	2		1		1	1	1	2	8	5	21
OW	2	1			1	6	3		1	3	17
NW	2	1				3	2	1	5		14
JU	4	1	1	1		2	2	1	1	1	14
AI					3			2	1	2	8
AR	1							1	2	2	6
GL	1		1		3		1				6
UR					1	1					2
Total	667	624	509	508	629	688	797	1003	1471	1355	8251

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 42 percent of all SARs forwarded to federal and cantonal prosecution authorities since 2003 are still 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 2003 to 31 December 2012, MROS forwarded a total of 8,251 SARs to prosecution authorities. By the end of 2012, decisions had been reached in 4,823 cases (58 percent). These decisions are described below:

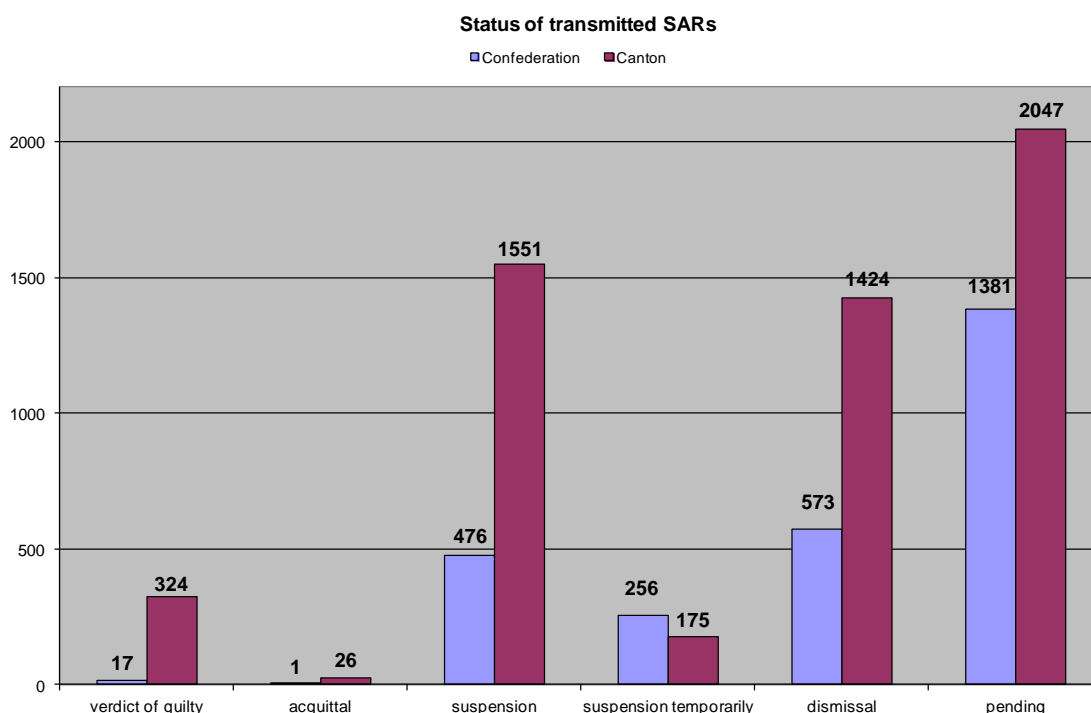
- In 7.7 percent (368 cases) of all forwarded SARs, the courts delivered the following verdict: 17 acquittals from the charge of money laundering, 10 acquittals from all charges (no charge of money laundering), 162 convictions including of money laundering, and 179 convictions for offences other than money laundering;
- In 42 percent (2,027 cases) of all forwarded SARs, criminal proceedings were initiated but later suspended after criminal investigations revealed insufficient evidence of wrongdoing;
- In 41.4 percent (1,997 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 IMAC¹¹ voluntarily pass on information to foreign judicial authorities enabling the latter to submit a request to Switzerland for international mutual assistance. Most of the cases that were dismissed concerned SARs from the payment services sector (money transmitters).

¹¹ Federal Act on International Mutual Assistance in Criminal Matters (International Mutual Assistance Act, IMAC; SR 351.1)

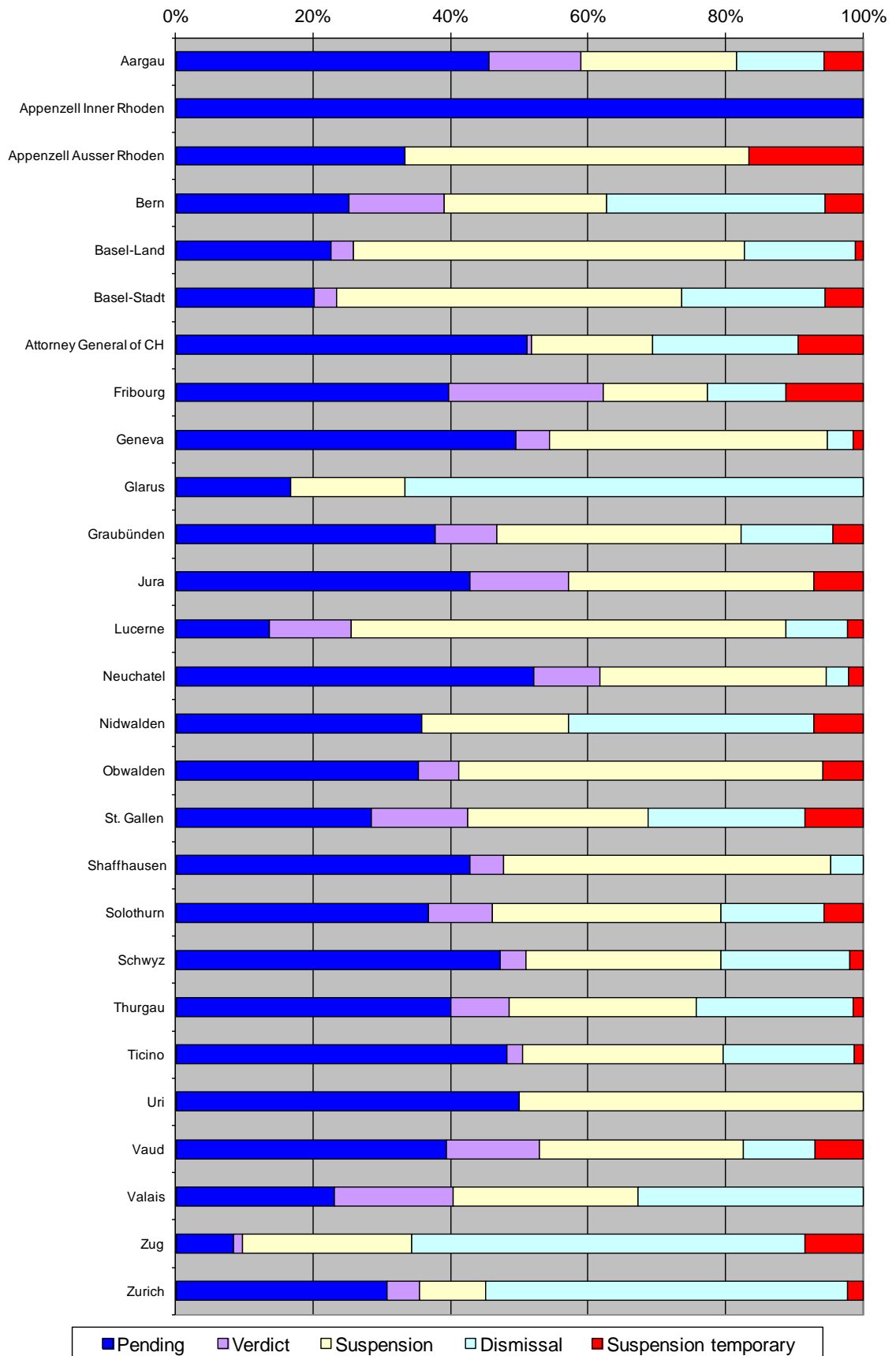
- In 8.9 percent of cases (431 SARs) criminal proceedings were suspended because proceedings had already been initiated in another country.

Although the prosecution authorities have continuously processed the number of pending cases, 42 percent of forwarded SARs (3,428 cases) were still pending at the end of 2012 (2011: 39 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 pendings SARs that relate specifically to Article 260^{ter} paragraph 1 (criminal organisation), Article 305^{bis} (money laundering) or Article 305^{ter} SCC (lack of due diligence).



Status of forwarded SARs by authority 2003-2012



Status of forwarded SARs by canton 2003 - 2012

Authority	Pending		Dismissal		Suspension		Suspension temporary		Verdict		Total	
AG	72	45.57%	20	12.66%	36	22.78%	9	5.70%	21	13.29%	158	100.00%
AI	8	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	8	100.00%
AR	2	33.33%	0	0.00%	3	50.00%	1	16.67%	0	0.00%	6	100.00%
BE	77	25.25%	97	31.80%	72	23.61%	17	5.57%	42	13.77%	305	100.00%
BL	21	22.58%	15	16.13%	53	56.99%	1	1.08%	3	3.23%	93	100.00%
BS	54	20.07%	56	20.82%	135	50.19%	15	5.58%	9	3.35%	269	100.00%
CH	1'381	51.07%	573	21.19%	476	17.60%	256	9.47%	18	0.67%	2'704	100.00%
FR	21	39.62%	6	11.32%	8	15.09%	6	11.32%	12	22.64%	53	100.00%
GE	542	49.50%	41	3.74%	442	40.37%	16	1.46%	54	4.93%	1'095	100.00%
GL	1	16.67%	4	66.67%	1	16.67%	0	0.00%	0	0.00%	6	100.00%
GR	17	37.78%	6	13.33%	16	35.56%	2	4.44%	4	8.89%	45	100.00%
JU	6	42.86%	0	0.00%	5	35.71%	1	7.14%	2	14.29%	14	100.00%
LU	18	13.53%	12	9.02%	84	63.16%	3	2.26%	16	12.03%	133	100.00%
NE	49	52.13%	3	3.19%	31	32.98%	2	2.13%	9	9.57%	94	100.00%
NW	5	35.71%	5	35.71%	3	21.43%	1	7.14%	0	0.00%	14	100.00%
OW	6	35.29%	0	0.00%	9	52.94%	1	5.88%	1	5.88%	17	100.00%
SG	61	28.50%	49	22.90%	56	26.17%	18	8.41%	30	14.02%	214	100.00%
SH	9	42.86%	1	4.76%	10	47.62%	0	0.00%	1	4.76%	21	100.00%
SO	32	36.78%	13	14.94%	29	33.33%	5	5.75%	8	9.20%	87	100.00%
SZ	25	47.17%	10	18.87%	15	28.30%	1	1.89%	2	3.77%	53	100.00%
TG	28	40.00%	16	22.86%	19	27.14%	1	1.43%	6	8.57%	70	100.00%
TI	429	48.15%	171	19.19%	259	29.07%	11	1.23%	21	2.36%	891	100.00%
UR	1	50.00%	0	0.00%	1	50.00%	0	0.00%	0	0.00%	2	100.00%
VD	90	39.30%	24	10.48%	68	29.69%	16	6.99%	31	13.54%	229	100.00%
VS	12	23.08%	17	32.69%	14	26.92%	0	0.00%	9	17.31%	52	100.00%
ZG	14	8.43%	95	57.23%	41	24.70%	14	8.43%	2	1.20%	166	100.00%
ZH	447	30.79%	763	52.55%	141	9.71%	34	2.34%	67	4.61%	1'452	100.00%
Total	3,428	41.55%	1'997	24.20%	2'027	24.57%	431	5.22%	368	4.46%	8'251	100.00%

3. Typologies (selection of cases from the 2012 reporting year)

3.1. *Concealed paintings*

Over a period of several years, a bank had maintained an account for the reported client who had also rented a safe deposit box. Since the rental fees for the safe deposit box had remained unpaid for quite some time, the bank tried to contact the client to claim the unpaid rental fees, which by that time amounted to several thousand Swiss francs. When the client failed to respond to the bank's letters, the safe deposit box was opened in the presence of a notary. Inside the safe deposit box were several paintings, presumably of high value.

The bank eventually managed to reach the client. The client advisor mentioned the paintings and requested information regarding their origin and value. The client was unable to give a plausible explanation and made several contradictory assertions. The client initially explained that he had inherited the paintings from his mother and did not know whether they were originals. Later, he claimed to be an art expert and that the paintings were only replicas and lithographs of little value.

The bank also found it suspicious when, shortly afterwards, a person appeared at the bank holding a power of attorney from the client and wished to immediately settle the outstanding rental fees. It was also highly unusual that the person holding the power of attorney not only paid these rental fees, which amounted to several thousand Swiss francs, but also wanted to transfer several tens of thousands of Swiss francs at the same time. The bank could not understand why the person holding the power of attorney, whom the client had apparently met in the art scene, would be willing to transfer much more into the client's account than merely the outstanding rental fees.

Since the client had provided conflicting accounts as to the value and origin of the paintings and was unable to certify where the paintings had come from, the bank suspected that the paintings might be stolen or forged works of art.

Further inquiries by MROS revealed that the client's creditworthiness was very low. This poor creditworthiness was the result of several debt enforcement proceedings as well as debt claims in which a certificate of unpaid debts had been issued. Another indication that the client had financial problems was the fact that he was unable to pay the outstanding rental fees himself. All of this information seemed to indicate that the client had intentionally concealed the paintings in order to keep them out of the reach of creditors.

As for the person holding power of attorney, MROS discovered that he had been implicated in fraud cases in several cantons. His own financial situation was not very encouraging since several certificates of unpaid debts had been issued in his name as well. It was therefore highly unusual that the person holding power of attorney would be able to deposit tens of thousands of Swiss francs to pay off the client's outstanding debt. MROS asked the Federal Criminal Police (FCP) to have its art experts examine the paintings or photos of the paintings and to check police records for any reported thefts. The FCP found no indications that the paintings had been stolen, which seemed to indicate a possible case of fraud against seizure under Article 163 SCC, since the client had concealed valuable paintings from his creditors.

The case has been forwarded to the corresponding cantonal prosecution authorities.

3.2. *Brothel in the Caribbean*

Investigating one of its clients (a former banker), a bank discovered on the website <http://www.interpol.int> that South American prosecution authorities had issued an arrest warrant for the client in connection with alleged involvement in human trafficking, human smuggling and illegal immigration. The client's account with the bank had indeed received deposits of several hundred thousand US dollars over a period of about a year and a half. Several of the incoming deposits lacked a clear economic background.

According to the client, these funds had come from his activity as a real estate agent. However, the client was never able to produce any contracts, documents, etc. to substantiate this claim. Additional searches over the Internet revealed that the client managed a luxury brothel in the Caribbean with prostitutes from Eastern Europe and South America. Since a South American country had issued an arrest warrant for the client in connection with alleged involvement in human trafficking and human smuggling, the bank could not exclude the possibility that at least part of the funds transferred to the suspected account might be derived from criminal activities, i.e. human trafficking and human smuggling.

Further inquiries by MROS corroborated the bank's initial suspicions. The client's name appeared in police databases as the subject of an international arrest warrant issued by South American prosecution authorities. According to the arrest warrant, the client was a member of an international criminal organisation involved in the smuggling of women from South American countries to the Caribbean, where they were exploited in a luxury brothel.

These findings seemed to indicate that the funds deposited into the reported account may have come from criminal activities (international trafficking in human beings).

The case was forwarded to the corresponding prosecution authorities, which then initiated criminal proceedings.

3.3. *Issuing loans in exchange for bribes*

A bank notified MROS of its business connection with an offshore company whose beneficial owners were a married couple from South Asia. The married couple had indicated that the incoming payments were commissions paid in relation to commodity futures that they had taken out on behalf of their clients. Internal clarifications by the bank revealed that a few years previously the husband had worked for a long time in his home country as deputy managing director of a state-run umbrella organisation for numerous agricultural companies. Among other things, this umbrella organisation pursued the aim of encouraging local agricultural production by issuing substantial loans to member companies.

According to various media reports, the husband had been arrested a few months earlier. He had been accused of misusing his position as deputy managing director to issue unsecured loans to private companies that did not meet the minimum requirements to qualify for the umbrella organisation's lending programme. In exchange for approving these loans, he had allegedly taken kickbacks from the borrowers. In connection with these approved loans, contractual documents and the signature of the managing director had also been forged. Moreover, the husband was accused of having illegally enriched himself by receiving partial repayments of the loans into his personal account. The arrest was therefore made on the grounds of suspected passive bribery, embezzlement, disloyal management and money laundering.

Apart from numerous newspaper articles found in the media archive, subsequent searches by MROS uncovered no further evidence. Neither the offshore company nor the beneficial owners appeared in police databases. MROS nevertheless decided to contact the financial intelligence unit (FIU) in the husband's home country to obtain more details surrounding the husband's arrest and to determine what specific predicate offences to money laundering the husband had been accused of committing. The FIU's response confirmed the elements of suspicion against the beneficial owners. MROS also received useful information about the investigating authorities and the public prosecutor, which facilitated contacts by Swiss prosecution authorities.

Since the offences in question constituted a felony under the Swiss Criminal Code, the reported assets could be incriminated (bribes and/or embezzled loan repayments). As the deputy managing director of a foreign state-run institution, the suspect was deemed a politically exposed person (PEP). After examining the evidence, the public prosecutor responsible for the case initiated a criminal investigation into suspected money laundering.

3.4. *Diamonds are not forever*

A financial intermediary notified MROS of a foreign client who had not paid rental fees for his safe deposit box nor had responded to an initial reminder letter asking him to pay the outstanding balance due. Two years later, the financial intermediary had still not heard anything from the client after several attempts to contact him. A decision was reached to open the safe deposit box. Inside, the financial intermediary found an unusually large number of items of jewellery, such as rings, earrings, bracelets, necklaces, brooches, watches, silver coins and other valuables. The financial intermediary considered this find to be suspicious. Since the client could not be reached, it was not possible for the financial intermediary to ascertain the origin of these items.

Another three years went by and the client finally showed up, indicating his intention to pay the outstanding rental fees for the safe deposit box. The financial intermediary reported the client to MROS. Further investigation by MROS revealed that the client had a police record in Switzerland for breaking and entering as well as in other countries for theft, handling of stolen goods as well as breaking and entering. Since the period of these offences coincided with the period when the client had visited the safe deposit box on several occasions, MROS became increasingly convinced that the valuables inside the safe deposit box had been stolen. The SAR was therefore forwarded to the public prosecutor's office, which then initiated proceedings for money laundering.

3.5. *Graft and cronyism in the South American energy sector*

MROS received SARs in connection with several accounts held by South American clients who were suspected of having taken bribes. Some of the accounts were in the names of natural persons and some in the names of offshore companies owned by the said South American clients. These clients also owned a company that was active in the South American energy sector. Over a specific period of time, all government contracts in the energy sector (with only one exception) had been awarded to this company. Since it was a very new company with little experience in the energy sector, and since the projects to which the contracts referred had not been completed on schedule, some members of parliament in the South American country called for an investigation into the conditions that enabled these contracts to be awarded to this company. The financial intermediary found several published articles where the clients had been implicated in corruption cases. After analysing the various account transactions, the financial intermediary could not exclude the possibility that at least some of the deposited assets might have resulted from corruption.

Further investigation by MROS revealed that a few months previously, a SAR had been submitted by another financial intermediary in relation to a suspected client, a politically

exposed person (PEP) holding the same nationality as the above-mentioned clients. The reported PEP had worked as an executive of a state-run company in the energy sector. The SAR submitted for this PEP also related to suspicion of corruption, among other things in connection with the awarding of contracts to the company referred to in the SAR submitted for the suspected clients. Moreover, the son of the PEP had also worked for this company. The public prosecutor responsible for the case had already initiated criminal proceedings.

The published article underscored the personal ties between the clients of the financial intermediary and the PEP against whom criminal proceedings had already been initiated. Moreover, some of the accounts had received incoming deposits during the same period in which, according to the same article, the government had awarded contracts to the company. In light of these factors, MROS suspected that at least some of the assets in question might have come from corruption. The SAR was therefore forwarded to the prosecution authorities responsible for the case. A criminal investigation was opened on the grounds of suspected corruption and money laundering.

3.6. *Forged deeds in real estate transactions*

A banking institution submitted a SAR for a recently opened account for Company A, which the client claimed to be involved in real estate. The SAR was filed after another client of the bank, Client B, informed the banking institution that he had had problems with Company A. Apparently, Client B had made a payment to Company A to buy a piece of property in a well-known holiday location. Company A was indicated as the seller and Client B as the buyer on the sales contract for this property. However, at the meeting with the notary to legally certify and transfer ownership of the property, Client B was represented by an accomplice of Company A, even though Client B had never given any power of attorney for this purpose. The notary was misled by several forged documents, including a full power of attorney and a promise of payment from the Client B's bank. In addition, the notary was unaware of the fact that the "buyer" and the "seller" were not whom they claimed to be. As a result, the notary attested to something that in fact was not accurate. The finesse of the approach could be seen by the fact that the suspects had even managed to place a fake company seal on the "promise of payment" from the purchaser's bank. This seal had been obtained over the Internet. Further inquiries by MROS revealed that one of the persons involved in the scam already had a police record for fraud and that criminal proceedings had already been initiated against him for falsification of documents. A commercial database also indicated that the person had recently been declared insolvent. The prosecution authorities launched an investigation for multiple counts of falsification of documents, fraudulent acquisition of wrong certification, multiple counts of fraud, wilful misappropriation of assets and money laundering. The case is currently pending with the corresponding prosecution authorities.

3.7. *Market retailer fudges accounts*

A SAR was filed for an account relationship with a local market retailer after the bank had received a disclosure order from a public prosecutor's office. At the time, the prosecutor's office was investigating a serious case of violations of the Narcotics Act (NarcA, SR 812.121) and suspected involvement in a criminal organisation under Article 260^{ter} SCC. Among the various suspects being investigated was Third Party B, who in the past had held power of attorney for several months over another account in the name of the reported company. In exchange, Third Party B had given power of attorney over a recently closed account at the same bank to Managing Director A of the reported company. Substantial cash sums had been deposited into the reported account, supposedly from the sale of goods at numerous stands at local markets. Before receiving the disclosure order from the public prosecutor's office, the bank had not harboured any doubts as to the origin of the incoming funds. After receiving the disclosure order, however, the bank viewed the account relationship in an entirely different light. The bank could no longer exclude the possibility that the income might have come from serious alleged drug offences and/or that these assets were under the control of a criminal organisation. A database search by MROS revealed that the creditworthiness of Managing Director A of the reported company was bad and that several debt enforcement and seizure proceedings had been initiated against him. However, there were no current records of Managing Director A's involvement in any criminal offences relating to money laundering. In contrast, Third Party B had a record of confirmed involvement in several illegal drug trafficking cases, gang-related robberies and other serious offences. MROS then conducted an analysis of transactions, which showed that the total turnover generated since the beginning of the business connection amounted to several million Swiss francs, which had been spread out over the existing accounts. MROS estimated that this sum far exceeded the amount that could normally be expected from the bank client's stated business activities, namely selling food and beverages at stands at local markets. It was also unusual that the supposedly licit income had been gradually withdrawn in cash over the years and that most of the account balance had already left the account. MROS therefore felt that there were reasonable grounds for suspicion that criminal proceeds were being laundered. The SAR was therefore forwarded to the public prosecutor's office that was already investigating the case. After receiving the SAR, a decision was reached to extend the existing investigation to include Managing Director A of the company referred to in the reported banking relationship.

3.8. *Brotherly love*

After receiving a disclosure order from a public prosecutor's office, the bank submitted a SAR on one of its clients. The account in question was apparently the subject of a criminal investigation into suspected credit fraud. However, the public prosecutor's office did not yet have a clear idea of who the perpetrators were. The clarifications carried out by the bank under Art. 6 AMLA revealed that the sums allegedly derived from fraudulent activity had already been withdrawn from the account mentioned in the aforementioned disclosure order and that this had effectively interrupted the paper trail. The bank's compliance office reviewed the cashbook entries for the day in question and discovered that on the same day when the cash had been withdrawn from the account in question, the exact same amount had been deposited into the account of the suspect's brother. This amount was then gradually used to buy consumer goods until the account balance reached zero.

Further investigation by MROS revealed that the suspect's brother had also managed to obtain a loan using the suspect's identification papers/personal details. Since the suspect's brother had full power over the account, he was able to withdraw the fraudulently obtained money from the bank directly.

The SAR was forwarded to the public prosecutor's office responsible for the case. Since both brothers had already been implicated in several cases of property crime, it is not unlikely that both brothers are involved in the current case. Investigations pursued by the public prosecutor's office must now determine which of the two brothers (if not both) was involved. Thanks to the SAR submitted by the reporting bank, an investigation that had started out against unknown persons could now be focussed on both brothers.

3.9. *Tanks for Africa*

The reporting bank began monitoring transactions after several large sums from Africa were transferred to the account of an offshore company. Subsequent clarifications revealed that the transactions did not match the stated purpose of the account when it had been opened. At the time, the foreign client had indicated that incoming funds transferred to the account would come from the sale of protective vests. However, it turned out that the payments related to the sale of tanks and high-calibre weapons.

After examining the documents submitted by the client, the bank began to seriously doubt the truthfulness and validity of these transactions. Particularly suspicious were undated contracts signed with the Ministry of Defence of an African country as well as other documents. The bank could not exclude the possibility that these contracts had been falsified and, given the close ties that the client maintained with African government officials, that the client was also involved in corruption. The bank therefore decided to report the business connection to MROS.

MROS conducted thorough inquiries both in Switzerland and abroad and examined the documents submitted to it by the bank. It concluded that the beneficial owner of the account was involved in extensive deliveries of weapons to Africa. MROS also noted that there was an enormous discrepancy between the purchase price of the used weapons and the sale price to the African country, far higher than what could be considered a normal margin. MROS felt that there were two possible explanations: either the African country paid far more for the weapons than they were actually worth (i.e. overbilling), and hence a government official involved in the weapons purchases was earning money from the transaction (possible case of corruption), or the company selling the weapons was issuing invoices that were too low (underbilling). In this latter case, there was also the possibility that one of the directors of the company selling the weapons was causing financial damage to the company (possible case of disloyal management).

With the resources at its disposal, MROS was unable to clarify all of the unanswered questions. It therefore decided to forward the SAR to the public prosecutor's office for subsequent examination. At the same time, MROS asked partner FIUs abroad whether they had received any similar SARs. It then forwarded the information that it received on billing irregularities to the public prosecutor.

3.10. Using drug money to pay for protection?

A bank filed a SAR to MROS regarding a foreign client who had transferred several large amounts from his account to a high-risk country. The bank felt the need to obtain clarification under Article 6 AMLA and called the client in for a meeting. During the ensuing discussion, the client was extremely cooperative and eventually explained that threats had been made against him and his son and that the transactions in question were intended as protection payments to pacify those making the threats. The client explained that he was the captain of a transport ship and had agreed to deliver a cargo of rice for a group of rice producers. Unfortunately the rice did not reach its destination as planned and the rice producers became very angry, to the point where they had made extreme threats to the bank client. The client explained that the money used to make the protection payments came from a loan given to him by his son. The client, however, was unable to produce any contractual documents in relation to the rice shipment. The bank therefore decided to report the foreign client to MROS.

MROS searches of accessible judicial and police databases showed no evidence of criminal activity. A more in-depth search through international press archives, however, revealed that the client's son had apparently been arrested in connection with a police raid in which a large quantity of hashish had been seized. Drugs had been transported on a cargo ship from the country where the client had made several wire transfers. After reading this information, MROS concluded that the bank client had most likely told the truth about

having to make protection payments but was less truthful about the nature of the cargo itself. It was more likely that the seizure of hashish by the police, not the failed delivery of rice, was what had sparked the ire of the producers in this distant country. Because the protection payments abroad had originated from an offshore company (with an account abroad) owned by the bank client's son and because the son had been directly implicated in a drug case, MROS could only conclude that the money used to make the protection payments was at least partly derived from drug offences and possibly incriminated. The SAR was therefore forwarded to the corresponding prosecution authorities. At the time this report went to press, the investigation was still ongoing.

3.11. Secret warehouse – or: keeping evidence out of sight

The reporting bank was notified by a third party that one of its clients, a Swiss company, was involved in investment fraud. Numerous foreign nationals had lost several million Euros as a result. Apparently, the fraudsters had managed to convince the investors that they were dealing with a well-known bank and would therefore earn a handsome return on their investments. The bank decided not only to verify the transactions on the company's account but also to obtain further clarification from the persons holding power of attorney for this company. These individuals also held their personal accounts in the same bank. However, after several unsuccessful attempts, the bank was unable to contact the clients to obtain explanations of the transactions appearing in their personal accounts. In the meantime, the bank's clarifications showed that there was a connection with fraudulent activities. The bank reported these accounts to MROS.

Subsequent queries by MROS revealed that the Swiss prosecution authorities were already aware of the fraud case after having received a request for mutual legal assistance from foreign prosecution authorities. A decision was reached to request a detailed extract of the bank statements for the reported accounts. An in-depth analysis of these bank statements initially revealed nothing unusual. The accounts had frequently been used to pay for flights and personal expenses of the account holders, the money having come from the company involved in fraudulent activities. After closer analysis of scheduled regular payments, it became clear that the account holders had rented a small warehouse (self-storage) and paid a monthly rental fee. MROS immediately notified the public prosecutor's office, which had until then been unaware of the small warehouse. A warrant was issued to search the premises and important documents were found that bore a direct relation with the fraud case and could be used for further investigation. At the time this report went to press, the investigation was still ongoing.

3.12. *Opportunity makes the thief*

A bank became suspicious of its Client A after a payment had been made to the wrong recipient. The bank's clarifications revealed that Client A had not paid the amount to his health insurance company but rather to another Client B. Client A claimed that he had placed the envelope containing both the health insurance company's payment slip and his payment order in the bank's letterbox. The bank employee therefore decided to check the video footage for the day in question. The video images clearly showed that the older client had failed to insert the envelope into the bank's letterbox, inadvertently dropping it instead onto the floor. In the video images, the bank employee saw Client B at an ATM who was casually observing the older gentleman. After withdrawing cash from the ATM, Client B picked up Client A's envelope from the floor and left the bank.

Some time later, Client B returned to the bank and inserted Client A's envelope into the bank's letterbox. Since the total amount indicated on the payment slip matched the total amount indicated on the payment order, no one suspected anything and the payment order was carried out. Only after subsequent clarification did the bank realise that Client B had intentionally replaced the health insurance company's payment slip with his own payment slip and received the CHF 600 payment into his own account. Client B then withdrew this money from the bank's ATM and closed his account.

Subsequent queries by MROS revealed that Client B had already been found guilty of similar offences in the past. The SAR was forwarded to the prosecution authorities. A few months later, the prosecution authorities charged Client B with fraud, falsification of documents and theft.

3.13. *Exchange transactions*

Over a period of a few months, a client from a country bordering Switzerland brought a very large quantity of old Swiss coins and banknotes worth several thousand Swiss francs to the financial intermediary. On each occasion, the client wished to exchange these old coins and banknotes for more recent currency. When the financial intermediary asked about the origin of these funds, the client explained that he bought them at bulk for a fixed price per weight and would then occasionally travel to Switzerland to exchange the old coins and banknotes.

The financial intermediary's compliance department was not satisfied with these explanations and decided to send a questionnaire to the client, asking him to indicate where he really obtained the money. The questionnaire was returned by the neighbouring country's postal service as undeliverable, which prompted the financial intermediary to submit a voluntary SAR to MROS under Article 305^{ter} paragraph 2 SCC.

Further investigation by MROS revealed no evidence of predicate offences to money laundering. However, since the client was a foreign national who held no residence permit in Switzerland, MROS decided to contact the FIU in the neighbouring country to find out whether there were any police records or any other incidents reported about him.

A few days later, the foreign FIU provided MROS with the decisive tip: the gentleman was currently the subject of criminal proceedings in the neighbouring country for suspected involvement in several cases of theft where large quantities of old coins and banknotes had been stolen. Since the person had also been registered for quite some time as unemployed, MROS could not exclude the possibility that the man devoted himself almost exclusively to theft and that the proceeds from this activity covered most of his living expenses.

The SAR was forwarded to the cantonal prosecution authorities of the town where the money had been exchanged and then to the authorities in the neighbouring country. It is likely that the client will be convicted abroad.

3.14. No matter how you play it, the odds are against you!

At the end of 2012, a bank detected a transaction for an unusually high amount compared to the transaction history for the account of one of its clients. The transaction in question was a wire transfer to a Swiss company domiciled abroad. The bank decided to contact its client to request documentation that would clarify the transfer. The client, a lawyer by trade, provided his bank advisor with a shareholder commitment contract.

The bank checked the various databases at its disposal to see whether there was any information about the client being a shareholder and president of the company receiving these funds. These verifications revealed that the client had already been suspected of long-standing ties with mafia organisations and was heavily involved in several illegal activities. Given these facts, the bank sent a SAR to MROS and issued an internal order for the account to be frozen.

Further inquiries by MROS served to confirm the bank's initial suspicion that the beneficial owner of the company receiving the funds might be an active member of a mafia organisation. In fact, it turned out that the person in question had already been charged with involvement in a case of drug smuggling abroad. He had also been arrested and charged in a money laundering case in connection with illegal gambling and wagers on sports matches. Moreover, the company receiving the funds had also been identified as a money laundering vehicle for these illegal activities.

Unable to exclude the criminal origin of the funds currently deposited in the reported account, MROS forwarded the SAR to the corresponding prosecution authorities for suspected money laundering and possible involvement in a criminal organisation.

4. From the MROS office

4.1. Case where assets were forfeited by the Swiss Confederation, despite a ruling to suspend proceedings and the corresponding MROS statistics

It is not rare for MROS to receive SARs where the reported assets were derived from criminal activities taking place exclusively abroad. In such cases, the ensuing criminal investigations into the predicate offence to money laundering usually take place outside of Switzerland. This was exactly what happened with one SAR that MROS received in 2008: the financial intermediary's attention was drawn to a business connection after reading press reports stating that the beneficial owner (who had used an alias to establish the client relationship) had been arrested for alleged involvement in drug trafficking in Europe. MROS forwarded the SAR to the prosecution authorities, which then initiated criminal proceedings for money laundering. Afterwards, the foreign prosecution authorities honoured a Swiss request for mutual legal assistance and authorised the Swiss prosecution authorities to be present during questioning of the detainee. The suspect was then extradited to a country outside of Europe where the prosecution authorities mounted a successful case against him. In 2012, he was sentenced to several years in prison for involvement in a criminal organisation as well as for drug trafficking. The accused reached a plea-bargaining agreement whereby he agreed to relinquish ownership over all of the assets linked to these criminal activities. The accused's assets in Switzerland, which amounted to over CHF 1 million, were directly linked to his participation in a criminal organisation. The Swiss prosecution authorities therefore decided to refer to Article 72 SCC to justify possible forfeiture of these assets by the Swiss Confederation. As it happens, Article 72 SCC stipulates that the court shall order the forfeiture of all assets that are subject to the power of disposal of a criminal organisation. Since the accused had been convicted by a foreign court for participation in a criminal organisation that qualified as such under the criteria set forth in Article 260^{ter} SCC¹², the assets could be seized in application of Article 72 SCC without the need for a conviction in a Swiss court of law. At the same time, the Swiss prosecution authorities issued a ruling suspending proceedings under Article 320 paragraph 2 CrimPC¹³.

In MROS statistics, this case is listed as "Suspended", which gives the false impression that the accused person mentioned in the SAR was not convicted. As the example above shows, the reality is quite different. Not only was the entire anti-money laundering system efficient, it was also successful: the incriminated assets were detected on the Swiss financial market, frozen and eventually seized by the Swiss Confederation even though the criminal activities giving rise to the predicate offence took place exclusively outside of Switzerland. In this case, the sentence was rendered outside of Switzerland and therefore does not appear in Swiss conviction statistics.

¹² Swiss Criminal Code of 21 December 1937; SR 311.0

¹³ Swiss Criminal Procedure Code of 5 October 2007; SR 312.0

4.2. *Obligation of prosecution authorities to provide MROS with copies of their decisions (Art. 29a para. 2 AMLA) for statistical evaluation*

Article 29a paragraph 2 AMLA requires prosecution authorities to immediately inform MROS of the decisions reached in relation to the SARs forwarded to them. This paragraph was added in the most recent revision of the Anti-Money Laundering Act¹⁴. In the corresponding Federal Council dispatch, it was further stated that this meant that MROS is to immediately receive a copy of these decisions. The provision forms the legal basis for information exchange between the authorities. In addition, the Office of the Attorney General of Switzerland and the cantonal prosecution authorities must systematically and spontaneously keep MROS informed of progress in criminal proceedings opened subsequent to receipt of a forwarded SAR. MROS requires this information in order to assess the quality of its work and establish statistics. At the same time, FATF Recommendation 33 encourages FIUs to maintain statistics to determine the effectiveness and efficiency of the system used to counter money laundering and terrorist financing activities. Information exchange to MROS should therefore take place systematically and automatically in order to reduce the administrative workload. Therefore, the prosecution authorities are required to automatically and immediately send MROS a copy of all decisions reached in relation to forwarded SARs. These decisions are established in the Criminal Procedure Code (CrimPC; SR 312.0) and are listed below:

- Opening of a criminal investigation (Art. 309)
- Issuance of a no-proceedings order (Art. 310)
- Decision to extend a criminal investigation (Art. 311 para. 2)
- Suspension of a criminal investigation (Art. 314)
- Resumption of a suspended criminal investigation (Art. 315)
- Ruling to suspend proceedings (Art. 320)
- Reopening of a criminal investigation (Art. 323)

The corresponding feedback is presented in Chapter 2.5.12 "Status of forwarded SARs" of the MROS Annual Report. It is interesting to note the distinction between issuance of a no-proceedings order and a ruling to suspend proceedings. Under Article 319 CrimPC, the public prosecutor issues a ruling to suspend proceedings if, after a criminal investigation has been opened, it is later ascertained that there is not enough evidence to justify filing charges or that the elements of the offence are lacking. In contrast, under Article 310 CrimPC, the public prosecutor issues a no-proceedings order as soon as it is established on the basis of the complaint or the police report that the elements of the offence concerned or the procedural requirements have clearly not been fulfilled, or if there are procedural impediments, or if there should be no prosecution under federal law. The ruling to suspend proceedings is issued

¹⁴ Inserted by no. 14 of the Federal Act of 3 October 2008 on Implementation of Revised Recommendations of the Financial Action Task Force, in effect since 1 February 2009 (AS 2009 361 367; BBI 2007 6269); http://www.admin.ch/ch/d/ff/2007/index0_38.html

without any further investigative activities on the part of the public prosecutor's office.¹⁵ In the past 10 years, around 41 percent of all forwarded SARs led to a no-proceedings order. This does not mean, however, that these SARs were forwarded by MROS unnecessarily to the public prosecutor's office and that MROS could have simply suspended the proceedings itself. On the contrary, in practice it transpires that in many of the no-proceedings orders there was indeed an initial suspicion, but the initial suspicion was ruled out only through a combination of MROS's analysis and police investigations, such as the questioning of individuals (N.B.: it is important to bear in mind that MROS is merely an administrative FIU, without the power to conduct investigations). Therefore, often a criminal preliminary investigation is necessary before suspicion can be dispelled or the prosecution authorities conclude that there is insufficient evidence and subsequently issue a ruling to suspend proceedings. The same applies in cases where the public prosecutor's office in Switzerland spontaneously provides information to foreign prosecution authorities within the context of mutual assistance proceedings under Article 67a IMAC¹⁶. If the public prosecutor's office in Switzerland later receives no feedback from the foreign prosecution authorities, it will issue a no-proceedings order after the legally prescribed deadline has expired. In other words, a no-proceedings order does not mean that there was no initial suspicion or that the prosecution authorities took no action on the case.

4.3. Changes to the Anti-Money Laundering Act

In its Annual Report 2011, MROS announced that Switzerland's Anti-Money Laundering Act would be amended to enable the exchange of financial information between financial intelligence units (FIUs). This change to existing legislation is intended to address the "warning of suspension" of membership from the Egmont Group to MROS and bring Swiss legislation in line with expected implementation of FATF Recommendations, which were revised in February 2012 (see Section 5.2 FATF). A draft proposal to revise the Anti-Money Laundering Act was prepared and presented for consultation. In June 2012, the Federal Council took note of the outcome of the consultation process¹⁷ on amendment of the Anti-Money Laundering Act and approved the dispatch¹⁸ to be submitted to the Federal Assembly. In the Winter Session 2012, the Council of States unanimously adopted the draft proposal without revision. The National Council in its function as second Council has adopted the draft proposal in spring 2013.

MROS's analytical activities entail the exchange of information with partner FIUs in other countries. Under current legislation in force, MROS is not authorised to provide its foreign partner FIUs with financial information such as bank account numbers, information on financial transactions or account balances, which are protected by Swiss banking secrecy

¹⁵ Taken from "*Kommentierte Textausgabe zur Swiss Strafprozessordnung*" (Annotated Swiss Criminal Procedure Code, available in German only), published by Peter Goldschmid, Thomas Maurer, Jürg Sollberger; Stämpfli Verlag AG Bern 2008

¹⁶ Art 67a IMAC: Spontaneous transmission of information and evidence; (Federal Act of 20 March 1981 on International Mutual Assistance in Criminal Matters (IMAC, SR 351.1)

¹⁷ http://www.admin.ch/ch/d/gg/pc/documents/2158/Ergebnisbericht_GwG_de.pdf

¹⁸ BBl Nr. 29 of 17 July 2012 6989, 6941 http://www.admin.ch/ch/d/ff/2012/index0_29.html

and professional secrecy legislation. This situation has negative consequences in the fight against money laundering for all those concerned, including Switzerland. Various foreign FIUs have chosen to respond to Switzerland in kind by refusing to provide any financial information to MROS. It is therefore in Switzerland's best interests to put an end to bank secrecy protections that prevent MROS from responding to mutual assistance requests. If this is done, MROS will also be able to gain access to all available data being exchanged between member FIUs. To achieve this, the Anti-Money Laundering Act needs to be revised accordingly. The aim is to enable MROS to provide partner FIUs with specific financial information such as bank account numbers, information on financial transactions or account balances.

In addition to addressing these core concerns, the draft proposal also pursues two additional regulatory objectives, which are intended to address the FATF's revised Recommendations 29 and 40:

First of all, the existing powers of FIUs to require financial intermediaries to provide more complete information regarding already submitted SARs must be expanded in certain cases: the draft proposal seeks to allow MROS to require other financial intermediaries (i.e. those that did not submit a SAR to MROS) to also supply relevant information. This would only be the case, for instance, when information relates to an already submitted SAR. By approving this, lawmakers will allow the Swiss financial market to adequately meet the greater demands placed on it by the FATF: namely, that FIUs must be able to obtain additional information from financial intermediaries so that FIUs can efficiently carry out their tasks.

The second regulatory objective pursued by the draft proposal is to authorise MROS to independently sign technical co-operation agreements with foreign FIUs, which require such an agreement (Memorandum of Understanding, MoU) in order to work with partner FIUs abroad. This legislative change also matches an FATF recommendation. As things currently stand, only the Federal Council has the right to enter into such agreements. However, MROS itself does not need to sign a co-operation agreement with foreign FIUs in order to exchange information, since this power is already conferred upon it by the Anti-Money Laundering Act.

4.4. Regimes considered as criminal organisations: duty to report

In early 2011, referring to Article 184 paragraph 3 of the Federal Constitution, the Federal Council adopted a series of decrees ordering financial intermediaries to freeze the accounts of certain individuals who were nationals of countries experiencing mass protest movements. In order to facilitate the work of financial intermediaries applying these decrees, MROS published its practice with regards to the duty to report.¹⁹

¹⁹ <http://www.fedpol.admin.ch/content/dam/data/kriminalitaet/geldwaescherei/jahresberichte/jb-mros-2011-e.pdf>

Under this practice, any report that a financial intermediary submits to the Federal Department of Foreign Affairs's Directorate of International Law (FDFA/DIL) is independent from a SAR submitted to MROS. Financial intermediaries that submit a report to FDFA/DIL have a special duty to clarify (Art. 6 AMLA) the business connections referred to in their report. Depending on the outcome of these clarifications, if the financial intermediary feels that there are sufficient grounds to suspect money laundering or terrorism financing, then it has a duty to report these suspicions to MROS under Article 9 AMLA. If the financial intermediary merely suspects such involvement, then it may avail itself of its right to report under Article 305^{ter} paragraph 2 SCC.

Consequently, there may be cases where a financial intermediary – even after complying with its duty to clarify – simply has no suspicions (neither grounds for suspicion nor even simple suspicion). In such cases, the financial intermediary would simply send a report to DIL and not MROS.

As far as Egypt is concerned,²⁰ in June 2011 the Office of the Attorney General of Switzerland (OAG) launched criminal proceedings against several individuals who were close friends and family members of the former Egyptian president. According to the OAG, it was plausible that some practices taking place under this regime could qualify as activities of a criminal organisation (e.g. misappropriation of public funds for personal use or deriving personal gain from wide-scale corruption).

In its judgment rendered on 5 September 2012, the Federal Supreme Court (FSC) confirmed the validity of a sequestration order applied to the account of the wife of a former minister under the Mubarak regime. Given the official duties carried out by her husband on behalf of Hosni Mubarak and the fact that funds had been transferred to this account while holding that government position, the judges felt that there were sufficient grounds for suspicion that the minister's wife was involved in money laundering under Article 305^{bis} SCC and therefore was to be considered as a member of a criminal organisation as defined in Article 260^{ter} SCC. Without going into too much detail on the analysis of the conditions justifying application of Article 260^{ter} SCC, the FSC ruled that the entire regime established by former President Hosni Mubarak was a criminal organisation.

In its judgment rendered on 20 December 2012 concerning a Libyan national²¹, the Federal Criminal Court (FCC) explained that the Office of the Attorney General of Switzerland (OAG) initiated criminal proceedings after a SAR had been forwarded to it by MROS. The suspect was initially charged with money laundering (Art. 305^{bis} SCC), and subsequently these charges were broadened to include participation in and support for a criminal organisation (Art. 260^{ter} SCC).

In order to determine whether the Gaddafi regime met the required conditions to be considered a criminal organisation, the FCC based its assessment on a report drafted by

²⁰ 1B_175/2012

²¹ BB.2012.71

the Federal Criminal Police. The most important elements retained were the fact that Gaddafi surrounded himself with a limited circle of individuals – the "men under the tent". This was sufficient to meet the secrecy condition set forth Article 260^{ter} SCC. The "men under the tent" had direct and effective influence over the country's affairs. This position allowed them to plunder the country and embezzle state revenues. The purpose of this system was to allow its members to benefit from assets and resources that belonged to the Libyan state. These facts were enough to meet the condition of securing financial gain by criminal means.²² According to the FCC, there was enough evidence to qualify the Gaddafi regime as a criminal organisation.

We should recall that the FSC had already qualified the Gaddafi regime as a criminal organisation in the Abacha and Duvalier cases.²³

Without going into the issue of sequestration and confiscation of assets in relation to these rulings, the fact that these regimes were qualified as criminal organisations is important to MROS. According to Article 9 paragraph 1 letter a chapter 3 AMLA, a financial intermediary must immediately file a SAR to MROS when it becomes aware of or has reasonable grounds to suspect that assets involved in the business relationship are subject to the power of a criminal organisation.

The fact that the FSC considered the former Egyptian and Libyan regimes as criminal organisations therefore complements the practices that MROS published in 2011. In other words, a financial intermediary must be immediately suspicious of any client with ties to these regimes and submit a mandatory SAR (Art. 9 AMLA) to MROS.

Voluntary SARs (Art. 305ter SCC) do not apply in such cases.

4.5. Changes to the system used to submit SARs to MROS

The bill to enact legislation applying the revised FATF Recommendations – currently in the consultation phase²⁴ – is part of a new system of submitting SARs to MROS in relation to money laundering and terrorism financing.

The Anti-Money Laundering Act (AMLA) came into effect on 1 April 1998. In fifteen years of application, Article 9 AMLA and Article 305ter al. 2 SCC have formed a solid basis in the fight against money laundering and terrorism financing in Switzerland. Experience has nevertheless revealed difficulties that the amendment to the Anti-Money Laundering Act now seeks to address.

²² For more details on the notion of criminal organisation, see FSC ruling 27 August 1996, in *Semaine judiciaire*, 1997, p. 1ss.

²³ ATF 131 II 169 et ATF 136 IV 4.

²⁴ <http://www.efd.admin.ch/dokumentation/gesetzgebung/00571/02691/index.html?lang=fr>

The current anti-money laundering system used in Switzerland draws a distinction between SARs on the basis of intensity of suspicion of money laundering. These suspicions fall into one of two categories, namely cases where there are reasonable grounds for suspicion and cases where there is merely suspicion. Each of these two categories is handled by two separate pieces of legislation, which in turn involve different measures being taken by financial intermediaries and the authorities.

When confronted with a business relationship where elements justify submission of a SAR to MROS, the financial intermediary must first determine whether the case falls within the scope of application of Article 9 AMLA or Article 305^{ter} paragraph 2 SCC. However, financial intermediaries are not free to choose between these two provisions: the first case is a duty, the second is a right. These two provisions not only oppose one another, they are also complementary in the sense that they reflect the growing intensity of suspicion. They form a logical continuation and escalation of suspicions. In fact, suspicion can be a simple feeling of uneasiness (as in the case of Art. 305^{ter} para. 2 SCC²⁵) or justified (as in the case of Art. 9 AMLA²⁶).

Because suspicions are based on personal and subjective opinions, it is not possible to establish criteria that are uniformly applicable to all situations. The relativity of the suspicion criteria means that appreciations will differ from one financial intermediary to another. Indeed, what amounts to a simple suspicion for one financial intermediary may seem entirely justified for another. This could create a difference in handling that is difficult to justify.

Apart from the degree of suspicion that must be reached, another important difference between these two provisions is the action taken in response to these two types of SAR. SARs submitted by virtue of Article 9 AMLA result in the automatic freezing of the account under Article 10 AMLA. This is not the case for SARs submitted by virtue of Article 305^{ter} paragraph 2 SCC.

In addition to these practical difficulties of interpretation, the coexistence of these two provisions has been criticised by the FATF, which wants Switzerland to not only disassociate the freezing of assets (which could have the effect of "tipping off" the suspect) but also to merge the concept of the duty to report and the right to report²⁷.

The draft proposal, which is currently in the public consultation phase, seeks to remedy the difficulties arising from the coexistence of these two types of suspicions while simultaneously complying with the recommendations made in the FATF's Mutual Evaluation Report released in 2009.

The revocation of the right to report set forth in Article 305^{ter} SCC is a very important measure. Only the duty to report under Article 9 AMLA will remain in force. Moreover, according to the draft proposal, when financial intermediaries submit an SAR by virtue of Article 9 AMLA, they will no longer automatically freeze the account for five days. This will have the effect of

²⁵ Federal Council Dispatch of 30 June 1993 Concerning Modification of the Swiss Criminal Code and the Military Criminal Code, FF 1993 III 269, p. 317.

²⁶ Federal Council Dispatch of 17 June 1996 Concerning the Federal Act on Prevention of Money Laundering in the Financial Sector, p. 1086.

²⁷ FATF "Mutual Evaluation Report" (follow-up report) – Switzerland", dated 27 October 2009, p. 22 (<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/mer%20switzerland%20rapport%20de%20suivi.pdf>).

disassociating the freezing of assets from the reporting of suspicions to MROS. It will also give MROS the time it needs to conduct an in-depth analysis before deciding what subsequent action should be taken. If MROS decides to forward the SAR to the corresponding prosecution authorities, the financial intermediary – who will be notified by MROS of this decision – will then automatically freeze the account for five days to give the prosecution authorities the time to conduct a preliminary investigation and take suitable measures.

A new mechanism has been set up to prevent reported funds from escaping confiscation or being used to finance terrorist activities. In fact, the new Article 9a of the draft revision of the Anti-Money Laundering Act would require financial intermediaries to disregard transfer requests by the suspected client who attempts to hinder confiscation or finance terrorism. At the same time, under the draft revision the financial intermediary would be required to immediately inform MROS of this attempt. The transaction would then be suspended for a period of five days during which MROS would accelerate its analysis and decide whether to forward the SAR to the prosecution authorities. MROS would then inform the financial intermediary of its decision. In the case where the SAR is forwarded to the prosecution authorities, the financial intermediary would continue to freeze the assets until the prosecution authorities have reached a decision. However, assets may not remain frozen for more than five working days from the moment when MROS notifies the financial intermediary that the SAR has been forwarded.

It is also worth mentioning that the explanatory report submitted for consultation includes an important clarification concerning the threshold of certainty that a suspicion must reach in order to give rise to a SAR under Article 9 AMLA. In fact, the duty to report under Article 9 AMLA requires that the financial intermediary "know" or "has reasonable grounds to suspect". This legal notion is imprecise and depends on the practices of financial intermediaries. As a result, it requires case-per-case interpretation. It was not the lawmaker's intention, however, to establish the duty to report only for cases where the financial intermediary had concrete proof. According to the explanatory report, the intention was for the financial intermediary to submit a SAR under Article 9 AMLA if the specific duty to clarify under Article 6 AMLA produced various indications and clues that would make the financial intermediary presume or at least be unable to exclude that the assets were of criminal origin. This explanation given by the Federal Council will certainly be very useful for financial intermediaries.

4.6. Court rulings

4.6.1 Duty to report and professional secrecy of lawyers

Affaire Michaud c. France – Decision of the European Court of Human Rights dated 6 December 2012

On 6 December 2012, in the case of "Michaud against France", the European Court of Human Rights (ECHR) ruled that the transposition of EU anti-money laundering directives and the obligation imposed on lawyers to submit a "declaration of suspicions" of possible illicit activities of their clients did not constitute a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The claimant, a member of the Paris bar association, felt that implementation of these directives constituted a threat to professional secrecy and client-lawyer privilege. However, the ECHR pointed out that this obligation to report was imposed on lawyers in only two cases, namely (§ 127): “First of all, when, within the context of their professional activity, they carry out financial or real estate transactions on behalf of their client or act as a fiduciary. Secondly, when, still within the context of their professional activity, they help their client to prepare or carry out transactions in relation to certain specific operations.” Those activities, which are inherent to the legal profession such as consultation or defence of client interests, would not be concerned; secondly, only certain financial activities (opening and managing bank or fiduciary accounts, creating or managing companies...), which are also carried out by other professionals, are subject to the same obligation. Moreover, the ECHR reiterated that French law provides an added protective filter to professional secrecy in the person of the *Bâtonnier* (head of the bar association), who is required to show heightened vigilance when forwarding a declaration of suspicion to the French FIU (Tracfin). The ECHR therefore felt that the obligation to report suspicions did not have a disproportionate impact on the basic principle of professional secrecy of lawyers.

Here we see that the approach adopted by French lawmakers on this subject is similar to that applied in Switzerland where lawyers also enjoy a special status in order to guarantee respect for professional secrecy. By virtue of Article 9 paragraph 2 AMLA, Swiss lawyers are not subject to the obligation to report their suspicions when carrying out an activity subject to professional secrecy under Article 321 SCC. In contrast, they are subject to AMLA when they act in a professional capacity as financial intermediaries (FINMA Circular 2011/1, § 114ss); and even in such cases, unlike other financial intermediaries, lawyers are not subject to direct monitoring by FINMA (Art.18 para.3 AMLA). However, lawyers must be affiliated with a self-regulating body recognised by FINMA (Art. 14 para.3 AMLA) and send their “declarations of suspicion” directly to MROS²⁸, which will then forward the declaration to the prosecution authorities if deemed necessary.

According to established Swiss jurisprudence, this protection is conferred to all deeds and documents that have been entrusted to them by their client and bear a certain relation to their activities. Therefore, it is not possible to obtain documents that are strictly related to the exercise of their mandate. However, this limitation does not apply to the temporary seizure of documents relating to the lawyer’s purely commercial activities, namely as a

²⁸ During the consultation process preceding the Federal Council’s decision on the Anti-Money Laundering Act, the Swiss Bar Association and the Swiss Association of Notaries proposed a special regulation on reporting by lawyers and notaries. Under this proposal, lawyers and notaries would not submit their reports to MROS, but to their self-regulatory body (SRB). This body would be responsible for deciding whether the report concerned facts covered by professional secrecy or whether it could be transmitted to MROS. This proposition is reminiscent of the protective filter mentioned by the ECHR and provided for under French law. The Federal Council did not accept this proposal. Indeed, it considered that “it was up to the lawyers and notaries themselves to distinguish, as part of their practice and on a case-by-case basis, if a case concerned facts relating to their main activities or to subsidiary activities.” (Dispatch of 17 June 1996 on the Anti-Money Laundering Act in the Financial Sector. Available in German, French and Italian).

body representing a private company or as a manager of assets (FCC BE.2006.4, consid. 3.1).

The landmark decision reached by the European Court of Human Rights on 6 December also applies to Swiss legislation and confirms that imposing an “obligation to report suspicions” on the legal profession is in compliance with Article 8 of the European Convention on Human Rights.

5. International scene

5.1. Egmont Group

FATF Recommendation 40 (see chapter 5.2.) states that countries wishing to fight money laundering and terrorist financing should ensure that their competent authorities quickly and efficiently exchange the information needed to perform their tasks. In response to this recommendation, the Egmont Group pursues the objective of encouraging direct, informal and therefore efficient information exchange so as to facilitate international co-operation between member FIUs.²⁹

New members

During its Plenary Meeting in 2012, the Egmont Group approved four new members, bringing total membership to 131 FIUs. The new FIUs come from the following jurisdictions:

Gabon

NAFI (National Agency for Financial Investigation); administrative FIU;

Jordan

AMLCTFU (Anti Money Laundering and Counter Terrorist Financing Unit), administrative FIU;

Tunisia

CTAF (Tunisian Financial Analysis Committee); administrative FIU;

Tajikistan

FMD (Financial Monitoring Department); administrative FIU.

In 2012, Egmont Group working groups began working in Manila, Philippines. They continued their work over the summer in St. Petersburg, Russian Federation, where the Plenary Meeting also took place. The Egmont Group's Annual Report for 2011-2012 can be found on Egmont Group website³⁰.

Revision of Egmont Group documents

Since it was founded in 1995, the Egmont Group has published several fundamental documents³¹. Two of these, the *Egmont Group Statement of Purpose* and the *Principles for Information Exchange Between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases* were referred to in the Interpretative Note to Recommendation 29 of the FATF (G.13). These Egmont

²⁹ See Statement of Purpose dated 23 June 2004 as well as the Egmont Group Charter of 31 May 2007, Ziff. II.

³⁰ <http://www.egmontgroup.org/news-and-events/news/2012/12/13/2011-2012-egmont-group-annual-report>

³¹ <http://www.egmontgroup.org/library/egmont-documents>

documents are currently being revised on the basis of experiences with information exchange between FIUs over the past few years as well as on revised FATF Recommendations. The work begun in 2011 is still progressing and is taking longer than expected.

Warning of Suspension

At the Plenary Meeting in 2011, MROS received a “warning of suspension” of its membership to the Egmont Group. The justification given for this decision was the perception that MROS does not provide foreign FIUs with enough concrete financial information such as bank account numbers, transaction details or account balances. The Federal Council rightly responded to this warning and has taken steps to revise the Anti-Money Laundering Act so that the legal basis will exist for such an exchange of information. On 27 June 2012, the Federal Council submitted a corresponding dispatch to the Federal Assembly. In the winter session (December 2012), the draft bill was adopted by the Council of States as proposed and without a dissentient vote. In spring 2013, the National Council followed in adopting the draft bill. More detailed information can be found under chapter 4.3 above.

5.2. 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 international level. MROS is represented within the FATF as part of the Swiss delegation.

Revision of FATF standards

FATF standards and their Interpretative Notes have been revised. The latest versions can be found on the FATF web site.³² The Special Recommendations have now been integrated into the 40 Recommendations.

High-risk and non-cooperative jurisdictions

FATF publishes and updates its list of countries whose anti-money laundering and terrorist financing legislation is deemed inadequate, or at least overly vague and/or non-transparent. The FATF identifies jurisdictions with strategic AML/CFT deficiencies that have provided a high-level of political commitment to address the deficiencies through implementation of an action plan developed with the FATF. It also identifies jurisdictions with strategic AML/CFT deficiencies that have not made sufficient progress in addressing

³² www.fatf-gafi.org

the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies. The current list can be found on the FATF website.³³

Typology publications

All of the studies mentioned below were produced by the FATF during the reporting year and are posted on the FATF website.

A more in-depth study was launched in response to the report entitled, "*Laundering the Proceeds of Corruption*". This new study should help financial intermediaries to understand specific risk factors associated with corruption and recognise situations where the risk of corruption is high. Here, typical business connections, clients or products associated with a high risk of corruption will be presented.

The FATF has also published a report on the illegal tobacco trade and associated money laundering and terrorist financing risks at the regional, national and global levels. This report is based on questionnaires filled out by various FATF members as well as on case studies.

The importance of financial investigations in efforts to detect money laundering, predicate offences to money laundering and terrorist financing has now been explicitly highlighted in FATF Recommendations 30 and 31. The Financial Investigations Guidance should provide an overview of ideas and concepts that individuals and institutions may adopt to make their financial investigations even more effective. The Financial Investigations Guidance also contains a large number of references to additional information on financial investigations.

Current surveys on types of money laundering

The following typology surveys are planned for next year:

- The FATF is currently working on a guidance paper on how to conduct national risk analysis in relation to money laundering and terrorist financing. This guidance paper should help countries to conduct their own national and sectoral or thematic risk analyses. The new guidance paper is based on the revised Recommendation 1 and corresponding Interpretative Note, which requires countries to identify, assess and understand national risks of money laundering and terrorist financing. The result of these risk analyses can then serve as the basis for decisions on required precautionary measures.

³³ <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>

6. Internet links

6.1. Switzerland

6.1.1 Money Laundering Reporting Office

http://www.fedpol.admin.ch/	Federal Office of Police / MROS
http://www.fedpol.admin.ch/content/fedpol/en/home/themen/kriminalitaet/geldwaescherei/meldeformular.html	SAR form MROS

6.1.2 Supervisory authorities

http://www.finma.ch/	Swiss Financial Market Supervisory Authority FINMA
http://www.esbk.admin.ch/	Federal Gaming Commission

6.1.3 Self-regulating organisations

http://www.arif.ch/	Association Romande des Intermédiaires Financières (ARIF)
http://www.oadfct.ch/	OAD-Fiduciari del Cantone Ticino (FCT)
http://www.oarg.ch/	Organisme d'Autorégulation du Groupement Suisse des Conseils en Gestion Indépendants (GSCGI) et du Groupement Patronal Corporatif des Gérants de Fortune de Genève (GPCGFG) (OAR-G)
http://www.polyreg.ch/	PolyReg
http://www.sro-sav-snv.ch/	Self-regulating Organization of the Swiss Bar Association and the Swiss Notaries Association
http://www.leasingverband.ch/46/SRO.html	SRO- Schweizerischer Leasingverband (SLV)
http://www.treuhandsuisse.ch	SRO-Schweizerischer Treuhänderverband (STV)
http://www.vsv-asg.ch/	SRO-Verband Schweizerischer Vermögensverwalter (VSV)
http://www.vqf.ch/	Verein zur Qualitätssicherung von Finanzdienstleistungen (VQF)
http://www.srosvv.ch/	Self-regulation organisation of the Swiss Insurance Association
https://www.sfa.ch/	Swiss Funds Association SFA

http://www.svig.org/	Schweizer Verband der Investmentgesellschaften (SVIG)
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6.1.4 National associations and organisations

http://www.swissbanking.org	Swiss Bankers Association
http://www.swissprivatebankers.com	Swiss Private Bankers Association
http://www.svv.ch	Swiss Insurance Association

6.1.5 Others

http://www.ezv.admin.ch/	Federal Customs Association
http://www.snb.ch	Swiss National Bank
http://www.ba.admin.ch	Office of the Attorney General of Switzerland OAG
http://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

http://www.egmontgroup.org/about/list-of-members	List of all Egmont members, partially with link to the homepage of the corresponding country
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6.2.2 International organisations

http://www.fatf-gafi.org	Financial Action Task Force on Money Laundering
http://www.unodc.org/	United Nations Office on Drugs and Crime
http://www.egmontgroup.org/	Egmont Group
http://www.cfatf-gafic.org/	Caribbean Financial Action Task Force

6.3. *Other links*

http://europa.eu/	European Union
http://www.coe.int	European Council
http://www.ecb.int	European Central Bank
http://www.worldbank.org	World Bank
http://www.bka.de	Bundeskriminalamt Wiesbaden, Germany

http://www.fbi.gov	Federal Bureau of Investigation, USA
http://www.interpol.int	INTERPOL
http://www.europol.net	Europol
http://www.bis.org	Bank for International Settlements
http://www.wolfsberg-principles.com	Wolfsberg Group

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