



REPORT

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OFFICE SWITZERLAND MROS**

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TOPICS

Statistics

Typologies

MROS Practice

International scene

Internet links

MROS

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April 2017

2016

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1 Introduction

2016 was another record year in terms of the number of SARs (Suspicious Activity Reports) received by MROS. At 2,909 SARs, which is an average of 11 per working day, financial intermediaries submitted around 23% more SARs than the previous year.

The rise in voluntary SARs continued. This is a trend that we have observed since 2010, but which has become much more marked in the last three years. In the year under review, MROS received 1,827 voluntary SARs. The lowering of the threshold of suspicion, which is covered in chapter four of this report, may have influenced this increase. In addition, awareness among financial intermediaries is increasing all the time, which means the SARs they file with MROS are of high quality.

The proportion of SARs forwarded to the prosecution authorities was comparable with the previous year, meaning around 70% of SARs. However, this figure should be put into perspective as, for the first time, MROS was unable to process all the SARs it received by the end of the year. This means that 487 mainly voluntary SARs will be handled over the course of 2017. The proportion of SARs received in 2016 forwarded to the prosecution authorities is therefore not final. MROS also made increased use of its power to request information from financial intermediaries that did not submit a SAR, filing almost 100 more such requests than in the previous year. This competence has strengthened MROS's analytical capabilities before SARs are potentially forwarded to the prosecution authorities.

Like the number of SARs, the asset value involved also broke a new record high, at CHF 5.3 billion. Around one third of this amount derived from 15 significant SARs, of which two-thirds were voluntary and one-third was mandatory. In terms of predicate offences, fraud topped the list again, after being overtaken by corruption the previous year. However, corruption continues to increase in absolute figures. As of 1 January 2016 the duty to report for dealers was introduced in the AMLA. However, MROS did not receive any such report during the reporting year.

2016 was also the year that Switzerland underwent a peer review within the scope of the Financial Action Task Force (FATF). MROS played an active role in this evaluation. The organisation and activity of MROS were judged fully compliant with FATF Recommendation 29. However, a shortcoming was detected concerning MROS's international cooperation. It is true that MROS cannot contact financial intermediaries on the basis of a SAR received from a counterpart abroad. Article 11a paragraph 2 AMLA authorises MROS to contact a financial intermediary only on the basis of a SAR from a Swiss financial intermediary. Therefore it sometimes happens that MROS cannot use important information it receives from its counterparts abroad.

Finally, in 2016, MROS published a collection of its positions featured in various annual reports. The collection, entitled 'MROS's Practice', as well as ongoing training courses and conferences aimed at financial intermediaries, forms part of MROS's mission, which is to raise awareness in the financial centre of the different issues and recent trends in the fight against financial crime.

Bern, March 2017

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2 Annual MROS statistics

2.1 Overview of MROS statistics 2016

Summary of reporting year (1 January – 31 December 2016)

SAR Reporting Volume	2016 Absolute	2016 Relative	+/-	2015 Absolute	2015 Relative
Total number of SARs received	2 909	100.0%	22.9%	2 367	100.0%
Forwarded SARs	1 726	59.3%	0.1%	1 724	72.8%
Non-forwarded SARs	696	23.9%	8.2%	643	27.2%
Pending SARs	487	16.8%			
Type of financial intermediary					
Bank	2 502	86.0%	15.9%	2 159	91.2%
Money transmitter	129	4.4%	122.4%	58	2.5%
Fiduciary	45	1.6%	-6.3%	48	2.0%
Asset manager / Investment advisor	64	2.2%	42.2%	45	1.9%
Attorney	5	0.2%	-16.7%	6	0.3%
Insurance	89	3.1%	641.7%	12	0.5%
Credit card company	21	0.7%	61.5%	13	0.5%
Casino	14	0.5%	366.7%	3	0.1%
Foreign exchange trader	3	0.1%	N/A	0	0.0%
Securities trader	3	0.1%	0.0%	3	0.1%
Other	21	0.7%	200.0%	7	0.3%
Loan, leasing and factoring business	10	0.3%	42.9%	7	0.3%
Commodity and precious metal trader	3	0.1%	-50.0%	6	0.3%

Amounts involved in CHF

(Total effective assets at time of report)

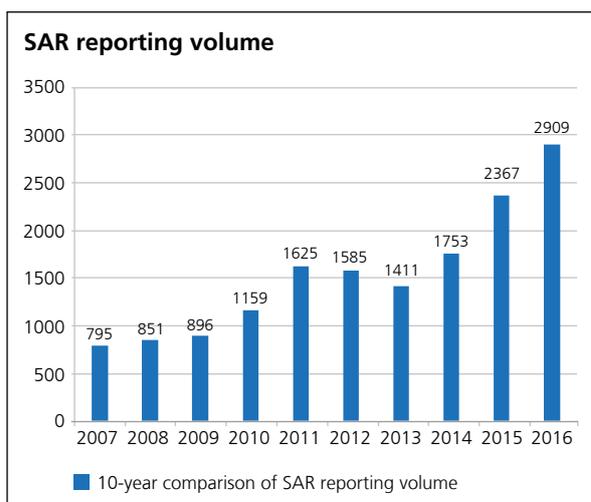
Total asset value of all SARs received	5 320 801 413	100.0%	10.2%	4 827 331 635	100.0%
Total asset value of forwarded SARs	2 515 571 959	47.3%	-29.4%	3 564 058 681	73.8%
Total asset value of non-forwarded SARs	1 836 543 941	34.5%	45.4%	1 263 272 954	26.2%
Total asset value of pending SARs	968 685 512	18.2%	N/A	0	0.0%
Average asset value of SARs (total)	1 829 083			2 039 430	
Average asset value of forwarded SARs	1 457 458			2 067 319	
Average asset value of non-forwarded SARs	2 638 713			1 964 655	
Average asset value of pending SARs	1 989 087			0	

2.2 General remarks

The 2016 reporting year was characterised by the following developments:

1. With 2,909 SARs, a record year in terms of reporting volume.
2. Total asset value also at a record level of CHF 5.3 billion.
3. Fall over the previous years in the number of SARs concerning the financing of terrorism.
4. Further decrease in the proportion of SARs forwarded to the prosecution authorities.
5. Fraud overtakes bribery again as the most frequent predicate offence to money laundering at the time the SAR was forwarded to the prosecution authorities.
6. New record number of cases concerning fraudulent misuse of a computer, in particular involving phishing.
7. 487 SARs are still awaiting analysis by MROS.

2.2.1 Total number of Suspicious Activity Reports (SARs)



In 2016, MROS received a total of 2,909 SARs in connection with money laundering or terrorist financing, meaning an increase of nearly 23% compared to the previous year. The maximum of 2,367 SARs reached in 2015 has been exceeded by 542 SARs. The high reporting volume was notably a result of four large case clusters that generated multiple SARs relating to the same case. The most complex case, which already generated 276 SARs in 2015, triggered a further 160 SARs in 2016 and involved a total asset value of more than CHF 440 million.

With a total of 2,502 SARs, the banking sector submitted 135 more SARs in 2016 than overall reporting volume in the record year of 2015 (2,367 SARs). More than 86% of

total reporting volume in 2016 came from this sector (2015: approx. 91%). While reporting volume from the banking sector rose by 16%, from 2,159 in 2015 to 2,502 SARs in 2016, reporting volume from the other sectors nearly doubled, from 208 in 2015 to 407 in 2016.

Worthy of note is the rise in SARs from the money transmitters (payment services sector). In 2015, MROS received 58 SARs from this sector as opposed to 129 SARs in 2016, more than a twofold increase.

The most significant increase in reporting volume came from the insurance sector, from 12 SARs in 2015 to 89 SARs in 2016, an increase of 642%.

Total asset volume increased by 10.2%, to more than CHF 5.3 billion. However, the amount of assets involved in SARs forwarded to prosecution authorities fell by more than CHF 1 billion or 29.4%, to CHF 2.5 billion.

As opposed to 2015, when bribery replaced fraud as the most frequently reported predicate offence to money laundering, fraud was once again at the top of the tables in 2016, with 746 SARs. This is a marked increase over 2015 (445 SARs). The number of SARs involving bribery rose from 594 in 2015 to 646 in 2016.

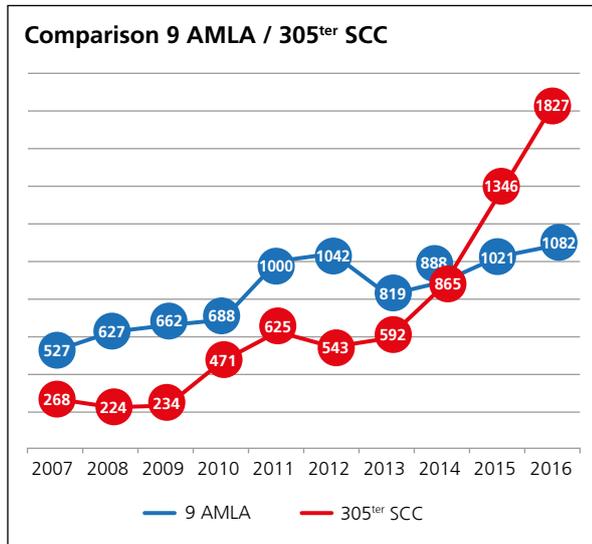
The number of SARs involving phishing, subsumed under Article 147 of the Swiss Criminal Code (SCC) (Fraudulent misuse of a computer) increased markedly again, from 142 SARs in 2015 to 254 SARs in 2016.

For the first time, MROS received in 2016 SARs involving an aggravated tax misdemeanour under Article 305bis number 1^{bis} SCC. At 34 SARs, the number is rather low. It should be noted, however, that this is a new criminal provision and the number of SARs involving this predicate offence may well rise in the coming years.

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

Of the 2,909 SARs submitted to MROS in 2016, 1,827 SARs, or 63%, were submitted under Article 305^{ter} paragraph 2 SCC (right to report / voluntary SARs) and 1,082 SARs, or 37%, were submitted under Article 9 of the Anti-Money Laundering Act (AMLA) (duty to report / mandatory SARs). Since 2010, the number of voluntary SARs under Article 305^{ter} paragraph 2 SCC has risen sharply. This increase is due to the fact that since the revision of the Anti-Money Laundering Act in 2009 voluntary SARs may only be submitted to MROS (whereas before 2009 they could be submitted to either MROS or the prosecution authorities). The sharp rise in voluntary SARs noted in the 2015 Annual Report became even more accentuated in 2016 so that for the second time MROS received more voluntary SARs than mandatory SARs.

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



An analysis of the data for 2015 (when MROS received more voluntary than mandatory SARs for the first time) showed that it was the banking sector that was responsible for the rise in voluntary SARs: in 2015, this sector submitted 1,266 SARs under Article 305^{ter} paragraph 2 SCC as opposed to 893 SARs under Article 9 AMLA. And in 2016, the banking sector submitted 1,583 voluntary SARs as opposed to 919 mandatory SARs. In addition, the other categories of financial intermediaries, for the first time, together submitted more SARs under Article 305^{ter} paragraph 2 SCC than under Article 9 AMLA. The individual financial sectors no longer follow different practices with regard to what type of SAR they submit. Whereas financial intermediaries outside the banking sector have usually submitted mandatory SARs (e.g. in 2015 they submitted 128 SARs under Art. 9 AMLA as opposed to only 80 SARs under Art. 305^{ter} para. 2 SCC), it was the other way around in 2016 (163 SARs under Art. 9 AMLA and 244 SARs under Art. 305^{ter} para. 2 SCC). That means that in 2016, for the first time, both the banking sector and the other categories of financial intermediaries were responsible for the rise in voluntary SARs. But with-

in the banking sector, different banks follow different reporting practices. In 2015, for example, foreign-controlled banks submitted more SARs under Article 305^{ter} paragraph 2 SCC (54.3%). This trend continued in 2016, with this sector submitting 68.8% of its SARs under this penal provision. The major Swiss banks also submitted more voluntary SARs (75.6%) than mandatory SARs. The cantonal and Raiffeisen banks, on the other hand, submitted more mandatory SARs in 2016, as did the private banks.

The difference in reporting practices has been evident for some years. This confirms that 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 1993 and 1996, the financial intermediary may submit a SAR on account of a suspicion that the money involved in a business relationship probably originates from an illegal activity, or there is 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.

The high level of voluntary SARs (Art. 305^{ter} para. 2 SCC) shows that financial intermediaries, who are a key element of Switzerland's anti-money laundering strategy, are increasingly prepared to take on this role. In cases of doubt, they have often decided to make use of voluntary reporting. Under Article 1 paragraph 1 letter c of the Ordinance on the Money Laundering Reporting Office Switzerland (MROSO), MROS has a legal obligation to make financial intermediaries aware of the problems of money laundering, its predicate offences, organised crime and the financing of terrorism. In 2016, MROS made another special effort to this end, which undoubtedly led to some financial intermediaries lowering their reporting threshold with regard to a simple suspicion under Article 305^{ter} paragraph 2 SCC.

Type of bank	Art. 9 AMLA	in %	Art.305 ^{ter} para. 2 SCC	in %	Total
Other bank	159	49.2	164	50.8	323
Foreign-controlled bank	206	31.2	454	68.8	660
Asset-management bank	87	28.2	221	71.8	308
Branch of foreign bank	2	100	0	0	2
Major bank	190	24.4	589	75.6	779
Cantonal bank	100	52.6	90	47.4	190
Private bank	35	61.4	22	38.6	57
Raiffeisen bank	119	77.3	35	22.7	154
Regional and savings bank	21	72.4	8	27.6	29
Total	919	36.7	1 583	63.3	2 502

Financial intermediary	Type of SAR	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Banks	Total	492	573	603	822	1080	1050	1123	1495	2159	2502	11899
	Art. 9 AMLA	291	386	386	417	523	596	598	711	888	898	5694
	Art. 9 AMLA para. 1b	16	6	15	9	13	14	5	2	5	21	106
	Art. 305 ^{ter} SCC	185	181	202	396	544	440	520	782	1266	1583	6099
Casinos	Total	3	1	5	8	6	6	8	9	3	14	63
	Art. 9 AMLA	2	1	5	4	3	1	6	6		7	35
	Art. 305 ^{ter} SCC	1			4	3	5	2	3	3	7	28
Foreign exchange trader	Total			5	6	7		5			3	26
	Art. 9 AMLA			5	6	3		4			2	20
	Art. 9 AMLA para. 1b					2						2
	Art. 305 ^{ter} SCC					2		1			1	4
Securities trader	Total	2	5	2	4		1	1	10	3	3	31
	Art. 9 AMLA	2	5	2	1		1	1	9		2	23
	Art. 305 ^{ter} SCC				3				1	3	1	8
Currency exchange	Total	1	1	1		3				1		7
	Art. 9 AMLA	1	1	1		1				1		5
	Art. 305 ^{ter} SCC					2						2
Loan, leasing, factoring + non-recourse financing	Total	4	1	11	1	5	1	4	3	7	10	47
	Art. 9 AMLA	4	1	10	1	5	1	4	2	4	6	38
	Art. 9 AMLA para. 1b											
	Art. 305 ^{ter} SCC			1					1	3	4	9
Credit card company	Total	2	2	10	9	10	22	14	9	13	21	112
	Art. 9 AMLA	2	2	3	5	6	20	11	9	11	13	82
	Art. 9 AMLA para. 1b				1							1
	Art. 305 ^{ter} SCC			7	3	4	2	3		2	8	29
Attorney	Total	7	10	11	13	31	12	9	10	6	5	114
	Art. 9 AMLA	7	10	11	12	27	11	8	9	4	2	101
	Art. 305 ^{ter} SCC				1	4	1	1	1	2	3	13
Commodity and precious metal trader	Total	5	1		1	1	3	10	3	6	3	33
	Art. 9 AMLA	5	1		1	1	3	8	2	1	1	23
	Art. 305 ^{ter} SCC							2	1	5	2	10
SRO	Total	1		4		1			2			8
	Art. 27 AMLA	1		4		1			2			8
Fiduciary	Total	23	37	36	58	62	65	69	49	48	45	492
	Art. 9 AMLA	20	35	33	57	55	56	52	36	37	26	407
	Art. 9 AMLA para. 1b			1	1	2	4			1	2	11
	Art. 305 ^{ter} SCC	3	2	2		5	5	17	13	10	17	74
Asset manager	Total	8	19	30	40	27	49	74	40	45	64	396
	Art. 9 AMLA	5	16	29	36	20	42	56	24	25	34	287
	Art. 9 AMLA para. 1b				2	1		3	2		2	10
	Art. 305 ^{ter} SCC	3	3	1	2	6	7	15	14	20	28	99
Insurance	Total	13	15	9	9	11	9	19	11	12	89	197
	Art. 9 AMLA	12	12	9	9	8	4	19	6	6	18	103
	Art. 9 AMLA para. 1b						3			1	1	5
	Art. 305 ^{ter} SCC	1	3			3	2		5	5	70	89
Distributor of investment funds	Total	1								1		2
	Art. 9 AMLA	1										1
	Art. 305 ^{ter} SCC									1		1
Money transmitter	Total	231	185	168	184	379	363	74	107	58	129	1878
	Art. 9 AMLA	156	149	147	122	324	280	43	66	33	45	1365
	Art. 9 AMLA para. 1b		1			3	2					6
	Art. 305 ^{ter} SCC	75	35	21	62	52	81	31	41	25	84	507
Other financial intermediary	Total	2		1	4	2	4	1	3	5	21	43
	Art. 9 AMLA	2		1	4	2	4	1		4	1	19
	Art. 9 AMLA para. 1b										1	1
	Art. 305 ^{ter} SCC								3	1	19	23
Authorities	Total		1						2			3
	Art. 16 para. 1 AMLA		1						2			3

2.2.3 Reporting cases of attempted money laundering or suspected terrorist financing under Article 9 paragraph 1 letter b of the Anti-Money Laundering Act

The main objective of anti-money laundering legislation is to prevent the financial market of Switzerland from being used for criminal purposes. Under Article 9 paragraph 1(b) AMLA, a financial intermediary is under an obligation to report to MROS even if a business relationship has not been entered upon. Under Article 9 paragraph 1(b) AMLA, a financial intermediary must report situations to MROS 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 defined under Article 9 paragraph 1(a) AMLA. The SARs forwarded on this legal basis are of key importance in the fight against money laundering. Submitting a SAR under Article 9 paragraph 1(b) AMLA therefore allows MROS to gather information on assets of doubtful origin and on suspect persons, and to pass on this information to prosecution authorities or to its counterparts abroad.

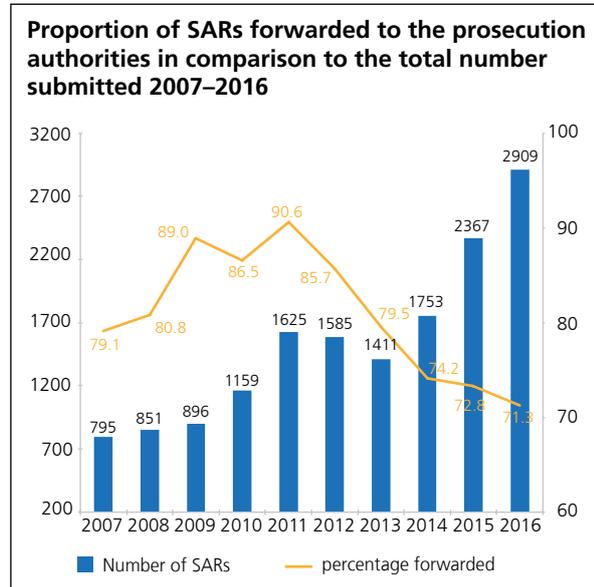
In the year under review, 27 SARs were submitted to MROS under this provision, 20 more than in 2015. Three of these SARs were forwarded to the appropriate prosecution authorities.

Since the entry into force of Article 9 paragraph 1(b) AMLA in 2009, MROS has received a total of 119 SARs by virtue of this article, 32 of which have been forwarded to the appropriate prosecution authority, making the overall proportion of forwarded SARs submitted under Article 9 paragraph 1 (b) AMLA since 2009 29.9%. Of the 32 SARs forwarded to prosecution authorities, 11 cases were dismissed, 8 cases were suspended, 3 cases were temporarily suspended and 1 case resulted in a conviction². Nine of the 32 cases are pending.

The number of dismissals can be explained by the fact that these SARs were submitted when business relations were broken off. In other words, it is difficult to prove that a predicate offence to money laundering has been committed if assets could not be transferred because a business relationship was not established. In such cases, there is generally not enough evidence to initiate criminal proceedings.

² This case relates to a SAR that MROS received in 2010 concerning a foreign national residing in Switzerland who, using false identities based on forged documents, established several companies with headquarters in Switzerland and abroad. Later, the man attempted to obtain credit from a Swiss financial intermediary using forged balance sheets of the companies in Switzerland. Following its analysis and various inquiries, MROS sent the case to the prosecution authorities. The man was found guilty of fraud for commercial gain, and of forgery and falsifying identity documents, but not guilty of money laundering (due to insufficient proof).

2.2.4 Proportion of SARs forwarded to the prosecution authorities



The proportion of SARs forwarded to the prosecution authorities fell again – albeit only slightly – and was 1.5% lower than in 2015³. In 2016, 71.3% of SARs were forwarded to the prosecution authorities. The average proportion of SARs forwarded in the last 10 years is 79.5%. However, it should be noted that 487 SARs had not yet been analysed at the end of 2016.

There are various reasons for the falling proportion of forwarded SARs. Firstly, MROS has more human resources. Secondly, the partial revision of the Anti-Money Laundering Act, which entered into force at the end of 2013, grants MROS more powers for gathering information. Thirdly, MROS is not bound to any deadlines for analysing SARs submitted under Article 305^{ter} paragraph 2 SCC and is therefore able to analyse each case in more detail. These three factors – more personnel, more authority to gather information, and no deadline for voluntary SARs – mean that MROS has the capacity to analyse SARs in greater detail and set aside cases that are unsubstantial or cannot be proven with a reasonable amount of effort. As a result, fewer SARs are forwarded to the prosecution authorities for further action. MROS retains the information in its database, however, and may still forward the case to prosecution authorities at a later date if new factors arousing suspicion arise. The same applies if MROS, due to time pressure from legal deadlines, decides not to forward the case to prosecution authorities before its counterparts abroad have responded to its request for mutual assistance. Thus, the falling pro-

³ In the 2015 Annual Report, the proportion of forwarded SARs was given as 70.8%. However, current figures show that it was in fact 72.8%. The reason for this is that a case can be forwarded to the prosecution authorities any time later if new findings justify doing so.

Proportion of SARs forwarded/ Financial intermediary category in %	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Bank	92.1%	87.4%	90.7%	90.6%	93.0%	88.7%	81.5%	75.9%	75.2%	73.1%	81.5%
Supervisory authority		100.0%						100.0%			100.0%
Casino	66.7%	100.0%	80.0%	50.0%	50.0%	16.7%	12.5%	55.6%	100.0%	46.2%	48.4%
Foreign exchange trader			100.0%	83.3%	57.1%		40.0%			50.0%	68.0%
Securities trader	100.0%	80.0%	50.0%	25.0%		100.0%	100.0%	40.0%	0.0%	100.0%	54.8%
Currency exchange	100.0%	100.0%	100.0%		33.3%				0.0%		57.1%
Loan, leasing, factoring and non-recourse financing	50.0%	100.0%	90.9%	100.0%	100.0%	0.0%	50.0%	0.0%	28.5%	37.5%	57.8%
Credit card company	100.0%	100.0%	100.0%	66.7%	100.0%	95.5%	64.3%	100.0%	92.3%	94.4%	89.9%
Attorney	85.7%	80.0%	100.0%	69.2%	93.5%	75.0%	55.6%	60.0%	50.0%	80.0%	78.9%
Commodity and precious metal trader	100.0%	0.0%		0.0%	100.0%	33.3%	70.0%	100.0%	33.3%	0.0%	57.6%
SRO	100.0%		100.0%		100.0%			100.0%			100.0%
Fiduciary	82.6%	91.9%	86.1%	79.3%	85.5%	72.3%	79.7%	77.6%	43.8%	51.2%	76.2%
Asset manager	75.0%	52.6%	83.3%	77.5%	92.6%	85.7%	86.5%	80.0%	88.9%	78.3%	82.1%
Insurance	61.5%	86.7%	66.7%	44.4%	63.6%	77.8%	78.9%	72.7%	33.3%	86.0%	75.3%
Distributor of investment funds	0.0%								100.0%		50.0%
Money transmitter	51.9%	60.5%	84.5%	81.5%	86.3%	81.0%	51.4%	51.4%	54.4%	31.5%	70.2%
Other FI	100.0%		0.0%	25.0%	100.0%	100.0%	100.0%	0.0%	60.0%	50.0%	57.7%
Total	79.1%	80.8%	89.0%	86.5%	90.5%	85.7%	79.5%	74.0%	72.8%	71.3%	79.5%

portion of forwarded SARs in no way reflects a decline in the quality of the reports from financial intermediaries, which continues to be high.

Under the new system for submitting SARs, which came into force on 1 January 2016, MROS is no longer subject to very short deadlines for analysing SARs submitted under Article 9 AMLA, but now has 20 working days to complete its analysis.

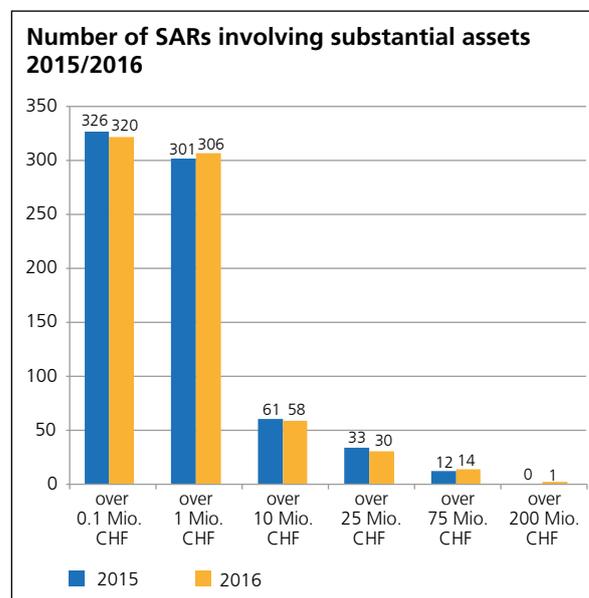
2.2.5 SARs involving substantial levels of assets

The record number of SARs in 2016 impacted on overall asset value, which amounted to more than CHF 5.32 billion. This was 10% higher than in the record year of 2015 (CHF 4.82 billion). This increase can be explained by looking more closely at reporting volume and at SARs involving substantial levels of assets.

In 2016, reporting volume increased by 23%. The rounded average of substantial assets involved in a SAR, although slightly lower, is comparable to the previous year (2016: CHF 1.8 million / 2015: CHF 2 million). One SAR in 2016 generated assets worth more than CHF 200 million, as opposed to 2015 when no SAR generated over this amount. Moreover, 14 SARs generated more than CHF 75 million (in 2015, 12 SARs involved more than this amount). The assets generated by these 15 SARs amounted to CHF 1.8 billion, more than one-third of total asset value. In contrast, in 2015 12 SARs amounted to approximately CHF 1.3 billion, or just over one-quarter of total asset value.

Seven of the 15 SARs with substantial asset value were forwarded to the prosecution authorities.

The 15 SARs involving substantial levels of assets were triggered by various reasons. As in the previous year, corruption, embezzlement, money laundering or fraud was the suspected predicate offence named by financial intermediaries. Most of the SARs were submitted to MROS following media reports (6 SARs). Other SARs were triggered by third-party information or information from prosecution authorities, or from monitoring transactions. Of the 15 SARs, 10 were submitted under voluntary reporting and 5 under mandatory reporting. Furthermore, all 15 SARs came from the banking sector.



The SARs submitted in connection with the largest case cluster in 2016 generated assets of more than CHF 440 million. Approximately one-quarter of total asset value in 2016 came from mandatory SARs and around three-quarters came from voluntary SARs. In 2015, the proportion was two-thirds voluntary reporting and one-third mandatory reporting. Both types of reporting require the same amount of time and investigation.

2.2.6 Decisions by the prosecution authorities and courts

The diagram below shows what decisions were taken by prosecution authorities on the SARs they received (e.g. suspension, dismissal, temporary suspension) and the number of convictions in 2016. The right-hand diagram below shows what the convictions were for.

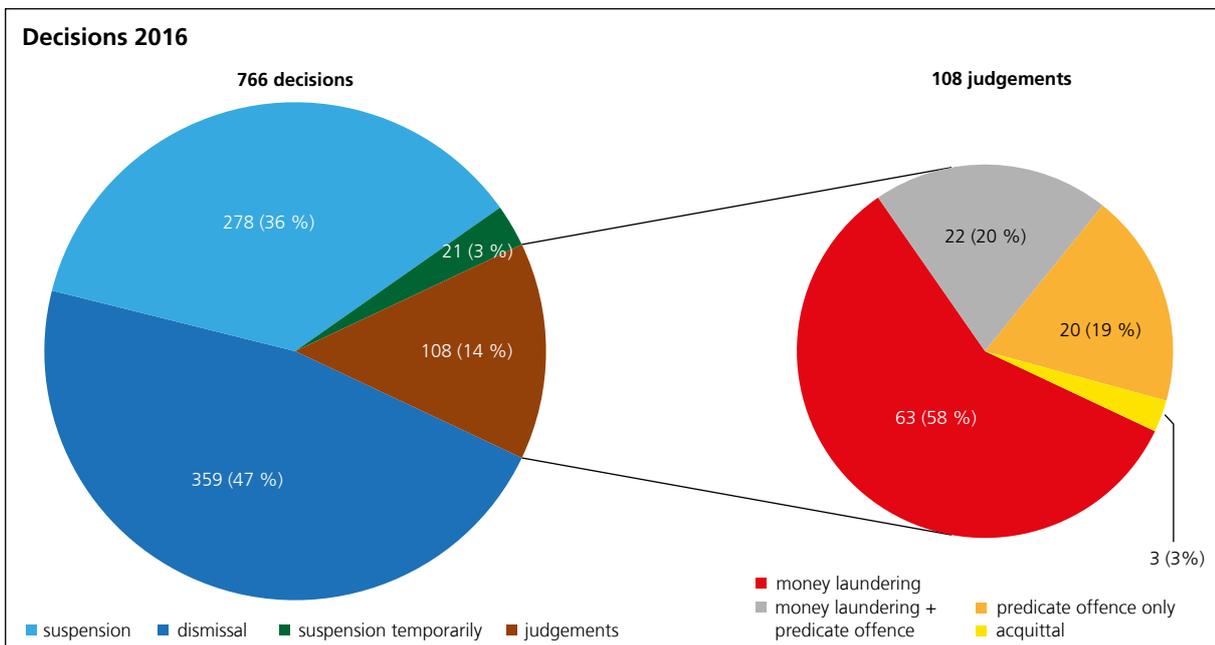
In 2016, 766 decisions were taken on pending SARs. Fourteen percent were convictions (which have become final). In nearly 50% of the cases proceedings were dismissed. It should be pointed out that the Swiss legal system and criminal procedure are not geared solely to convicting suspects. Since Switzerland’s financial market is oriented to an international clientele, criminal proceedings frequently contain an international component, which means that quite often criminal proceedings are conducted on the same subject in another country and lead to a verdict. Where this happens, the foreign authorities dealing with the case are assisted by the Swiss authorities through mutual assistance, and proceedings in Switzerland are suspended under the *ne bis in idem* principle (i.e. a man shall not be tried twice for the same crime). Similarly, Swiss prosecution authorities can request information on a case abroad by means of

mutual assistance. Unfortunately, the chances of obtaining information from abroad are not the same for each country. Moreover, in the past, proceedings tended to be suspended more often because the network of global FIUs was limited and their powers regarding mutual assistance were more restricted than today, which made it more difficult to obtain hard evidence on predicate offences committed abroad. Moreover, our statistics show that nearly 46% of forwarded SARs between 2007 and 2016 are still the subject of pending criminal proceedings. It should however be noted that prosecution authorities do not consistently report to MROS as is their duty under Article 29a AMLA (see also Chapter 2.5.12).

2.2.7 Phishing and money mules

In 2016, MROS received 254 SARs in connection with stolen computer data or, in other words, the predicate offence of fraudulent misuse of a computer according to Article 147 SCC (2015: 142 SARs). The 2016 figure represents a record high, the highest level previously being in 2015 (142 SARs). Most of the cases involving this type of fraud display a similar pattern:

The person suspected of being a financial agent, i.e. a money mule, responds to an advertisement or is contacted by a third person and is asked to make their bank account available for the transfer of money – often a four-digit amount – without knowing anything of its origin. The money, however, has usually been obtained by unlawful means, for example by hacking a person’s account. Once the money is paid into the financial agent’s account, he is asked to withdraw the sum in cash and forward it either by post or through a money transmitter to a person abroad who is not person-



ally known to him. In return, the financial agent receives a commission. By receiving and passing on the money, the agent is liable to prosecution for money laundering, even if he is not aware that the money has been gained by unlawful means. If the court finds that the financial agent should have reckoned with the money being the proceeds of a crime, it affirms an account of *dolus eventualis* (conditional intent).

Of the 254 SARs submitted to MROS in 2016, 244 SARs were forwarded to the prosecution authorities. During the period under review, a verdict was reached in 31 of the 244 cases. 73 cases are still pending. A further 40 cases were suspended, dismissed or temporarily suspended.

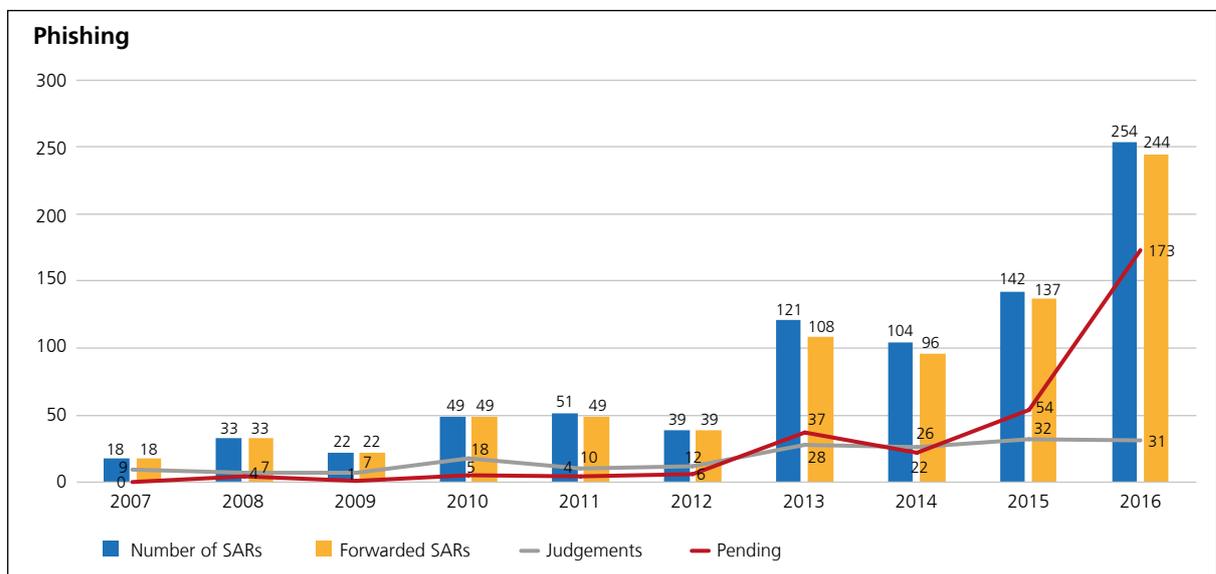
The diagram shows the proportion of forwarded cases and the number of corresponding convictions. Out of the 833 SARs received since 2007 in connection with this offence, 795 SARs (96%) were forwarded to the prosecution authorities. To date, 180 verdicts (nearly 23%) have been reached on the SARs forwarded. This proportion may still rise, since 306 cases are still pending, 173 of which were forwarded to the prosecution authorities in 2016.

2.2.8 Article 11a Anti-Money Laundering Act

Since 1 November 2013, MROS has been authorised to formally request information both from financial intermediaries that have submitted a SAR (to obtain additional details) as well as from financial intermediaries that have not submitted a SAR but are mentioned in an existing one (third-party financial intermediaries). On request by MROS, third-party financial intermediaries are obliged to submit all relevant information in their possession to the reporting office. When analysing incoming SARs, MROS often finds

that transactions or business connections involve more than one financial intermediary. However, MROS can only request additional information from a third-party financial intermediary if its analysis of the existing SAR shows that a (Swiss) financial intermediary other than the one who has already submitted a SAR is also involved in a transaction. In other words, MROS can request additional information only if it has received a SAR requiring in-depth analysis and additional information from other financial intermediaries. If there is evidence of wrongdoing from a source other than a SAR, MROS is not permitted by law to obtain additional information from a third-party financial intermediary.

In order to obtain this additional information, MROS uses specially compiled forms based on Article 11a paragraph 1 or 2 AMLA. These forms indicate the list of documents to be provided, and MROS selects those that are deemed relevant to the case under analysis. The form requesting additional information does not constitute adequate grounds for suspicion. This is particularly the case if the original SAR is triggered by the existence of a simple suspicion by virtue of Article 305^{ter} paragraph 2 SCC, i.e. the right to report. In addition, the reporting system established by the legislator in 1998 was intended to avoid the automatic submission of SARs. In order to submit a SAR to MROS, the financial intermediary must have its own specific reasons justifying this suspicion on the basis of elements at its disposal. Nevertheless, the financial intermediary cannot ignore the fact that its client is the subject of an information request from Switzerland’s Financial Intelligence Unit, MROS, and that this information request arose in relation to a SAR submitted by another financial intermediary. The third-party financial intermediary is therefore required to carry out clarification

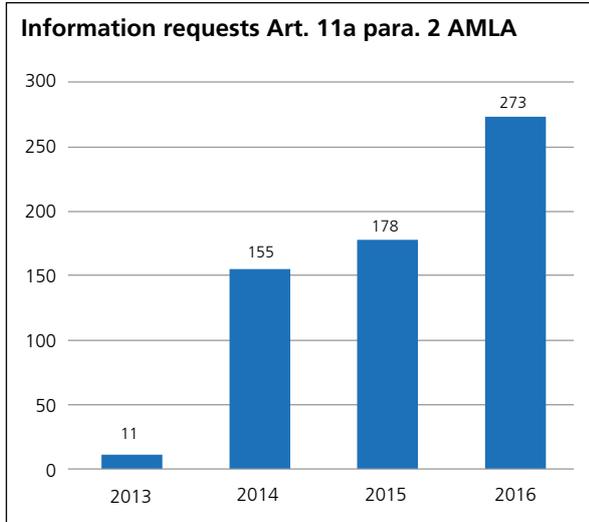


under Article 6 paragraph 1 AMLA to determine whether it also has specific grounds for suspicion. If this is the case, it will send a SAR to MROS (by virtue of either Art. 9 AMLA or Art. 305^{ter} para. 2 SCC). If there are no specific grounds for suspicion, the financial intermediary will merely provide MROS with the information it has requested.

In 2016, MROS sent 273 requests for information by virtue of Article 11a paragraph 2 AMLA. This is 95 more requests than in 2015.

The third-party financial intermediary can comply with MROS's request by enclosing additional documents as part of a SAR if it has a well-founded suspicion. In 2016, MROS received 42 SARs from third-party financial intermediaries that were prompted to submit a report following a request from MROS for additional information under Article 11a paragraph 2 AMLA (2015: 28 SARs). Of these 42 SARs, 34 SARs were forwarded to the prosecution authorities (2015: 23 of 28 SARs).

The additional information provided by third-party financial intermediaries allows MROS to analyse a SAR in greater detail and is often decisive for its decision on whether or not to discontinue its analysis or forward the case to the prosecution authorities. The information MROS received in 2016 under Article 11a paragraph 2 AMLA often allowed it to shelve the case without taking any further action. Hence, the new provision is a further reason for the fall in the proportion of SARs forwarded to the prosecution authorities.



2.3 Information exchange with foreign Financial Intelligence Units (FIUs)

The diagrams in the following two chapters (2.3.1. and 2.3.2.) show the volume of information exchange between MROS and its foreign counterparts.

MROS and its international counterparts, i.e. foreign FIUs, may exchange information related to combating money laundering and its predicate offences, and terrorist financing by means of mutual administrative assistance. The 40 FATF Recommendations (see Chapter 5.2.) govern information exchange between agencies responsible for combating money laundering, associated predicate offences, and the financing of terrorism. 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.

2.3.1 Inquiries from foreign FIUs

What the chart represents

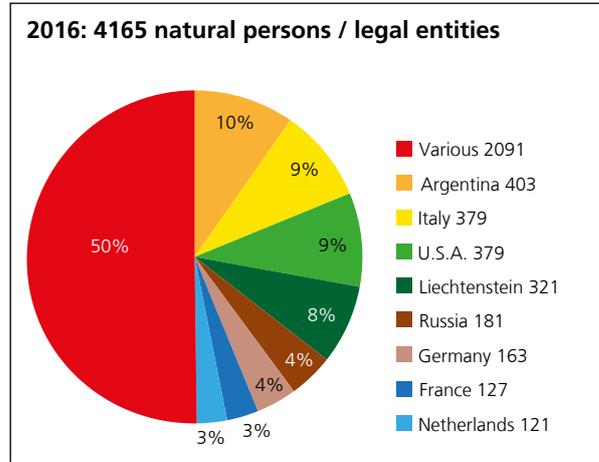
This chart shows which FIUs submitted inquiries to MROS. It also indicates how many natural persons and legal entities were mentioned in these inquiries.

Chart analysis

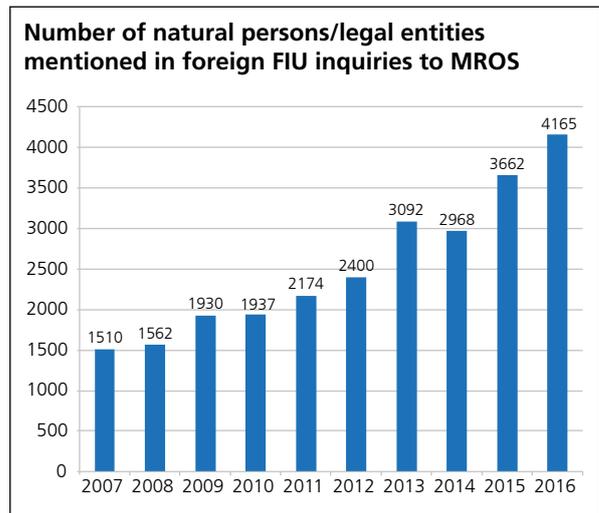
The number of natural persons and legal entities who were the subject of inquiries from foreign FIUs increased significantly again and reached a new record high.

The number of natural persons and legal entities who were the subject of inquiries from foreign FIUs rose by 503, to a total of 4,165. With the exception of 2014, the continuing upward trend since 2007 in the number of inquiries from foreign FIUs continued in 2016 at an enhanced rate. The rise is due not only to the growing international entanglement of financial flows, but also to increasing membership of the Egmont Group.

MROS replied to 722 inquiries from 94 countries. This was slightly fewer than in the previous year (2015: 811 inquiries from 96 countries). In 2016, MROS received 230 instances of 'impromptu' information from 40 countries (2015: 132 instances from 29 countries). 'Impromptu' information is when a foreign FIU sends MROS information that requires no reply. If added to the aforementioned 722 inquiries, MROS was therefore approached 952 times by a foreign FIU (2015: 943 times).



For comparison: 2007 to 2016



MROS was not able to reply to 10 inquiries from foreign FIUs for formal reasons, usually because the cases did not have a direct link to Switzerland. In 2015, this figure was 31 inquiries.

MROS responded to FIU inquiries within an average of 11 working days of receipt, as opposed to 8 days in 2015.

2.3.2 MROS inquiries to foreign FIUs

Whenever a financial intermediary in Switzerland submits a SAR mentioning a natural person or legal entity domiciled outside of Switzerland, MROS may send an inquiry to the appropriate foreign FIU to obtain information about that person or entity. The information MROS receives from foreign FIUs is extremely important because many incoming SARs have an international connection.

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.

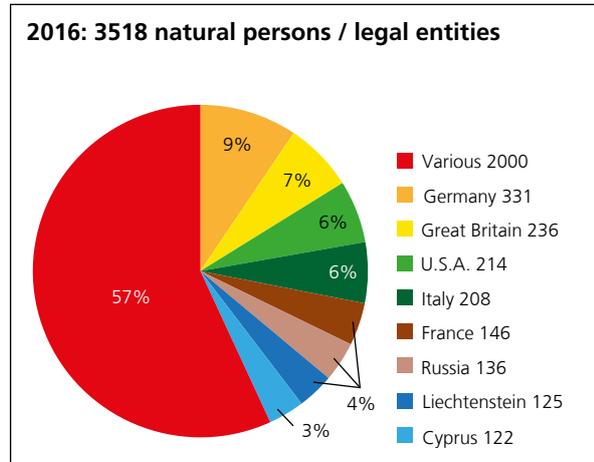


Chart analysis

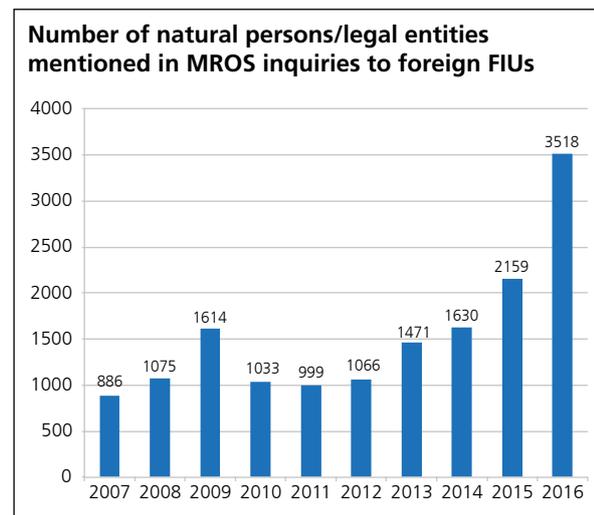
The number of natural person and legal entities who were the subject of MROS inquiries to foreign FIUs rose significantly and reached a record high.

In the 2016 reporting year, MROS sent 758 inquiries on 1,806 natural persons and 1,712 legal entities (3,518 natural persons and legal entities in total) to 102 foreign FIUs. In 2015, this figure was 583 inquiries on 1,207 natural persons and 952 legal entities (2,159 natural persons and legal entities in total) to 96 foreign FIUs.

In addition to the aforementioned 758 inquiries, MROS also sent 146 instances of 'impromptu' information to 46 countries. Like the rise in overall reporting volume in general, the number of MROS inquiries to foreign FIUs also increased, which indicates that SARs are becoming increasingly complex. There was also a rise in the number of FIUs MROS contacted for information, from 96 in 2015 to 102 in 2016. The foreign FIUs took an average of approximately 27 working days to reply to each request (2015: 21 working days). MROS's key partners in this respect were the FIUs in Germany, Great Britain, Italy and the U.S.A.

An average of 293 natural persons or legal entities each month were the subject of its inquiries to foreign FIUs (2015: 180).

For comparison: 2007 to 2016



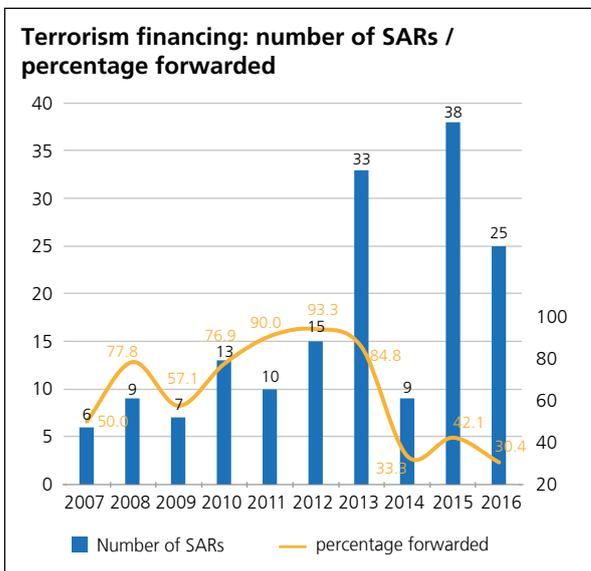
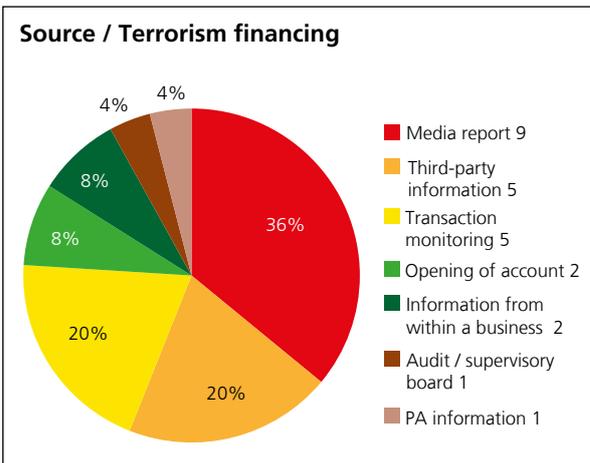
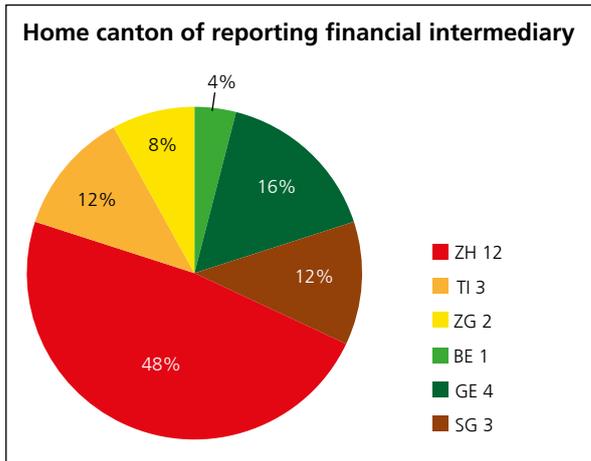
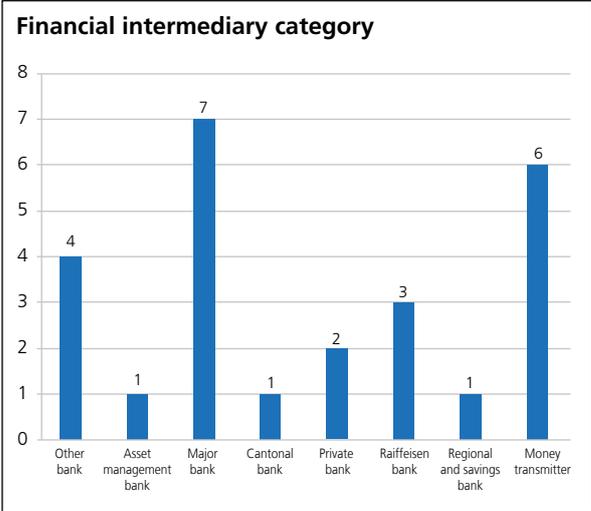
2.4 The search for terrorist funds

The analysis of SARs from financial intermediaries by the Money Laundering Reporting Office MROS does not only serve the fight against money laundering but also the fight against the financing of terrorism. In 2016, MROS received 25 SARs involving the suspected financing of terrorism. This is a decrease of 13 SARs over 2015. However, this cannot be considered as a decreasing trend considering the big fluctuations over the years. In general, a clear global increase of SARs has indeed been recorded these past years. If we look at the figures for 2015, a record year with 38 SARs, we see that the 38 SARs submitted concerned 19 individual cases. In 2016, however, 23 of the 25 SARs submitted concerned individual cases.

The amount of assets involved was CHF 180 million, nearly CHF 150 million higher than in 2015. This sum is low, however, when compared to the asset value of SARs involving money laundering. Nevertheless, it represents an average sum of CHF 7.2 million for each SAR relating to the suspected financing of terrorism.

Five of the SARs submitted to MROS in 2016 revealed a connection to the OFAC (Office of Foreign Assets Control) List, issued by the export control authority of the U.S. Department of the Treasury. This authority has a number of lists, some containing information on suspected terrorist activities and naming the corresponding natural persons or legal entities.

One SAR concerned a person on the Taliban list. This list is based on Resolution 1267 of the U.N. Security Council from 1999. The Resolution has been modified on several occasions over the years. The sanctions it contains now are no longer directed against the Taliban as a group, but against specific natural persons and legal entities that have connections to Usama bin Laden, Al-Qaeda or the Taliban. As a U.N. member state, Switzerland is under an obligation to apply these sanctions. Considering the international component of this offence, the sharing of information with counterparts abroad is of crucial importance.



Seven SARs concerned the suspected financing of jihadist motivated terrorism.

The SARs were submitted mainly based on information the financial intermediary had obtained from newspaper reports (9 SARs). Information from third persons, which includes the compliance databases of private providers which are used by financial intermediaries to match clients, was a further trigger, as was the monitoring of transactions by the financial intermediary (5 SARs each).

Of the 25 SARs, 19 SARs were submitted by the banking sector. The remaining 6 SARs were submitted by payment services providers (money transmitters).

Of the 25 SARs, 7 SARs were forwarded to the prosecution authorities, of which five were dismissed and two are pending.

SARs involving the financing of terrorism are important not just on forwarding them to the prosecution authorities or on opening criminal proceedings. Even if some SARs are not forwarded to the prosecution authorities, the information they contain is important (not least in the field of prevention) and this information is made available to the appropriate agencies in Switzerland and abroad within a useful timeframe even though this appears nowhere in the statistics.

Status of forwarded SARs in connection with the financing of terrorism

Status	Total
Dismissal	31
Pending	52
Suspension	12
Temporary suspension	5
Conviction	1
Total	101

Year	Number of SARs				Factors arousing suspicion				Asset value	
	Total	Terrorist funding (TF) SARs	Forwarded SARs	TF in % of total number of SARs	Bush list*	OFAC list**	Taliban list***	Other	TF in CHF	TF in % of total asset value
2007	795	6	3	0,8 %	1	0	3	2	232 815.04	0,03 %
2008	851	9	7	1,1 %	0	1	0	8	1 058 008.40	0,06 %
2009	896	7	4	0,8 %	0	1	1	5	9 458.84	0,00 %
2010	1 159	13	10	1,1 %	0	1	0	12	23 098 233.85	2,73 %
2011	1 625	10	9	0,6 %	0	0	1	9	151 592.84	0,00 %
2012	1 585	15	14	0,9 %	0	0	0	15	7 468 722.50	0,24 %
2013	1 411	33	28	2,3 %	1	0	0	32	449 771.68	0,02 %
2014	1 753	9	3	0,5 %	0	1	0	8	1 071 512.67	0,03 %
2015	2 367	38	16	1,6 %	0	12	0	26	32 176 245.05	0,67 %
2016	2 909	25	7	0,9 %	0	5	1	19	180 754 864.34	3,40 %
Total	15 351	165	101	1,1 %	2	21	6	136	246 471 225.21	0,9 %

* http://www.finma.ch/archiv/gwg/dokumentationen/gesetze_und_regulierung/sanktionen/index.php

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

*** https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/massnahmen-gegenueber-personen-und-organisationen-mit-verbundung.html

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 SARs are based.

Chart analysis

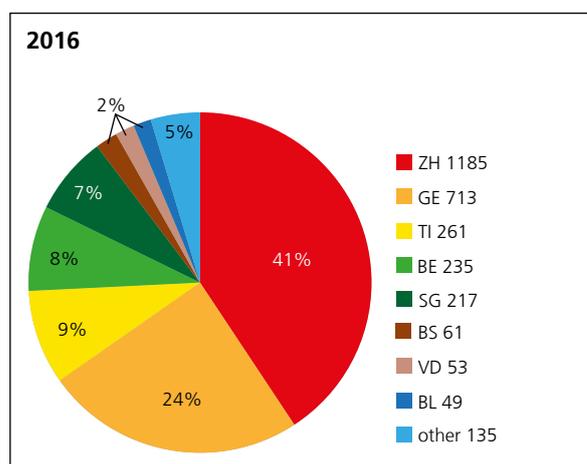
Approximately 90% of all SARs came from five cantons with a highly-developed financial services sector.

The majority of SARs in 2016 came either from cantons with a highly-developed financial services sector such as Zurich, Geneva and Ticino, or with centralised regional or national compliance centres such as Bern and St. Gallen. Approximately 90% of overall reporting volume (i.e. 2,909 SARs) came from financial intermediaries from these five cantons, whereby most of them came from the canton of Zurich, where the number of SARs rose from 1,120 in 2015 to 1,185 in 2016. The number of SARs from financial intermediaries in Geneva also rose, from 563 in 2015 to 713 in 2016. Reporting volume from the canton of Ticino increased considerably too, from 187 SARs in 2015 to 261 SARs in 2016. There was also a marked increase in SARs from the cantons of Bern and St. Gallen. And reporting volume from the canton of Vaud actually rose threefold, from 17 SARs in 2015 to 53 SARs in 2016.

MROS did not receive any SAR from financial intermediaries in the cantons of Appenzell Ausser Rhoden, Obwalden or Uri. This may be due, in part, to the centralisation of compliance centres (see chapter 2.5.2).

Legend

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



For comparison: 2007 to 2016

Canton	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
ZH	286	295	310	426	793	720	530	703	1120	1185	6368
GE	180	168	181	182	350	239	274	345	563	713	3195
BE	115	96	123	158	156	203	199	201	175	235	1661
TI	77	96	97	237	146	200	177	182	187	261	1660
SG	27	110	99	61	78	87	104	189	171	217	1143
BS	36	49	36	28	29	49	48	77	49	61	462
VD	18	11	9	14	13	14	12	12	17	53	173
ZG	31	7	8	6	20	28	15	13	14	21	163
BL	1		1	2	3	1	2	1	21	49	81
GR	4	3		7	5	11	10	5	11	12	68
NE	7	6	7	12	4	4	6	5	9	8	68
FR	1			2	8	9	12	4	17	4	57
AG	1	3	6	3	7	1	6	5	5	18	55
LU	5	1	5	7	5	7	6	2	2	8	48
TG	1	1	2					3	2	32	41
SZ	2	1	3	7		5	2		1	5	26
VS						1	4	1	1	9	16
SO		1	1		1	1	2	3	1	4	14
SH	1		2	1	1	1	1	1		5	13
NW		1	2		3			1	1	3	11
AI	1		1	3		2				3	10
JU		1	1	1	2	1				2	8
OW	1		1	2		1					5
GL		1	1							1	3
AR					1		1				2
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	1 5351

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.

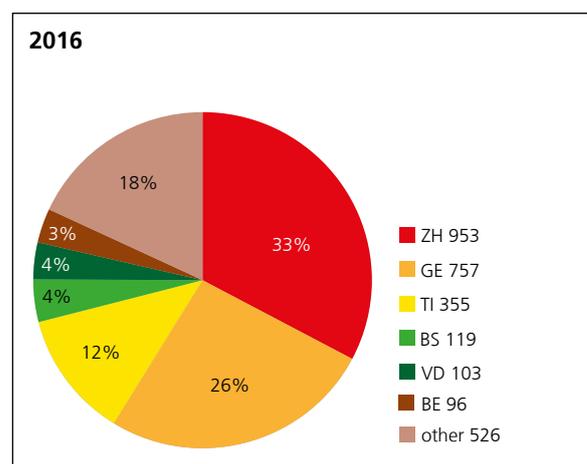
Chart analysis

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

Major banks and payment services providers in particular have established regional competence centres which centralize and submit SARs to MROS. However, these SARs do not always 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 Code⁴ jurisdiction for criminal justice is no longer connected to the location of the account or business connection alone. This is proven by the previous statistics on the home canton of reporting financial intermediary (chapter 2.5.1). Whereas in 2016 approximately 78% of SARs came from financial intermediaries with headquarters in the cantons of Basel-Stadt, Geneva, Ticino, Vaud and Zurich, only 79% of the reported business connections were carried out in these cantons.

Legend

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



⁴ Criminal Procedure Code of 5 October 2007 (CrimPC; SR 312.0)

For comparison: 2007 to 2016

Canton	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
ZH	207	215	243	318	483	559	430	520	899	953	4 827
GE	186	197	182	200	411	349	361	452	637	757	3 732
TI	109	128	167	295	231	294	256	312	305	355	2 452
BE	41	30	59	52	64	58	27	101	55	96	583
VD	26	32	17	27	78	36	61	57	99	103	536
BS	43	27	26	54	61	64	51	38	48	119	531
SG	28	23	27	23	85	50	32	62	53	92	475
ZG	40	19	10	22	28	22	27	30	50	43	291
LU	19	47	18	39	22	26	24	30	24	38	287
AG	8	16	19	13	47	15	25	29	30	60	262
FR	16	19	41	24	24	22	12	9	23	18	208
BL	7	23	21	24	14	8	13	8	34	51	203
TG	7	7	18	3	5	10	9	23	17	61	160
GR	5	5	5	9	16	19	15	19	32	22	147
VS	10	6	3	10	11	11	16	19	14	40	140
SO	6	20	12	9	13	7	20	15	10	22	134
NE	12	10	8	13	6	10	13	16	18	20	126
SZ	6	4	4	9	3	10	5	2	6	20	69
SH	3	1	2	1	6	6	4	4	4	14	45
GL	9	6	6	6	6		1	1	1	3	39
JU	1	5	2	3	2	3	3	1	2	8	30
NW		3	2		6		4	3	2	3	23
OW	1	6	2	2	1	1	1		2	1	17
AI	4		1	3	1	2				3	14
AR					1	3	1	1	1	4	11
UR	1	2	1					1	1	3	9
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

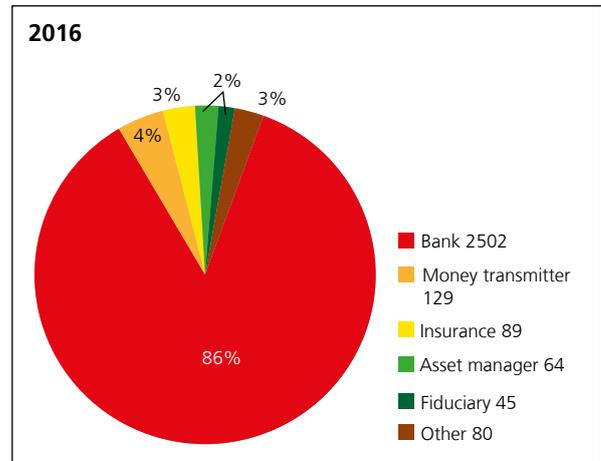
2.5.3 Type of financial intermediary according to category

What the chart represents

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

Chart analysis

- 86% or 2,502 SARs were submitted by the banking sector.
- The number of SARs from the other sectors rose by 96%, from 208 in 2015 to 407 in 2016.
- Reporting volume from fiduciaries and attorneys fell, but rose from payment services providers, asset managers, insurance companies and casinos.
- Reporting volume from payment services providers increased more than twofold (see chapter 2.2.1).



For comparison: 2007 to 2016

Financial intermediary category	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Bank	492	573	603	822	1 080	1 050	1 123	1 495	2 159	2 502	11 899
Money transmitter	231	185	168	184	379	363	74	107	58	129	1 878
Fiduciary	23	37	36	58	62	65	69	49	48	45	492
Asset manager	8	19	30	40	27	49	74	40	45	64	396
Insurance	13	15	9	9	11	9	19	11	12	89	197
Attorney	7	10	11	13	31	12	9	10	6	5	114
Credit card	2	2	10	9	10	22	14	9	13	21	112
Casino	3	1	5	8	6	6	8	9	3	14	63
Loan, leasing and factoring business	4	1	11	1	5	1	4	3	7	10	47
Other FI	2		1	4	2	4	1	3	5	21	43
Commodity and precious metal trader	5	1		1	1	3	10	3	6	3	33
Securities trader	2	5	2	4		1	1	10	3	3	31
Foreign exchange trader			5	6	7		5			3	26
SRO	1		4		1			2		0	8
Currency exchange	1	1	1		3				1		7
Supervisory authority		1						2			3
Distributor of investment funds	1								1		2
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

2.5.4 SARs from the banking sector

What the chart represents

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

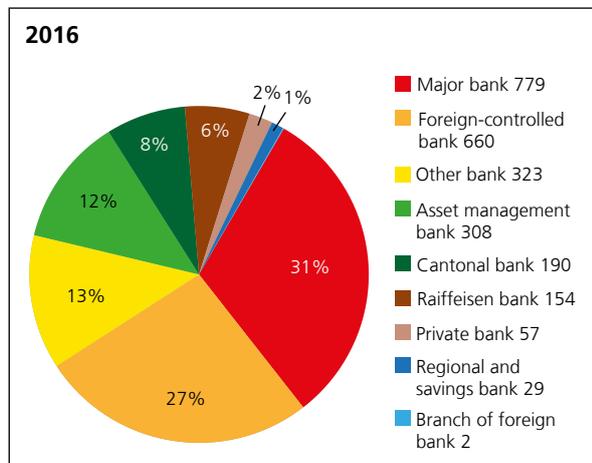
Chart analysis

- The number of SARs from the banking sector remains very high and rose, once again, by 343 SARs over the previous reporting period.
- SARs from the banking sector made up 86% of total reporting volume compared to 91% in 2015.
- SARs from major banks and foreign-controlled banks continue to dominate the statistics, together making up over 50% of total reporting volume from the banking sector.

MROS received 2,502 SARs from the banking sector. This is a new record level in the last ten years. However, in relative terms, SARs from this sector fell, from 91% of total reporting volume in 2015 to 86% in 2016. The reason for this proportional decline is the increase in SARs from the other categories of financial intermediaries.

Year	Total number of SARs	SARs from the banking sector	Proportion of SARs from the banking sector
2007	795	492	62 %
2008	851	573	67 %
2009	896	603	67 %
2010	1159	822	71 %
2011	1625	1080	66 %
2012	1585	1050	66 %
2013	1411	1123	80 %
2014	1753	1495	85 %
2015	2367	2159	91 %
2016	2909	2502	86 %

There was an increase in SARs from major banks, foreign-controlled banks, cantonal banks, and other management banks. The number of SARs from all these categories reached a ten-year record high in 2016. There was a fall in reporting volume from the branches of foreign banks only. The category Bank with a special business circle was the only category that did not submit a SAR in 2016, as in 2015.



For comparison: 2007 to 2016

Type of bank	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Major bank	213	196	167	214	310	308	324	474	763	779	3 748
Foreign-controlled bank	120	134	188	290	389	348	240	383	575	660	3 327
Asset-management bank	69	55	72	55	156	127	114	159	303	308	1 418
Other bank	15	16	14	99	27	42	230	214	212	323	1 192
Raiffeisen bank	19	107	93	49	60	64	79	134	125	154	884
Cantonal bank	41	47	46	79	75	80	72	75	125	190	830
Private bank	8	5	8	7	26	60	52	39	38	57	300
Regional and savings bank	3	5	10	25	15	19	6	14	11	29	137
Branch of foreign bank	4	8	5	4	21	2	5	3	7	2	61
Bank with special business circle					1		1				2
Total	492	573	603	822	1 080	1 050	1 123	1 495	2 159	2 502	11 899

2.5.5 Factors arousing suspicion

What the chart represents

This chart shows what sources triggered financial intermediaries' suspicions and prompted them to submit SARs to MROS.

Chart analysis

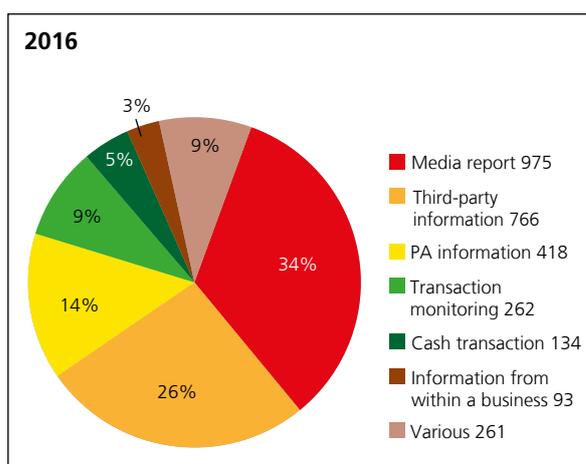
- 74% of SARs were triggered by external indications and information (2015: 77%).
- "Transaction monitoring" was the factor arousing suspicion in 9% of SARs.
- "MROS information" triggered a total of 42 SARs, or in nearly 1.5% of all cases.

As in the previous year, the category media reports headed the statistics in 2016. With nearly 34%, as in 2015, this category triggered the most SARs. The category information from third parties triggered 26% of SARs. The proportion of SARs triggered by information from prosecution authorities, which was based either on disclosure orders, confiscation orders or other types of information from the authorities, fell from 18% in 2015 to 14% in 2016. Thus, these categories, which are considered external indications and information, continue to play a significant part in the reporting practices of financial intermediaries: together, they triggered 74% of total reporting volume in 2016 (2015: 77%).

The category transaction monitoring triggered 9% of reporting volume (262 SARs) in 2016. Also, the impact of the category MROS information (Art. 11a para. 2 AMLA), in effect for the third time in 2016 for the whole twelve months, is evident and culminated in 42 SARs in 2016 (2015: 28 SARs). Information from MROS under this provision can trigger a SAR by the financial intermediary, depending on the individual case (see chapter 2.2.8).

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 (PA)	Prosecution authorities initiate proceedings against an individual connected with the financial intermediary's client.
Media report	The financial intermediary finds out from media reports that one of the people involved in a financial transaction is connected with illegal activities. This category includes information from financial intermediaries contained in the compliance databases of external providers who have compiled the information from analysing media reports.
Third-party information / Information from within a business	Financial intermediaries receive information from outside sources or from within a business about clients who could pose problems.
Transaction monitoring	The financial intermediary becomes suspicious of unusual transactions by monitoring the financial flows in its client's account.
Cash transaction	The financial intermediary becomes suspicious of unusual cash transactions.
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.



For comparison: 2007 to 2016

Source	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Media report	209	192	219	378	483	455	457	497	815	975	4 680
Third-party information	131	218	267	257	391	414	367	515	578	766	3 904
PA information	64	128	94	186	218	203	196	213	420	418	2 140
Cash transaction	166	103	70	67	172	178	106	84	82	134	1 162
Economic background unclear	71	108	80	147	145	152	124	125	73	92	1 117
Transaction monitoring							5	101	168	262	536
Information from within a business	7	23	36	24	26	25	50	34	34	93	352
Transitory account	90	13	29	16	16	33	23	22	23	25	290
Forgery (documents/money)	10	18	44	22	34	29	18	29	5	10	219
Various	5	8	3	9	14	31	10	28	27	9	144
Opening of account	21	13	9	13	5	13	5	5	16	25	125
Currency exchange	11	9	9	23	14	16	10	13	6	3	114
High-risk country	1	2	2	3	81	1	3	10	2	5	110
Audit / supervisory board	1		10	2			2	19	48	20	102
MROS informtion (Art. 11a para. 2 AMLA)							2	24	28	42	96
Cheque transaction	4	1	7	4	20	18	11	9	9	11	94
Securities	3	13	12	4	2	4	11	14	19	9	91
Loan transaction		1	4	1	1	6	5	4	2	8	32
Smurfing				1	1	7		3	3		15
Precious metals	1		1	1	1		3	2	3	1	13
Life insurance				1				1	4	1	7
Non-cash cashier transactions					1		1	1	2		5
Trust activity		1					2				3
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

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.

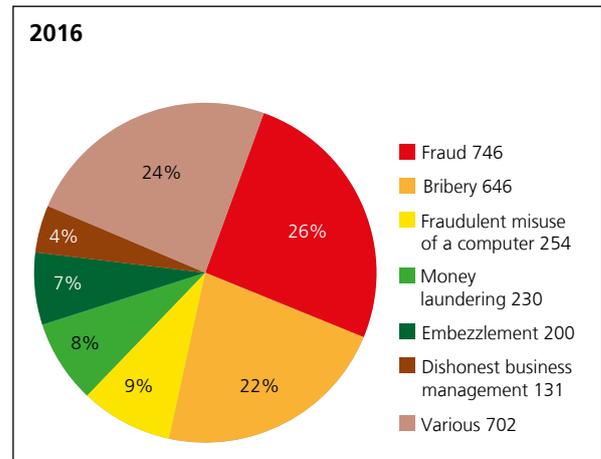


Chart analysis

- Proportion of SARs with “fraud” overtook “bribery” as the suspected predicate offence and heads the statistics once again, with the number of SARs in absolute terms rising from 445 in 2015 to 746 in 2016.
- “Bribery” is in second place with 646 SARs, or 22% of reporting volume.
- Proportion of SARs involving the predicate offence of “fraudulent misuse of a computer” increased by 112 SARs over the previous year.
- “Money laundering” is in fourth place, with 230 SARs (2015: 167 SARs).
- New record volume of SARs involving the predicate offence “embezzlement”, with 200 SARs.
- The proportion of SARs with “criminal mismanagement” as suspected predicate offence fell by 90 SARs and made up only 4% of total reporting volume.
- The new predicate offences since May 2013 “price manipulation” and “insider trading” together made up 28 SARs (2015: 71 SARs).
- “Aggravated tax misdemeanour”, the new predicate offence to money laundering since January 2016, resulted in 34 SARs in 2016.

From 2007 to 2014, fraud was the most frequently suspected predicate offence. This changed in 2015, however. With one-quarter of total reporting volume (594 SARs), bribery overtook fraud in the statistics as most frequently suspected predicate offence. Nearly one-half of these SARs were connected to one single case cluster that generated 276 SARs, 268 SARs of which cited bribery as the suspected predicate offence. In 2016, however, fraud replaced bribery as most frequently suspected predicate offence and is back at the top of the statistics. With 746 SARs, fraud made up over one-quarter of total reporting volume (26%) in 2016. As opposed to 2015, 68% more SARs citing fraud as predicate offence were submitted in 2016. Of these 746 SARs, 623 came from the banking sector, 63% of which from

the categories major banks, foreign-controlled banks and asset-management bank.

For the seventh consecutive year the category fraudulent misuse of a computer, which mainly comprises cases involving phishing, appears – retroactively for the years 2007, 2008 and 2009 – separately in the statistics. “Phishing” is the term used to describe the act of unlawfully obtaining an internet user's access data to their bank account in order to steal that person's assets (see chapter 2.2.7). In 2016, MROS received 254 SARs (2015: 142 SARs) concerning this category. This represents an increase of 79% and an absolute record high. Since 2012, the number of SARs involving phishing have increased sixfold. Of the total 254 SARs, 252 were submitted by the banking sector, 74 of which – the largest share – from the category other banks. Hence phishing is now in third place in the statistics, after fraud and bribery.

The category money laundering involves occurrences that neither MROS nor the financial intermediary concerned can directly associate with a particular predicate offence. In 2016, MROS received 230 SARs (2015: 167 SARs) concerning this category.

There was a slight increase of 5 SARs in reporting volume concerning embezzlement. With 200 SARs in 2016, this category is the fifth most suspected predicate offence to money laundering.

There was a marked decrease in the number of SARs from the category criminal mismanagement, from 221 SARs in 2015 to 131 SARs in 2016. With 92 SARs, reporting volume from the category criminal organisation also fell in 2016, returning to its 2014 level of 94 SARs.

The two criminal offences insider trading and price manipulation, which came into force in May 2013, were effective for the third time in 2016 for a whole twelve months. In 2016, MROS received 14 SARs concerning insider trading (2015: 26 SARs), and 14 SARs (2015: 45 SARs) relating to price manipulation. With a total of 28 SARs, total report-

ing volume from these two categories was lower (2015: 71 SARs). The new category aggravated tax misdemeanour, in force since 1 January 2016, registered 34 SARs.

For comparison: 2007 to 2016

Predicate offence	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Fraud	247	295	307	450	497	479	374	448	445	746	4 288
Bribery	101	81	65	60	158	167	172	357	594	646	2 401
Money laundering	54	57	81	129	252	209	93	182	167	230	1 454
Not classifiable	205	138	90	115	131	160	156	100	109	210	1 414
Embezzlement	32	67	88	51	124	156	159	157	195	200	1 229
Fraudulent misuse of a computer	18	33	22	49	51	39	121	104	142	254	833
Criminal organisation	20	48	83	42	101	98	104	94	120	92	802
Drugs	34	35	32	114	161	97	52	39	54	65	683
Dishonest business management	21	12	20	44	25	34	28	49	221	131	585
Document forgery	10	22	37	28	56	38	15	45	42	36	329
Other property offences	22	22	36	10	7	34	41	20	76	46	314
Theft	4	3	4	12	19	7	7	53	36	60	205
Terrorism	6	9	7	13	10	15	33	9	38	25	165
Price manipulation							1	29	45	14	89
Other offences	3	3	5	5	3	7	7	11	6	22	72
Human trafficking / sexual offences	3	4	3	3	1	19	4	9	7	13	66
Fraud in respect of payments and services Art. 14 para. 4 ACLA			5	7	3	5	4	12	7	22	65
Abuse of authority					4	2	19	2	24	12	63
Insider trading							6	12	26	14	58
Arms dealing	12	8	3	4	9	12		2	1	1	52
Blackmail		4	2	20	6	1	8	3	2	4	50
Aggravated tax offence Art. 305bis no 1bis SCC										34	34
Bankruptcy crime								5		25	30
Acts against life and limb	1	9		1	1		1	1	2		16
Counterfeit consumer goods					4	2	1	4		2	13
Robbery	1	1		2	1		1	1	1	3	11
Migrant smuggling					1	1	1	1	5	1	10
Product piracy			2			2	3	2			9
Counterfeit currency			4			1		2			7
Lack of due diligence in handling assets	1								2	1	4
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

2.5.7 Domicile of clients

What the chart represents

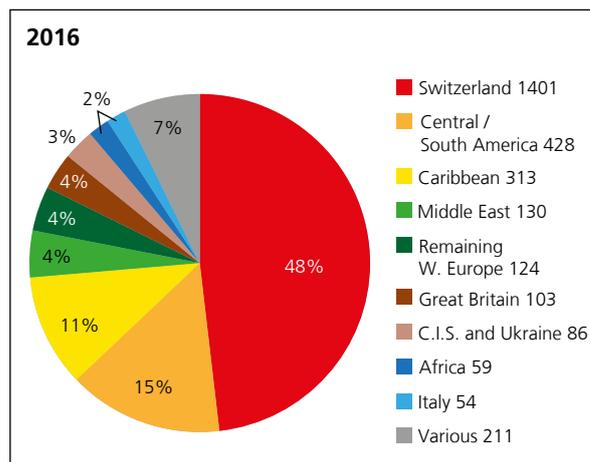
This chart shows the physical or corporate domicile of the financial intermediary's client at the time the SAR was submitted.

Chart analysis

Proportion of clients domiciled abroad fell behind those domiciled in Switzerland again. In 2016, 1,401 SARs, or 48%, concerned clients domiciled in Switzerland (2015: 923 SARs or 39%).

Legend

Remaining Western Europe	Andorra, Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Malta, Monaco, Gibraltar, Netherlands and Portugal
Various	Eastern Europe, North America, Asia, France, Germany, Scandinavia, Australia/Oceania and Unknown



For comparison: 2007 to 2016

Domicile of client	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Switzerland	348	385	320	517	660	661	646	872	923	1401	6 733
Central / South America	58	71	68	87	175	161	149	204	437	428	1 838
Caribbean	65	79	97	80	184	150	109	149	378	313	1 604
Remaining W. Europe	50	62	46	88	107	119	106	112	124	124	938
Italy	48	46	103	85	95	113	106	78	79	54	807
Middle East	20	19	22	27	84	50	51	66	76	130	545
Great Britain	58	16	31	72	59	49	27	43	70	103	528
Germany	51	51	34	54	40	37	37	35	26	33	398
Africa	12	11	16	22	66	47	45	31	55	59	364
North America	20	23	23	48	38	36	32	27	24	45	316
C.I.S. and Ukraine	3	13	15	9	21	27	35	42	49	86	300
France	18	22	58	26	32	34	18	29	21	31	289
Asia	19	22	29	16	17	19	18	27	41	43	251
Eastern Europe	9	10	10	11	17	39	11	18	24	27	176
Australia/Oceania	7	13	17	5	17	21	14	15	32	26	167
Scandinavia	8	5	6	10	7	10	6	5	3	3	63
Unknown	1	3	1	2	6	12	1		5	3	34
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

2.5.8 Nationality of clients

What the chart represents

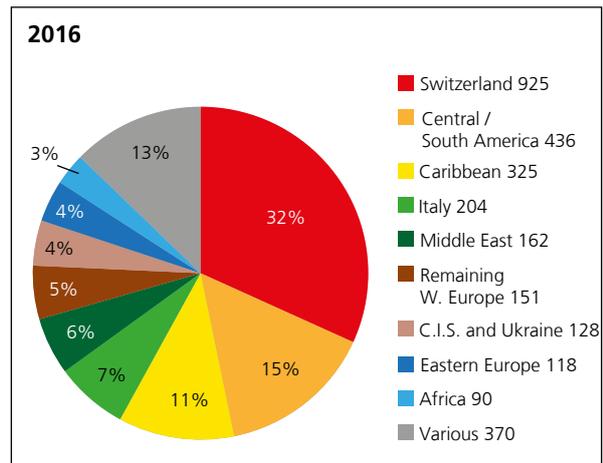
This chart shows the nationality of financial intermediaries' clients. While it is possible for a natural person's nationality to differ from their domicile, no such distinction exists between the nationality and domicile of a legal entity.

Legend

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

Chart analysis

- Parallel to the absolute increase in SARs involving clients domiciled abroad was a relative decrease in this category (2015: 1,681 SARs or 71%, 2016: 1,984 SARs or 68%).
- SARs involving clients from Central and South America were in second place again. The share of SARs involving clients from this region fell from 19% in 2015 to 15% in 2016.
- SARs involving clients from the Caribbean were in third place, with 11% of total reporting volume.
- The categories "Italy" and "Remaining Western Europe" were in fourth and fifth place. These two categories together made up 12% of total reporting volume.



For comparison: 2007 to 2016

Nationality of client	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Switzerland	261	271	196	257	320	405	403	575	686	925	4 299
Central / South America	66	68	71	92	172	156	145	207	453	436	1 866
Caribbean	67	77	93	83	177	150	112	144	378	325	1 606
Italy	57	72	147	122	123	176	168	152	148	204	1 369
Remaining W. Europe	47	67	63	97	103	128	127	149	139	151	1 071
Africa	40	37	35	63	212	115	88	84	72	90	836
Germany	61	78	58	67	59	69	62	75	46	87	662
Middle East	22	21	31	38	102	64	47	62	93	162	642
Great Britain	56	11	33	73	82	52	31	46	69	77	530
Eastern Europe	24	25	27	36	62	70	34	47	56	118	499
Asia	29	23	23	103	45	30	51	41	44	70	459
C.I.S. and Ukraine	8	24	18	15	49	41	43	61	67	128	454
France	19	28	42	45	55	45	28	47	47	45	401
North America	23	24	29	48	37	39	46	37	25	53	361
Australia/Oceania	6	12	17	6	16	21	12	17	33	24	164
Scandinavia	9	10	11	12	10	13	13	8	8	11	105
Unknown		3	2	2	1	11	1	1	3	3	27
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

2.5.9 Domicile of beneficial owners

What the chart represents

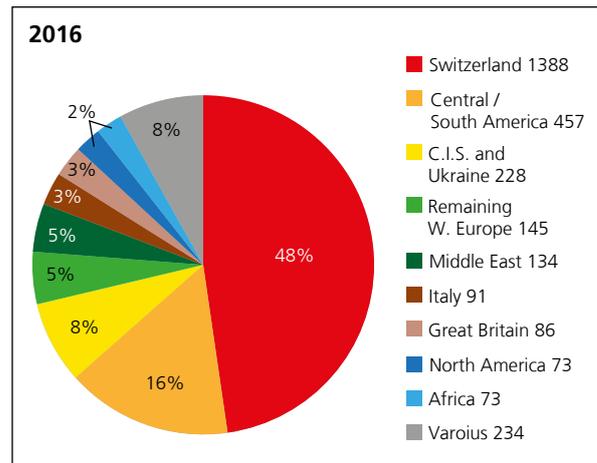
This chart shows the domicile of the natural persons or legal entities that were identified as beneficial owners of assets at the time the SARs were submitted to MROS.

Chart analysis

- Proportion of Swiss-based beneficial owners rose to 48% (2015: 38%).
- Proportion of beneficial owners domiciled in Central and South America was in second place again with 16% (2015: 23%).
- Rest of Europe (Italy, France, Remaining Western Europe, Germany, Great Britain and Scandinavia): 14% in 2016 as opposed to 16% in 2015.

Legend

Remaining Western Europe	Andorra, Austria, Belgium, Spain, Liechtenstein, Greece, Luxembourg, Netherlands, Malta, Portugal, Vatican and Monaco
Various	Asia, Germany, Eastern Europe, France, Scandinavia, Caribbean, Unknown and Australia/Oceania



For comparison: 2007 to 2016

Domicile of beneficial owner	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Switzerland	321	358	320	494	634	664	608	838	894	1 388	6 519
Central / South America	35	64	39	32	51	85	116	124	554	457	1 557
Italy	67	83	127	161	187	191	175	153	118	91	1 353
Remaining W. Europe	65	56	41	132	152	129	129	132	131	145	1 112
C.I.S. and Ukraine	7	31	52	21	47	82	99	108	147	228	822
Middle East	36	33	21	41	132	43	61	100	125	134	726
Germany	62	67	45	69	49	43	54	50	28	49	516
Great Britain	65	19	31	41	86	41	26	40	57	86	492
Africa	21	22	19	24	100	46	25	34	78	73	442
North America	27	28	34	48	45	32	39	31	40	73	397
Asia	27	24	49	23	23	46	26	36	77	64	395
Eastern Europe	13	18	24	21	32	104	13	41	53	38	357
France	23	26	63	35	45	39	21	37	25	38	352
Caribbean	2	6	21	3	18	13	6	7	25	30	131
Scandinavia	21	5	7	12	12	19	11	22	8	5	122
Unknown	1	3	2	2	6	8	2		5	7	36
Australia/Oceania	2	8	1		6				2	3	22
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

2.5.10 Nationality of beneficial owners

What the chart represents

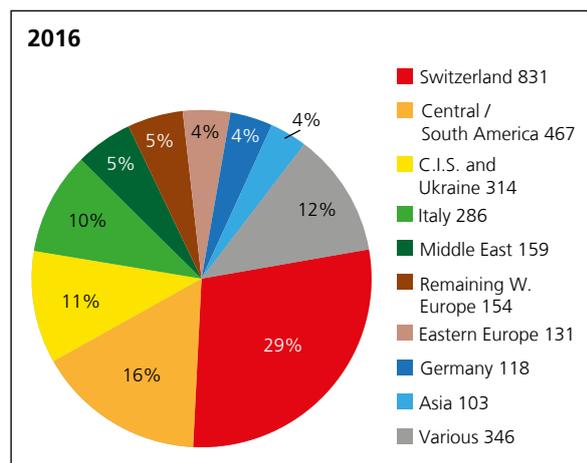
This chart shows the nationality of those individuals who were identified as the beneficial owners of assets at the time the SAR was submitted to MROS. No distinction is drawn between the nationality and domicile of legal entities. Often the identity and nationality of the actual beneficial owners of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

Chart analysis

- Proportion of SARs with Swiss nationals as beneficial owners was higher than in 2015 and reached a ten-year record high in absolute terms (2016: 29%, 2015: 25%).
- With 16% of reporting volume (2015: 24%) nationals from Central and South America were in second place again. However, in absolute terms the number of SARs from this category fell (2015: 563 SARs, 2016: 467 SARs).

Legend

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



For comparison: 2007 to 2016

Nationality of beneficial owner	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Switzerland	217	228	178	195	273	326	349	485	601	831	3 683
Italy	75	114	179	271	221	280	241	249	227	286	2 143
Central / South America	37	60	43	39	44	72	104	125	563	467	1 554
C.I.S. and Ukraine	17	43	60	30	91	113	110	143	184	314	1 105
Remaining W. Europe	57	57	53	88	87	139	144	174	150	154	1 103
Africa	46	49	35	66	245	113	72	97	102	91	916
Germany	80	94	75	92	90	88	90	94	64	118	885
Middle East	27	28	29	46	145	68	51	80	121	159	754
Eastern Europe	28	35	42	56	81	145	39	76	87	131	720
Asia	40	33	44	110	51	54	59	56	82	103	632
Great Britain	83	16	33	39	141	52	30	43	46	58	541
France	30	36	43	57	69	50	34	59	60	62	500
North America	31	31	55	47	50	36	60	56	36	82	484
Scandinavia	21	12	12	14	19	25	20	11	16	14	164
Caribbean	4	5	9	6	14	11	6	2	21	28	106
Unknown		3	3	2	1	8	2	1	4	8	32
Australia/Oceania	2	7	3	1	3	5		2	3	3	29
Total	795	851	896	1 159	1 625	1 585	1 411	1 753	2 367	2 909	15 351

2.5.11 Prosecution authorities

What the chart represents

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

Chart analysis

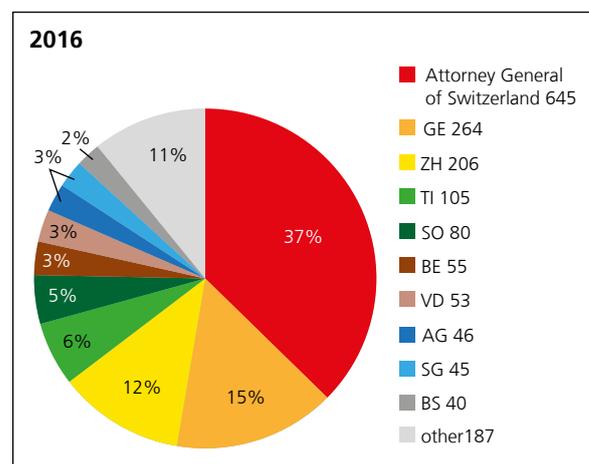
- *The proportion of forwarded SARs fell again in 2016. It was down by 1.5%, to 71.3%.*
- *The number of SARs forwarded to the Office of the Attorney General declined but this category was still in first place.*

MROS received a total of 2,909 SARs in 2016 (2015: 2,367). After careful analysis, it forwarded 1,726 SARs or 71.3% to a prosecution authority (2015: 1724⁵ or 72.8%). These figures do not include the 487 SARs that MROS has yet to analyse.

MROS forwarded 645 SARs, or 37%, to the Office of the Attorney General of Switzerland (OAG). This represents a decrease over the previous reporting year (2015: 919 or 53%, a record high) and comes nearer to the proportion of forwarded SARs to the OAG in the years preceding 2015. The two largest case clusters in 2016, which together generated 260 SARs, involved circumstances that all fell under the jurisdiction of the OAG.

Legend

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



⁵ In the 2015 Annual Report, the number of SARs forwarded to the prosecution authorities was given as 1,675. The increase of 49 SARs given in this report is explained by the fact that MROS gained new information in 2016 on these 49 cases that originated in 2015. As a result, they were forwarded to the prosecution authorities and appear retroactively in the 2015 statistics.

For comparison: 2007 to 2016

Authority	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
CH	289	221	182	361	470	486	384	581	919	645	4 538
ZH	90	97	146	137	291	195	208	161	235	206	1 766
GE	66	76	161	141	185	205	168	165	138	264	1 569
TI	33	85	117	134	125	185	140	95	114	105	1 133
BE	25	14	27	36	47	52	18	60	30	55	364
VD	12	25	13	27	69	28	27	33	46	53	333
SG	13	17	17	19	67	31	19	39	35	45	302
BS	16	19	20	35	50	39	25	15	21	40	280
AG	10	9	9	14	49	27	15	23	28	46	230
ZG	16	38	9	16	19	8	14	17	26	20	183
LU	14	25	11	13	9	15	17	23	18	27	172
SO	3	13	19	5	14	1	12	9	9	80	165
BL	10	18	13	13	8	14	9	6	27	29	147
TG	3	3	22	7	9	15	8	14	12	28	121
NE	5	8	8	7	10	8	8	12	19	15	100
VS	5	1	3	9	7	5	12	14	9	17	82
FR	4	2	5	5	10	16	6	3	12	12	75
SZ	4	2	5	8	9	8	7	2	9	15	69
GR	2	2	1	9	6	7	9	13	10	3	62
SH	1	1	1	2	8	5	7	4	2	9	40
JU		2	2	1	1	1	2	8		5	22
NW		3	2	1	5	1	4	1	2		19
OW	1	6	3		1	2			2		15
AR				1	2	2	2	1	1	2	11
AI	3			2	1	2					8
UR	1	1						1		4	7
GL	3		1				1			1	6
Total	629	688	797	1 003	1 472	1 358	1 122	1 300	1 724	1 726	11 819

2.5.12 Status of forwarded SARs

What the chart represents

This chart shows the current status of the SARs that have been forwarded to federal and cantonal prosecution authorities in the last ten years. The chart distinguishes between the federal prosecution authority, i.e. the Office of the Attorney General of Switzerland (OAG), and the cantonal prosecution authorities.

Chart analysis

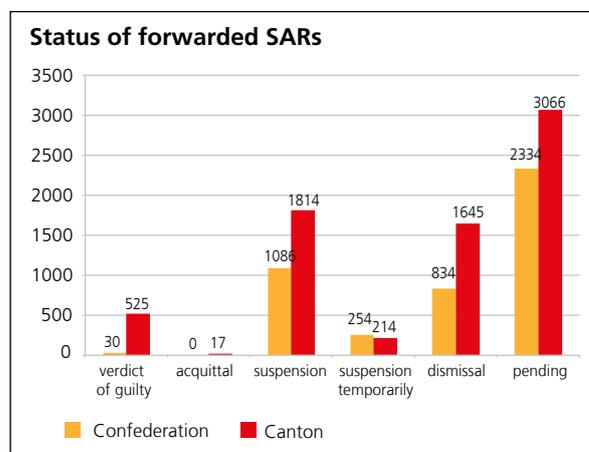
Nearly 46% of all SARs forwarded to federal and cantonal prosecution authorities since 2007 were pending at the end of 2016.

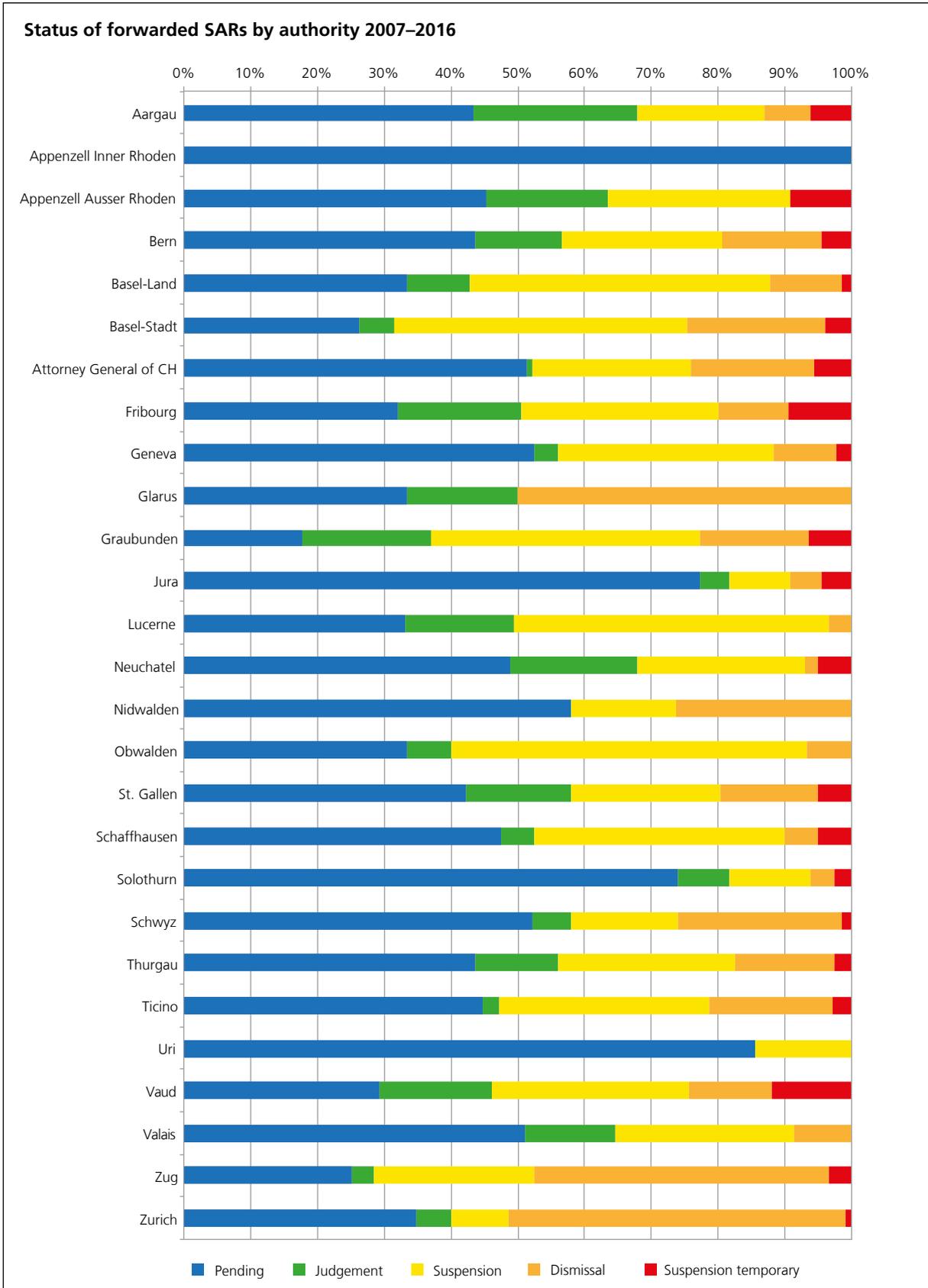
From 1 January 2007 to 31 December 2016, MROS forwarded a total of 11,819 SARs to prosecution authorities. By the end of 2016, decisions had been reached in 6,419 cases (approx. 54%). These decisions are described below:

- In 4.8% (572 cases) of all forwarded SARs, the courts delivered the following verdict: 10 acquittals from the charge of money laundering, 7 acquittals from all charges (apart from money laundering), 366 convictions including for money laundering, and 189 convictions for offences other than money laundering. Convictions made up 4.7% of total reporting volume in 2016.
- In 24.5% (2,900 cases) of all forwarded SARs, criminal proceedings were initiated but later suspended after criminal investigations revealed insufficient evidence of wrongdoing.
- In 21% (2,479 cases) of all forwarded SARs, no criminal proceedings were opened in Switzerland following preliminary investigations.
- In 4% (468 cases) of forwarded SARs, criminal proceedings were suspended either because criminal prosecution was handed over to foreign prosecution authorities or because criminal proceedings in the same case were already underway abroad.

At the end of 2016, 5,400, or 45.6%, of forwarded SARs were pending (2015: 41.4%). It is difficult to draw conclusions as to the reasons due to a multifold of factors:

- Cases involving money laundering and the financing of terrorism often have international connections, and the resulting international investigations tend to be protracted and time-consuming;
- Experience has shown that the mutual legal assistance which is required by the investigations tends to be costly and takes a long time;
- Some of the pending SARs have already led to a verdict but MROS has not yet been notified of this fact because there was no conviction relating specifically to Article 260^{ter} paragraph 1 (criminal organisation), 305^{bis} (money laundering) or 305^{ter} paragraph 1 (lack of due diligence) SCC and therefore the cantonal authorities are not required to inform MROS (see Art. 29a para. 2 AMLA).
- The prosecution authorities do not consistently fulfil their duty to report to MROS under Article 29a paragraphs 1 and 2 AMLA.





Status of forwarded SARs by authority: 2007 to 2016

Canton	Pending		Dismissal		Suspension		Temporary suspension		Verdict		Total	Total
AG	100	43.48%	16	6.96%	44	19.13%	14	6.09%	56	24.35%	230	100%
AI	8	100.00%	0	0.00%		0.00%		0.00%		0.00%	8	100%
AR	5	45.45%	0	0.00%	3	27.27%	1	9.09%	2	18.18%	11	100%
BE	159	43.68%	54	14.84%	88	24.18%	16	4.40%	47	12.91%	364	100%
BL	49	33.33%	16	10.88%	66	44.90%	2	1.36%	14	9.52%	147	100%
BS	74	26.43%	58	20.71%	123	43.93%	11	3.93%	14	5.00%	280	100%
CH	2 334	51.43%	834	18.38%	1086	23.93%	254	5.60%	30	0.66%	4 538	100%
FR	24	32.00%	8	10.67%	22	29.33%	7	9.33%	14	18.67%	75	100%
GE	825	52.58%	149	9.50%	504	32.12%	35	2.23%	56	3.57%	1 569	100%
GL	2	33.33%	3	50.00%		0.00%		0.00%	1	16.67%	6	100%
GR	11	17.74%	10	16.13%	25	40.32%	4	6.45%	12	19.35%	62	100%
JU	17	77.27%	1	4.55%	2	9.09%	1	4.55%	1	4.55%	22	100%
LU	57	33.14%	6	3.49%	81	47.09%		0.00%	28	16.28%	172	100%
NE	49	49.00%	2	2.00%	25	25.00%	5	5.00%	19	19.00%	100	100%
NW	11	57.89%	5	26.32%	3	15.79%		0.00%		0.00%	19	100%
OW	5	33.33%	1	6.67%	8	53.33%		0.00%	1	6.67%	15	100%
SG	128	42.38%	44	14.57%	68	22.52%	15	4.97%	47	15.56%	302	100%
SH	19	47.50%	2	5.00%	15	37.50%	2	5.00%	2	5.00%	40	100%
SO	122	73.94%	6	3.64%	20	12.12%	4	2.42%	13	7.88%	165	100%
SZ	36	52.17%	17	24.64%	11	15.94%	1	1.45%	4	5.80%	69	100%
TG	53	43.80%	18	14.88%	32	26.45%	3	2.48%	15	12.40%	121	100%
TI	506	44.66%	209	18.45%	358	31.60%	32	2.82%	28	2.47%	1133	100%
UR	6	85.71%	0	0.00%	1	14.29%		0.00%		0.00%	7	100%
VD	98	29.43%	41	12.31%	98	29.43%	40	12.01%	56	16.82%	333	100%
VS	42	51.22%	7	8.54%	22	26.83%		0.00%	11	13.41%	82	100%
ZG	46	25.14%	81	44.26%	44	24.04%	6	3.28%	6	3.28%	183	100%
ZH	614	34.77%	891	50.45%	151	8.55%	15	0.85%	95	5.38%	1 766	100%
Total	5 400	45.69%	2 479	20.97%	2 900	24.54%	468	3.96%	572	4.84%	11 819	100%

3 Typologies (selection of cases from the 2016 reporting year)

The following typologies refer to SARs, which were received by MROS in the course of 2016. Through concrete examples, MROS points out some of the modus operandi which aim at laundering funds from alleged criminal origin. The selection of cases reflect the diversity of predicate offences as well as new the trends and approaches used. The typologies serve as a reference for both case studies and for research work. Moreover, they contribute to sensitising the financial intermediaries and point to the types of accounts, financial tools and behaviors which require special attention. Finally, MROS uses these examples to elaborate risk analyses which indicate trends both on a national and an international level in the field of money laundering.

3.1 A failed mayor from the Mediterranean region opens a restaurant in Switzerland

Facts of the case

A financial intermediary notified MROS of its business relationship with a Swiss restaurant offering Mediterranean specialities. The proprietor and manager of the restaurant was originally from the Mediterranean region and had been living in Switzerland for around a year. The restaurant was opened two months after he entered the country. Enquiries by the financial intermediary revealed that the prosecution authorities of the manager's country of origin were investigating him on suspicion of fraud. This led the financial intermediary to suspect that the funds used to set up the restaurant may have been, at least in part, the proceeds of crime. Suspicions of the criminal origin of the initial capital were corroborated by the fact that half of the funds were paid in by the manager's wife in cash. The other half was transferred from one of the wife's accounts that was also held with the reporting financial intermediary. It turned out that she had paid this money into her account in cash just a few days before the transfer.

MROS analysis

MROS's searches in police databases failed to throw up any information. However, various media reports in the press archives confirmed suspicions that the assets used to set up the restaurant may have derived from criminal activities. The manager had been mayor of his home town in southern Europe for a number of years. As one of the poorest towns in that country, he had applied for funding from the EU, the government and the province to cover courses, employee training, etc. It transpired, however, that he did not use the funds received for courses or to hire new staff. A total of

EUR 150,000 is thought to have flowed into the restaurant owner's private accounts. Because the wife was also under investigation, there were grounds to suspect that the couple were planning to build a new life in Switzerland using criminal assets.

The SAR was forwarded to a cantonal prosecution authority for further evaluation. Because the police investigations failed to identify any evidence that the assets involved were of criminal origin, the public prosecutor ordered the discontinuation of proceedings under Article 310 paragraph 1 CrimPC.

3.2 Grandparent scams: still an issue

Facts of the case

A financial intermediary filed a SAR because a very elderly client wanted to withdraw several tens of thousands of francs in cash at the counter. Although the elderly client was wealthy, this large cash withdrawal did not match her client profile. The bank therefore asked the account holder about the economic background behind the transaction. She explained to the bank that she had to hand the money over to a man who was waiting for her outside the bank. Apparently the man was not known to her. Nor did she know his name. The client advisor from the bank requested the account holder to ask the unknown man whether a wire transfer would be possible instead of a cash payment. When the unknown man clearly started to manhandle the account holder outside the bank, the client advisor came outside to assist her. As soon as the client advisor approached the pair, the unknown man ran away without the money.

The bank assumed that the client had been the victim of a criminal gang. The facts of the case point to a grandparent scam – a particularly underhand form of fraud. In such cases, victims are contacted by fraudsters posing as family members who need to borrow money. Victims are told complicated, often frightening stories about an emergency situation, which results in the supposed relative having to send over a friend to pick up the money because he or she is unable to.

Because the client was elderly and confused, she was a prime target for the fraudsters. Fortunately, the bank was able to prevent the money from being handed over and therefore avert the damage for the client. The bank informed the police, who accompanied the client home safely.

MROS analysis

The elderly client's funds held with the reporting financial intermediary were certainly not illicit; they were legally acquired savings. The bank therefore reported a business relationship not with a presumed perpetrator, but with the victim. The SAR was therefore not forwarded to a prosecution authority.

3.3 A prostitute steals her punter's online banking details**Facts of the case**

A financial intermediary was informed by another bank that a wire transfer had been made from an account at their bank to a client of the financial intermediary without the authorisation of their client. The client, allegedly, had had his e-banking contract and all his access details stolen. A check of the financial intermediary's client's account statement revealed that a sum of several thousand francs had indeed been paid into the account from a man who had an account at the other bank. It was unclear exactly who had gained access to the account at the other bank without the account holder's permission. However, the client informed his bank that the beneficiary was known to him as he occasionally used her services as a prostitute. It is therefore highly likely that the beneficiary obtained the e-banking contract during a visit to the man.

MROS analysis

It transpired that the husband of the beneficiary, who was an authorised representative on the account held with the reporting financial intermediary, made enquiries after the funds were received and withdrew the amount in cash. His behaviour therefore suggested that the beneficiary obtained the e-banking contract, but that her husband arranged the transfer.

Further investigations by MROS revealed that the beneficiary had previously been registered in police databases for offences under the Narcotics Act, but she did not have a police record for any similar cases. Moreover, she appeared to live on disability benefits and welfare payments. Her husband had previously been investigated for receiving stolen goods and for threatening behaviour. In the publicly-available commercial databases, the couple's creditworthiness was classified as very low.

These findings reinforced suspicions that the beneficiary and her husband had influenced the electronic processing of data with a view to their own financial gain, and as a result caused the transfer of financial assets occasioning loss to another. Because this constitutes the criminal offence of computer fraud under Article 147 SCC, the SAR was forwarded to a cantonal prosecution authority. The public prosecutor quickly opened a criminal investigation into the

account holder and her husband on the grounds of suspected money laundering under Article 305bis no 1 SCC.

Subsequent questioning of the persons involved by the cantonal police revealed that the account holder had not been visiting the victim as a prostitute, as originally presumed. In fact, the following happened:

The victim had installed what he presumed to be a payment app from his bank on his smartphone, which later turned out to be a spam app. Using this spam app, unknown third parties were able to make a payment to the reported account holder. The IP address from which the victim's computer was accessed was traced back to a Swiss law firm. The prosecution authorities found out that the law firm's computer system had been hacked during the period concerned. The unknown perpetrators had apparently used the law firm's IP address unlawfully to conceal their own identities.

The investigations ruled out the possibility that the reported account holder had stolen the victim's e-banking contract and arranged the money transfer with or without assistance from her husband. The account holder had been searching online for secondary employment for her husband and came across a job vacancy at a real estate firm. The husband applied for the job and shortly afterwards received the order to obtain the money transferred by the victim and to post it to an address abroad minus a commission. It also transpired that the reported account holder and the victim did not know each other at all. By coincidence, the victim had been enjoying himself in the city's red light district on the day he installed the payment app on his phone. In his inebriated state he met a prostitute who he took home with him. Because the prostitute's name was similar to that of the reported account holder, the victim assumed there was a connection between his visit to the prostitute and the case. But what the victim did not realise was that the money transfer was actually caused by the spam app.

Because the reported account holder and her husband were acting as financial agents for unknown perpetrators, they were convicted of money laundering and sentenced by summary penalty order to a suspended monetary penalty in accordance with Article 305bis no 1 SCC.

3.4 Fraudsters with active imaginations**Facts of the case**

A financial intermediary received an order to produce documents from a prosecution authority which had opened a criminal investigation for fraud against unknown perpetrators. An analysis of the account named in the order revealed that several individuals had paid money into the account with a note that suggested the possible sale of items on an online platform. In addition, the financial intermediary noticed that the credit payments were followed by transfers of

funds to a country in Africa. In order to clarify the situation, the financial intermediary contacted X, the account holder, who explained that he had posted an advert on a website asking for a private loan for a relatively modest sum. A woman had replied to the advert promising the client of the financial intermediary that she would loan him the requested amount. However, in order to obtain the loan, X would have to make his private bank account available for 10 days in line with the terms stipulated by the woman, and commit to repaying the sum paid minus a commission.

MROS analysis

One of the particularities of this report is that the borrower informed the financial intermediary that he had first made available his private account held with another financial intermediary. On the basis of this information, MROS sent the financial intermediary cited by X a request for information in accordance with Article 11a paragraph 2 and 3 AMLA. An analysis of this second account confirmed X's claims and revealed other inflows potentially linked to the purported sale of electronic devices. Since summer 2014, there has been a wave of cases of fraud where the beneficiaries and suspected masterminds are based in West Africa. The cantons in French-speaking Switzerland are particularly affected, with a marked concentration in the canton of Vaud. The different phases of these scams can be summarised as follows:

- Items worth several hundred francs (e.g. mobile phones, cameras, IT equipment, video games, leather goods) are advertised for sale in Switzerland by a purported individual on free classified ad sites (e.g. anibis.ch, OLX.ch);
- Payments are made by several buyers when they place their order to a bank or post office account opened in Switzerland by a third party;
- The buyers never receive the items they order;
- In some cases, sellers promise buyers that they will refund the money by paying the sum into the buyers' bank account;
- Some buyers then receive several payments that are larger than expected. They are often unaware that the money transferred comes from other buyers in the same situation as themselves;
- The person they are dealing with then persuades them to either forward the excess money in the form of international transfer mandate(s) to West Africa, or to transfer it back to another account in Switzerland. In this way, the money is then moved around from one account to another until somebody agrees to transfer it to West Africa.

There are several variations of this modus operandi, in particular the role of bank account holder. The individual may believe they are the beneficiary of a loan, an intermediary

for a charitable organisation or a partner in a romantic relationship, or they may knowingly act to help fraudsters in exchange for payment.

The reported case presented some of the above characteristics. The report was therefore forwarded to the appropriate prosecution authority.

3.5 Transfer of proceeds from a robbery

Facts of the case

A woman regularly transferred funds using the services of a Swiss financial intermediary specialising in the transfer of money and assets. All of a sudden, she stopped doing so. The financial intermediary noted that instead of the usual client, her close relations began transferring relatively large sums of money to the same recipients located abroad. Eight different people carried out a total of 105 transactions in four months. For example, the client's mother carried out ten fund transfers in eight days for a total of CHF 16,500. This modus operandi and the absence of plausible explanations regarding the origin of the funds raised doubts with the financial intermediary, which decided to file a SAR with MROS under Article 9 paragraph 1 letter a AMLA.

MROS analysis

In the documentation accompanying the SAR, the financial intermediary added extracts from its client's Facebook profile. This information and the searches carried out by MROS allowed the investigators to identify several blood relations and friends: in all, MROS investigated 38 people. The analysis revealed that the financial intermediary's client already featured in another SAR, but with a different surname (the father's and not the mother's). The previous SAR had been made on the basis of an order to produce documents as part of open proceedings for money laundering. Determining with certainty that the two identities referred to the same person shed light on the suspicions. In particular, it was interesting to note that several persons linked to the payment originators were suspected of involvement in a robbery committed several months earlier. When MROS contacted the prosecution authority handling the open proceedings for robbery, it confirmed that the client of the financial intermediary was in custody on suspicion of involvement in the same case. The SAR was passed on to the prosecution authority. Investigators suspected that the funds transferred by the client's close relations could be the proceeds of the robbery and the transfers abroad may have been carried out in order to hamper identification of the source of the funds, and to impede discovery and confiscation of the assets, which were presumed to be of criminal origin.

3.6 Family fortune or criminal activity?

Facts of the case

X opened an account with a financial intermediary in order to deposit the funds he claimed came from his family fortune following the sale of the family group in a third country. Noting that an investigation was under way by the financial prosecutor's office in the third country for fraud, misappropriation of company assets and bankruptcy associated with the family group's demise, the financial intermediary referred the case to MROS, even though no funds had yet been credited to the account.

MROS analysis

During its initial research, MROS noted that three other accounts had been reported to MROS concerning other members of the same family. The funds channelled through the accounts reported by the other financial intermediary were presumed to have originated from the family group's business activity.

In addition, X, his parents and one of the group's subsidiaries appeared in another SAR that was passed on to the competent public prosecutor in 2010. At the time, X was suspected of committing various crimes and had just been arrested with other persons suspected of criminal association, money laundering and extortion by an organised group.

In 2009, the family group encountered financial difficulties which resulted in implementation of a rescue plan. In 2014, the entity went into administration and subsequently into liquidation. According to press reports in 2015, following a complaint filed by the company that took over one of its subsidiaries, a preliminary investigation was under way. Information from various sources indicated that there was some wrongdoing surrounding the bankruptcy of the family group and the assets reported by the financial intermediaries could therefore be of criminal origin.

In response to a request for information issued by MROS, the financial intelligence unit of the country in question confirmed that criminal proceedings were in fact under way against the company for fraud, misappropriation of company assets and bankruptcy. The individual X and his family were suspected of misappropriating the assets from the liquidation and were thought to have done all they could to keep the business going for as long as possible. In view of these points, MROS referred the case to the appropriate prosecution authority.

3.7 A house renovation

Facts of the case

The compliance department of a financial intermediary informed an agent of another financial intermediary (belonging to the same network) about transactions potentially linked to a human trafficking ring.

The financial intermediary subsequently noted that several of its clients had transferred funds to individuals mentioned in foreign press articles relating to human trafficking and organised crime. The press articles referred in particular to X, who happened to be the beneficiary of the payments made by two clients of the financial intermediary.

In view of these findings, the financial intermediary, suspecting that the funds channelled through the reported accounts were linked to a criminal organisation, filed a SAR with MROS under Article 305^{ter} paragraph 2 SCC.

MROS analysis

The analysis by MROS revealed that one of the clients (Y) who made the payments to X had already been the subject of a SAR about suspected money laundering, in which it was noted that the frequency of transactions, the number of recipients, the source of the funds and the amounts transferred did not tally with Y's financial means. MROS's investigations also indicated he had very low creditworthiness. The forty or so beneficiaries of the transactions in question were mostly resident in one eastern European country. When questioned, Y explained that he had bought a house in eastern Europe that he was in the process of renovating. However, he was unable to provide any evidence, which fuelled doubts about the economic background and the reasons behind the fund transfers. MROS forwarded the SAR to the appropriate prosecution authority, which dismissed the case.

It also appeared that Z, one of the other account holders reported by the financial intermediary, had been the subject of a letter rogatory from a cantonal prosecution authority to the authorities abroad for murder and manslaughter (Art. 112 and 113 SCC).

MROS also analysed the transactions. This revealed that Y had transferred an amount close to CHF 100,000 to 33 different beneficiaries, mostly resident in Eastern Europe, over a period of around 18 months.

Overall, a total of around CHF 225,000 was transferred by the different clients of the financial intermediary that filed the SAR.

MROS referred the case to the appropriate prosecution authority.

3.8 The legal professional

Facts of the case

Within three weeks, MROS received two SARs from two banks reporting accounts opened in both establishments by the same person. The individual in question, a corporate lawyer resident abroad, had attracted the suspicion of the financial intermediaries due to her conviction at first instance by the justice system of a European country for document falsification and misappropriation with the aim

of appropriating the fortune of one of her clients, a very wealthy old woman, who had since died. In addition, the lawyer was suspected of stealing several hundred thousand francs' worth of bearer shares from her client. The two financial intermediaries decided to refer her case to MROS due to the large number of shares in the same company deposited on the accounts that the lawyer had opened with them.

MROS analysis

The transaction analysis carried out by MROS revealed that the Swiss accounts of the accused individual were not limited to those reported by the financial intermediaries that filed the SARs, but that three other financial intermediaries either still had or had had accounts on their books in the past, either in her name, in the name of her close relatives, or in the name of companies domiciled in exotic tax havens of which she was the beneficial owner. In two of these accounts, which had been closed for several years, several hundred thousand bearer shares of the type that had been stolen from the old woman had been physically deposited by the lawyer suspected of having stolen them just a few weeks after the date of the theft. In the following years, all these shares were resold, after which the lawyer in question bought back the same amount, while at the same time regularly transferring them from one account to another, where the holders and sometimes the formal beneficial owners differed. As well as the accounts opened at Swiss financial intermediaries, others, located in four other countries, featured similar transactions, concerning sums estimated at several hundred thousand Swiss francs, or even several million in some cases. Suspecting that the aim of these constant transfers may have been to hide the origin and traceability of the assets, MROS passed on the results of this investigation to its counterparts in the country where the proceedings against the lawyer were due to take place, to those in the countries where the lawyer's accounts were identified, and to the appropriate prosecution authorities in Switzerland, who initiated proceedings.

3.9 A corrupt tax official

Facts of the case

A bank's attention was drawn to a business relationship with company X on the basis of information from a card-issuing institution. The beneficial owner of the company was a former tax official. According to online press reports, the individual's previous convictions included corruption, attempted extortion and embezzlement. Based on these reports, the bank analysed its business relationship with company X and its transactions, and as a result could not rule out the possibility that funds from criminal activities had been deposited in company X's account.

MROS analysis

The analysis by MROS revealed that company X's account had only been credited twice. The two payments were ordered by two different parties who also held accounts at the reporting bank. One party was company Y and the other a numbered account. In light of this finding, MROS requested the documents of the two other contracting parties from the bank. After analysing the newly-obtained documents, it was established that behind both accounts was a practicing solicitor, who according to the bank's explanations was thought to be helping his clients evade tax.

Around one month before the two payments were made to company X's account, money was received on company Y's account and the numbered account from another company, Z. The funds therefore flowed from company Z to company Y's account and the numbered account to be subsequently forwarded to the account of the reported company X.

In view of these economically unjustified transactions, suspicions were mounting that the origin of the funds was being concealed using payments via offshore companies. Accordingly, MROS was also unable to rule out the possibility that this involved illicit funds that had been laundered using different transactions via various companies. For these reasons, the SAR was forwarded to the public prosecutor's office, which opened an investigation.

After the case was reported to the FIU in the country of domicile of the tax official and the solicitor, MROS found out that the solicitor was also the beneficial owner of company Z. In addition, he was already known to authorities in the country as he had been involved in various opaque financial transactions.

3.10 A fraudulently-obtained mortgage

Facts of the case

A bank's automated transaction monitoring revealed that a substantial amount had been credited to the account of one of its clients. The same amount was paid out again the same day. Such transitory transactions did not match the client's usual transaction behaviour and financial circumstances. According to the client, the credited amount concerned payment of the purchase price in connection with the sale of his principal residence. The subsequent debit of the same amount was based on a loan agreement with the buyer of the property. In this loan agreement, the lender (client) was granted the right to live in the property as collateral for granting the loan.

As part of its investigation, the bank got the client to sign a form A. On this form the client claimed he was the sole beneficial owner of the credited assets. As the bank was aware that the client was not the sole owner of the sold property, it doubted the accuracy of this information. Furthermore,

the client had granted the buyer power of attorney over his accounts claiming that they were a distant relative. In addition, the purchase price paid for the property did not appear plausible to the bank. On the basis of these elements, the bank decided to report the business relationship with its client.

MROS analysis

MROS' enquiries found that the property had been due to be sold by compulsory auction. The debt collection office's estimated valuation of the property listed in the Swiss Official Gazette of Commerce publication was much lower than the price paid to purchase the property. In addition, the transaction analysis revealed that before the purchase price was paid, money was credited to the client's account by the buyer of the property, which was immediately paid back to the buyer. The client's small existing mortgage with a third-party bank was also repaid before the sale by means of a credit from the buyer. These two payments, that together amounted to just over 20% of the purchase price, were presumed to have been used as proof of funds vis-à-vis the notary and the bank.

The question also arose as to why the buyer had paid a significantly inflated price to purchase the property. As described above, some of the 'own funds' were paid straight back to the buyer. The large final payment of the purchase price, which ultimately triggered the SAR, was also paid straight back to the buyer, supposedly as a loan. The capital for this final payment of the purchase price was financed by a mortgage from a third-party bank. Consequently the buyer got back the whole purchase price amount except for the repayment of the client's small mortgage.

The right of residence granted to the client in the loan agreement indicated that he would have had to move out of the property if there had been a compulsory auction.

Based on all the elements pertaining to the case, MROS concluded that the two contracting parties had got the notary to certify a purchase agreement with a significantly inflated purchase price under false pretences. The bank only provided financing in this order of magnitude because of the presumed false certification. Based on the results of the analysis, MROS could not therefore rule out the possibility that the mortgage had been obtained fraudulently and passed the SAR on to the competent public prosecutor, who initiated proceedings.

3.11 Terrorist financing?

Facts of the case

A financial intermediary, and allegedly also several embassies, received an anonymous letter from an employee of a company operating in the oil business claiming that, based on his personal and business experience, the foreign-domi-

ciled CEO of a partner firm, also operating in the oil business, was using his strong financial standing to finance Islamist terror organisations. The writer of the letter also mentioned that, according to his information, the CEO of the oil company was helping fund travel expenses for young people to Syria and Iraq. The letter writer's suspicions were based on the very large sums of cash that the CEO's many business trips allegedly entailed, the CEO's worrying opinions about the Paris terror attacks of November 2015, his favourable attitude towards well-known Islamist terror organisations and his financing of Islamic associations.

Owing to the sensitive nature of the information and the very specific accusations, the financial intermediary could not rule out the possibility that the suspicious accounts were being used for terrorist financing, and therefore filed a SAR with MROS under Article 9 AMLA.

MROS analysis

MROS's background checks indicated that the suspect (the CEO of the oil company) was resident abroad and very wealthy. It also revealed that the suspected CEO was related to the family of a former president.

In a further step, MROS carried out a detailed analysis of the suspicious accounts. Concerning the large sums of cash withdrawn by the CEO, MROS noted that he had made 26 cash withdrawals in Geneva and Zurich amounting to almost CHF 4 million over the previous two-and-a-half years. In order to check whether the cash withdrawals were potentially made by the CEO himself during business trips to Switzerland, MROS checked whether the traveller was already registered in the respective systems as having declared imports or exports of cash. However no such entries were recorded.

The transaction analysis carried out by MROS also revealed that transactions had taken place on the accounts of the suspected oil company in which the counterparties bore no relation to the oil business. Furthermore, the suspected CEO was not afraid to use the oil company's bank accounts for private purposes, as evidenced by the fact that he had transferred nearly USD 6 million to his private accounts and close to USD 300,000 to his family members during the period analysed.

The compiled evidence indicated that the CEO's behaviour was dubious and certainly suggested support of terrorist activities. MROS was unable to find any evidence that the anonymous letter referred to in the SAR was unreliable. On the contrary, it was able to corroborate several of the elements mentioned in the letter.

Because there were increasing grounds to suspect terrorist financing under Article 260^{quinquies} paragraph 1 SCC, the SAR was forwarded to the prosecution authorities.

3.12 An asset manager admits guilt

Facts of the case

Three financial intermediaries each submitted a SAR to MROS under Article 9 paragraph 1 letter a AMLA regarding the same case, because several individuals had informed them that their asset manager had been embezzling a portion of their assets for years. These individuals plausibly explained to the financial intermediaries that they had never opened an account with the financial institutions in question and that the asset manager must therefore have produced forged account opening documentation for this purpose and submitted it to the financial intermediaries. They only became aware of their asset manager's ploys after he informed them in person and delivered a written admission of guilt.

MROS analysis

After analysing the SARs submitted by the financial intermediaries, MROS ascertained that the asset manager was able to hide his crimes for several years not only thanks to forged documents, but also because he had developed a highly complex transaction structure that served to conceal his schemes.

By merging the reports from the three financial intermediaries, MROS was able to reconstruct a large part of the perpetrator's complex embezzlement scheme. From the reconstruction of money flow, MROS established that the asset manager had opened accounts with seven financial intermediaries on behalf of his four deceived clients using presumed forged documents and then fed embezzled funds into these accounts. In a subsequent step, the asset manager transferred these sums to bank accounts at six financial intermediaries, which were either in his own name or the name of his asset-management company. In the majority of cases the transactions took place via intermediary bank accounts belonging to his ex-wife or a real estate company he founded. These bank accounts served as transitory accounts in the fraudulent scheme and were probably intended to conceal the origin of incoming payments on the asset manager's accounts for which there would otherwise have been no economic justification.

The many transactions that were processed via the bank accounts of the asset manager's real estate company often contained payment justifications that suggested real estate deals. Because of the way the embezzled funds were split across numerous transactions mostly amounting to several tens of thousands of Swiss francs, the payments failed to trigger any investigative measures by the financial intermediaries concerned. Consequently, these alleged real estate deals could not be identified as fictitious by the financial intermediaries and thus appeared plausible.

MROS also conducted background checks and ascertained that the asset manager's ex-wife had noticed fraudulent use of her bank account by her ex-husband the previous year and had reported it to the financial intermediary through her lawyer. MROS forwarded the SAR submitted by the financial intermediary as a result to the appropriate public prosecutor a short time later. MROS also found that the asset manager was already under investigation by another public prosecutor for attempting to deceive a local authority with a suspected forged confirmation of residence the previous year.

On the basis of the evidence gathered, MROS was able to confirm the financial intermediaries' grounds for suspicion. According to the reconstruction of the embezzlement scheme by MROS, the total sum of embezzled funds amounted to over CHF 3 million. MROS referred the SARs from the three financial intermediaries to the public prosecutor, who incorporated them into an existing criminal investigation.

3.13 Dual use goods

Facts of the case

A bank reported a business relationship under Article 305^{ter} paragraph 2 SCC (right to report) with a retail firm and its owner and company administrator. Over a four-year period, from 2011 to 2015, the client had received several hundred thousand Swiss francs in cash in Switzerland from men who were not known to her. She then wired these funds as instructed minus a commission to a company domiciled in Western Europe. She explained that these transactions were related to the sale of satellite phones from the aforementioned foreign company in an African country. An intermediary company owned by a foreign national then delivered the devices in question to the embassy of the African country in the Western European country involved. The cash handed over to the client allegedly came from unofficial sources close to the president of the recipient country. The devices in question (telephones) featured encryption technologies and were therefore deemed to be dual use goods. However, it was not known whether they would be used for military purposes.

MROS analysis

MROS's investigations revealed that the Federal Council had issued an ordinance governing measures related to the ban on supplying armaments and related equipment to a country neighbouring the aforementioned recipient country. The neighbouring country in question had repeatedly experienced political unrest and war-like conditions in the past. For this reason there were grounds to suspect violations of the Goods Control Act (Art. 14 para. 2 GCA), the

Embargo Act (Art. 9 para. 2 EmbA) and the War Material Act (Art. 33 para. 2 WMA) and therefore possible predicate offences to money laundering. MROS forwarded the report to the Office of the Attorney General of Switzerland for further examination, which subsequently launched a criminal investigation.

3.14 A stock market expert manipulates prices

Facts of the case

While reviewing a client relationship, a financial intermediary became aware of negative reports about its client. The reports concerned criminal proceedings in a neighbouring country against a former TV stock market expert for stock market manipulation. According to the media, the stock market expert was given a custodial sentence. However, the bank's client was thought to be the mastermind behind the price manipulation of a specific stock.

According to the reports, the stock market expert's offences included promoting the stock concerned, for which the client acted as a major investor in return for payment of price-linked commission. The intensive promotion of the stock drove the price up and the client was then able to sell his shareholding for an inflated sum. In return, the stock market expert stated that he received several millions in cash from the client.

Since the account in question had been credited with a significant sum that matched the time frame and amount in the stock promotion case reported in the media, the financial intermediary could not rule out the possibility that it concerned criminal assets and the proceeds of the price manipulations in question. For this reason, the financial intermediary made use of its right to report under Article 305^{ter} paragraph 2 SCC and reported the business relationship to MROS.

MROS analysis

The investigations carried out by MROS revealed that the client had already been investigated by foreign authorities for fraud and price manipulation in the past. This involved the client, as director of a company, purposely providing incorrect information affecting stock prices, therefore driving up the price of shares in the company in question. MROS requested information from the FIU in the relevant country to find out more about the client and any ongoing criminal proceedings.

The transaction analysis established that there was a significant link to two other financial intermediaries in Switzerland, which led MROS to request information from the financial intermediaries concerned in accordance with Article 11a paragraph 2 and 3 AMLA. The documents obtained revealed that the funds credited to the accounts under review were mainly the proceeds of the sale of the stock. It was also found that the sum withdrawn in cash from the

third-party bank and the time frame matched the cash commission handed over by the client to the stock market expert, as reported in the media.

As the assets were transferred from this third-party bank to the reported account, there was increasing suspicion that the funds were connected to the ongoing criminal investigations against the client in a neighbouring country for manipulating share prices. The case was referred to the appropriate prosecution authority.

3.15 An embassy employee goes astray

Facts of the case

A SAR was received concerning a business relationship with company X, which provides services and advice in the field of pharmaceutical products, trades in the products and refers Swiss and foreign patients to hospitals. The sole authorised signatory of X was a senior consultant, who was also the only employee and owner of the company. When the account was opened, it was claimed that the assets came from the billing of fees for the treatment of patients – often wounded soldiers – from country Y.

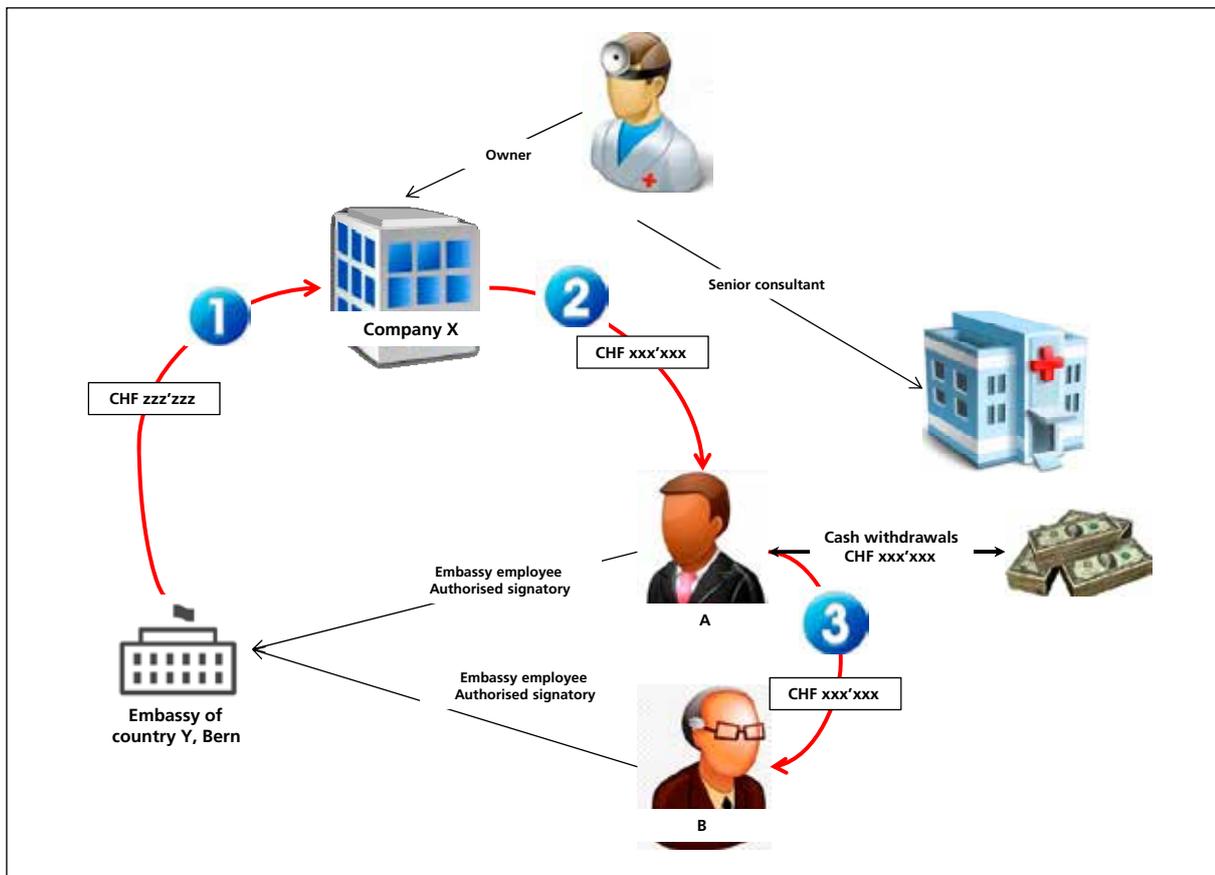
The following money flows were reported as suspicious: The diagram on the next page shows that large amounts were paid into company X's account by the embassy of country Y, of which around 80% was immediately transferred on to the account of employee A of embassy Y held with the same financial intermediary. The employee then paid a portion of this amount to the account of another employee B of embassy Y held with the same financial intermediary. According to the reporting financial intermediary, employees A and B were authorised signatories for the embassy. They claimed these payments concerned compensation of expenses for treatment of patients, such as hospital stays, transport and interpreters.

Employee A withdrew large amounts in cash from his account, while employee B transferred funds on to an account he held with another Swiss financial intermediary.

This transaction diagram raised suspicions that the payments by embassy Y did not concern compensation of patient services by country Y, but rather that employees A and B were guilty of misconduct in public office as authorised signatories for embassy Y.

MROS analysis

It was not clear why the funds flowed via the accounts of employees A and B and were not transferred directly to hospitals as the providers of services for patients from country Y. In addition, the remaining 20% of the dubious sums of money was transferred to the private account of the owner of company X.



The documents regarding employee B's account obtained from a second Swiss financial intermediary by virtue of Article 11 a paragraph 2 AMLA revealed that he had transferred several hundred thousand Swiss francs to his wife in a country neighbouring Switzerland citing "purchase of property" as the reason for the payment.

A request for information from the FIU of the neighbouring country confirmed suspicions as the property purchase had actually taken place. The FIU in the neighbouring country was even able to provide the exact address of the property purchased by employee B's wife.

As the analysed transactions and the other findings from the analysis confirmed the suspicions expressed by the financial intermediary of misconduct in public office under Article 314 SCC, the case was forwarded to the prosecution authorities.

3.16 Stolen identity

Facts of the case

A client contacted a financial intermediary as he was surprised to learn that the financial intermediary in question held an account in his name that he knew nothing about. A friend had apparently informed him just beforehand that items were being sold on an online platform in his name and that the purchase price was to be paid into the account held with the aforementioned financial intermediary.

The financial intermediary's clarifications revealed that the account had been opened by correspondence. The client claimed he had lost the identity card that had been used to identify the contractual party. The financial intermediary assumed that someone else had found the identity card and subsequently sold items online under a fake identity using the client's personal details.

In view of these findings, the financial intermediary could not rule out the possibility that criminal funds had been channelled through the reported account and filed a SAR with MROS in accordance with Article 9 AMLA.

MROS analysis

During its investigations, MROS learned from fedpol's Identity Documents Section that the identity card used to open the account had not been reported as missing.

Further clarifications revealed that the suspected fraudster had left behind various contact information with the financial intermediary and the online platform. MROS enquiries with residents' registration offices revealed that he had left contact details for the client with the financial intermediary and with the online platform that either did not exist or at which the client had never lived. In addition, a fictitious e-mail address had been set up and telephone numbers of other people not involved in the affair had been entered as contacts.

The dial-up point requested from the financial intermediary that was used for X's e-banking showed that virtually no IP address was used more than once. It can be assumed that proxy servers in Switzerland and abroad were used for e-banking so that the dial-up location could not be traced. An analysis of the account statements showed that the only credit entries for the reported account were funds for sales on internet platforms. From the notes accompanying the payments it emerged that the suspected fraudster only sold computer programs and had withdrawn the funds received in cash twice from the same cash machine. However, MROS's investigations found that the cash machine in question was not monitored by CCTV.

Because the listings were posted under a false identity, it could be assumed that the traded goods were counterfeit or stolen, which confirmed MROS's suspicions that the funds in the account were the proceeds of crime. The case was forwarded to the appropriate prosecution authorities.

3.17 Renowned painting at the centre of an advance fee scam

Facts of the case

A financial intermediary reported a business connection with a recently-established company X. The company's object of business was mainly in providing technical and artistic advice, and in the buying, selling and administrative management of works of art, antiques, objects of historical value and collector's items. The financial intermediary also submitted a SAR relating to a business connection with Y, the company director.

Y had informed the financial intermediary that negotiations were in progress with Z, a potential client residing abroad. The negotiations concerned the sale of a painting in Z's possession, apparently by a famous artist. The commission for the sale of the painting – one percent of the painting's sale price – would be billed directly to the client, Z.

After some time, Z received an e-mail containing previous e-mail correspondence from the financial intermediary's client advisor, who was responsible for the business connection with company X. The original e-mail, addressed to Y, confirmed that a first part-payment had been credited to company X's account for the purchase of the painting. According to the e-mail, further payments to the sum of millions would follow.

Based on this information, Z transferred via bank transfer the amount agreed upon as commission for the (supposed) intermediation service. When Z enquired at the bank about the details of the transaction, the financial intermediary learned about the e-mail confirming payment of the agreed commission into company X's account.

Following an internal check, the financial intermediary established that the e-mail was a forgery. The e-mail's whole layout and logo had been stolen from the financial intermediary, and the wording had been copied from an e-mail previously sent to Y and supplemented with information confirming the supposed payment of the commission. The money paid by Z into company X's account had been transferred immediately to accounts abroad.

MROS analysis

MROS contacted all the countries affected by the case so that they could take the appropriate measures within their respective national law and look into all the people involved. Thanks to this international cooperation, it came to light that Y was already on police file for his involvement in a fraud case, and Z had been found guilty and convicted also for fraud.

MROS's suspicions were reinforced on analysing the transactions: apart from the primary deposit and the dubious credit payment, company X's account, named in the business connection, showed no other credit payments relating to the company's object of business. Also, cash had been withdrawn from the account on several occasions; a fact that in itself was suspicious and not compatible with the object of business. Moreover, despite the nearly non-existent business activity of company X, substantial salary payments had been made into Y's personal account. MROS therefore suspected that these salary payments were the proceeds of crime, which were being laundered and transferred immediately to bank accounts abroad in the name of Y and company X.

MROS forwarded the case to the prosecution authorities. The criminal investigation is ongoing.

4 MROS Practice

4.1 Suspicious Activity Reports

4.1.1 Due diligence obligations during analysis of suspicious activity reports by MROS

Various financial intermediaries contacted MROS to enquire about the scope and depth of clarifications they should carry out during analysis of suspicious activity reports by MROS, with regard to the prohibition on informing the client under Article 10a of the Anti-Money Laundering Act (AMLA). The financial intermediaries effectively wanted to know whether the investigations have to be carried out, even if they could indirectly serve to inform the client.

The revised Article 10a AMLA came into force on 1 January 2016 within the scope of the FATF Act⁶. It stipulates that the financial intermediary must not inform the persons concerned or third parties that it has filed a report under Article 9 AMLA or Article 305^{ter} para. 2 SCC. In the old wording, this provision stipulated that the financial intermediary was not allowed to inform the persons concerned or any third parties that it had filed a report under Article 9 AMLA during the imposed asset freeze. Two points therefore changed in the new provision. The first is the fact that the ban on informing the client or any third parties about the SAR filed with MROS is no longer linked to the duration of the asset freeze. The second is the fact that the prohibition of information also applies to reports filed under Article 305^{ter} para. 2 SCC.

MROS has already had the opportunity to respond to the new Article 10a AMLA⁷, but not yet from the perspective concerned here. In its dispatch⁸ the Federal Council specified that its aim with regard to the unlimited ban on informing the client was to apply FATF Recommendation 21, which prohibits tipping off. The FATF's Recommendation 21 (b) stipulates that financial institutions should be prohibited by law from disclosing the fact that a suspicious transaction report or related information is being filed with the FIU. Incidentally, it should be noted that the prohibition envisaged by this recommendation does not only cover SARs under Article 9 AMLA and Article 305^{ter} SCC, but also requests by MROS for information under Article 11a AMLA.

The ban on tipping-off is a very important element of the reporting system and, more broadly, the system for combating money laundering and the financing of terrorism. In its dispatch⁹ the Federal Council highlighted the importance of

this, using an example in which, to avoid tipping off, MROS may even allow the asset freeze deadline to elapse¹⁰, which could result in the transfer, and consequently loss, of the funds. If we apply this notion to the question asked by the financial intermediaries above, we conclude that tipping off must be avoided during the investigations. The financial intermediary should behave completely normally towards the client. As it knows the client, the financial intermediary should also evaluate at what point the investigations could prompt a tipping-off. Moreover, in order to avoid indirectly informing the client, the new Article 9a AMLA stipulates that financial intermediaries must continue executing client orders while MROS is conducting its analysis.¹¹

4.1.2 New trends in the SAR reporting system

The Swiss SAR reporting system has various distinctive features. One of these is the distinction between the duty to report (mandatory SARs) and the right to report (voluntary SARs). This distinction can partly be explained by historical factors. Voluntary SARs, which are provided for under Article 305^{ter} paragraph 2 SCC came into force in 1994, in other words four years before the Anti-Money Laundering Act, which provided for mandatory SARs. In its 1993 dispatch, referring to this legislative amendment, the Federal Council considered there to be a 'pressing' need to introduce voluntary SARs. As it was aware of the forthcoming introduction of mandatory SARs, the Federal Council drew a distinction between these two situations. The basis of the distinction between voluntary and mandatory SARs is the level of suspicion. A financial intermediary could file a SAR under Article 305^{ter} paragraph 2 SCC if it harbours a suspicion that is not yet subject to a mandatory SAR¹². In the 1996 dispatch on the Anti-Money Laundering Act, the Federal Council specified that suspicions are considered well-founded "when there is a concrete sign or several clues that spark fears that the assets involved are of criminal origin"¹³. At the time, the coexistence of voluntary and mandatory SARs was compliant with FATF Recommendation 16 of 1990 (which became Recommendation 15 in 1996), which stipulated that "if financial institutions suspect that funds are of criminal origin, they should be permitted or required to report their suspicions swiftly to the competent authorities."

⁶ Federal Act of 12 December 2014 for implementing the Revised Financial Action Task Force (FATF) Recommendations of 2012, in force since 1 January 2016 (AS 2015 1389; Federal Gazette 2014 585).

⁷ See MROS annual reports <https://www.fedpol.admin.ch/fedpol/en/home/kriminalitaet/geldwaescherei/jb.html> from 2014 (pp. 54-55) and 2015 (p. 55).

⁸ Dispatch on implementation of the revised Financial Action Task Force (FATF) recommendations of 2012, Federal Gazette 2014 667.

⁹ *Ibid.*, p. 668.

¹⁰ It should be noted that this was explaining a system for filing SARs with deferred freezing of assets, which was not selected by the interested parties following the public consultation.

¹¹ Regarding Art. 9a AMLA, see the 2015 MROS Annual Report, p. 55 (<https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2015-e.pdf>).

¹² Dispatch of 30 June 1993 concerning the amendment of the Swiss Criminal Code and Military Criminal Code, Federal Gazette 1993 III 269, p. 316

¹³ Dispatch of 17 June 1996 relating to the Anti-Money Laundering Act in the financial sector, Federal Gazette 1996 III 1057, p. 1086.

Also in the 1996 dispatch on the Anti-Money Laundering Act, the Federal Council pointed out that: “[...] the threshold above which a SAR is mandatory (being) very high in Switzerland compared with other countries”. Expressly referring to this phrase in its evaluation report on Switzerland in 2005¹⁴ and in its follow-up report in 2009¹⁵, the FATF levelled criticism at the Swiss SAR reporting system in particular for its restrictive approach to mandatory SARs (and therefore to well-founded suspicion). It is true that the FATF Recommendations underwent some important changes in 2003. The new Recommendation 13 no longer provides for voluntary SARs – the terms “should be permitted” from the previous text have been deleted. The recommendation now only comprises mandatory SARs. The obligation to file a SAR not only applies if “a financial institution suspects” but also if it “has reasonable grounds to suspect that the funds are the proceeds of criminal activity, or are related to terrorist financing.”

Since suspicion is a subjective notion, it is not always easy to define the threshold above which a suspicion becomes well-founded. This undefined notion leaves room for interpretation and adaptation over time. In order to respond to the need for clarification often expressed by financial intermediaries, MROS therefore explained in its 2007 Annual Report that the system in place does not require financial intermediaries to have concrete facts in order for their suspicion to be well-founded. According to MROS, a suspicion is considered well-founded if “the financial intermediary has evidence that assets either originate from criminal activity or at least that this possibility cannot be excluded.”¹⁶ This clarification came after almost ten years of the duty to report to MROS based on the idea of well-founded suspicion complying with a high threshold, as expressed by the Federal Council in 1996. In a judgement in 2008¹⁷, the Federal Supreme Court adopted a definition of the doctrine relating to the duty to report and stipulating that if the financial intermediary has a “mere doubt that, for example, the assets are the proceeds of crime, it should still file a SAR with MROS.” This jurisprudence, which introduced a duty to report in the event of a “mere doubt”, was confirmed by the Federal Criminal Court in 2015¹⁸. According to this

convincing decision, a simple doubt becomes a reasonable suspicion when particular clarifications did not enable to dismiss the suspicion that the assets are linked to an offence. If we compare the notion of a mandatory SAR (and therefore of well-founded suspicion) in the 1996 dispatch and jurisprudence, we can conclude that the latter opts for an evolutive interpretation of Article 9 AMLA. The “very high” threshold of a well-founded suspicion was justified in the nineties, but is no longer justified today. By way of example, it would be hard to imagine a financial intermediary who suspects terrorist financing not reporting this to MROS these days because the suspicion is not adequately substantiated. The jurisprudence mentioned above is in line with MROS’s interpretation from 2007, i.e. that a SAR is mandatory if the possibility that the assets are of criminal origin cannot be excluded.

If the threshold above which a suspicion is well-founded is now lower than it used to be, what about the right to report mere suspicions? In its annual reports since 2012, MROS specifies that “the financial intermediary may submit a SAR on account of a suspicion based on probability, doubt or a sense of unease about entering into a business relationship.”¹⁹ The increase in the number of voluntary SARs received in recent years could be the result of this broader interpretation²⁰. It should be noted that FINMA has also encouraged financial intermediaries to make more use of voluntary SARs.²¹

It is important to point out that this new interpretation of well-founded suspicion in no way modifies the duty to clarify on the part of financial intermediaries. In Switzerland, financial intermediaries are part of the system and are required to act as an initial filter, in order to avoid MROS being inundated with unfounded SARs. SARs are always filed after the clarifications provided for in Article 6 paragraph 2 AMLA have been carried out. The crucial importance of these clarifications was emphasised once again in a recent judgement by the Federal Administrative Court²².

In its last evaluation of Switzerland in 2016, the FATF recognised that the broad interpretation of mandatory SARs is compliant with its recommendations. It did state, however, that “the legislative framework should be clarified to explain more clearly the distinction between the right and the requirement to report and to prevent the same level of suspicion from being covered by both legal provisions.”

¹⁴ Third Evaluation Report on Switzerland, November 2005 (<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Switzerland%20Rapport%20Compleet.pdf>), § 649, p. 139.

¹⁵ Follow-up report to the mutual evaluation of Switzerland (<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/mer%20switzerland%20rapport%20de%20suivi.pdf>), § 44, note 14, p. 18.

¹⁶ MROS Annual Report 2007 (<https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2007-f.pdf>), p. 3.

¹⁷ Federal Supreme Court, judgement of 27 November 2008 (4A_313/2008).

¹⁸ Federal Criminal Court, judgement of 18 March 2015 (SK.2014.14), cons. 4.5.1.1. It should be noted that, since 1 January 2016, the consequences are the same for voluntary and mandatory SARs: assets are only frozen if MROS forwards the case to the prosecution authorities. The only difference is the processing time by MROS (Art. 23 para. 5 and 6 AMLA).

¹⁹ MROS 2012 Annual Report (<https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2012-f.pdf>), p. 10.

²⁰ In 2016, MROS received more than 1,800 voluntary SARs, which is almost 800 more than the number of mandatory SARs. There has been a noticeable increase in involuntary SARs since 2010, but this has become more marked since 2013 – the year MROS published its position in its 2012 annual report.

²¹ FINMA annual media conference of 7 April 2016. Speech by Marc Branson, Director (<https://www.finma.ch/fr/news/2016/04/20160407-mm-jmk-2016/>).

²² Federal Administrative Court, judgement of 10 June 2014 (B-6815/2013), cons. 4.2 and 4.3.

4.2 Federal Act on the Freezing and the Restitution of Illicit Assets held by Foreign Politically Exposed Persons (FIAA)

4.2.1 Scope of Art. 7 FIAA in relation to Art. 9 AMLA

The Foreign Illicit Assets Act (FIAA; SR 196.1) came into force on 1 July 2016. It sets out new powers for MROS. Certain financial intermediaries contacted the Federal Department of Foreign Affairs (FDFA) and MROS to request clarification regarding mandatory SARs under this law. In order to answer these questions, these two authorities present a common position below.

1. Commencement of the legislation and competent authorities

The FIAA sets out an obligation for individuals and institutions to report and inform MROS without delay of assets covered by a freeze (Art. 7 para. 1 to 3 FIAA). The information contained in these reports is then transmitted to the FDFA and the FOJ by MROS (Art. 7 para. 5 FIAA).

If individuals or institutions are unsure about filing a mandatory SAR, practice prior to the FIAA shows that they sometimes contacted the competent authority to request clarification. Up until 30 June 2016, they contacted the FDFA (Directorate of International Law: DIL) for this purpose. Now, if the FDFA (DIL) receives any new requests for information in this regard, it will refer them to MROS, which has been the competent authority since 1 July 2016.

A limited number of information requests that were sent to the FDFA (DIL) before 1 July 2016 are still pending. In the absence of any specific transitional arrangements on this issue in the FIAA, these requests will be handled and completed by the FDFA (DIL), which will send MROS a copy of its final correspondence on the matter.

The powers and tasks of MROS under the FIAA are set out in Article 7 and Article 13. MROS is therefore not obliged to analyse the information received by virtue of Article 7 FIAA, contrary to what Article 23 AMLA provides for regarding SARs received on the basis of this act.

2. Reports in accordance with Art. 7 FIAA

As the reports under Article 7 FIAA are briefer than those provided for under Article 9 AMLA, an ad hoc form has been drawn up by MROS for this purpose and will be published on its website to help individuals and institutions report frozen assets (cf. appendix).

Definitions of 'Politically Exposed Persons' (PEPs) and 'close associates'

In practice, there are no issues regarding the duty to report bank accounts held by PEPs as defined under Article 2 letter a FIAA (or where PEPs are beneficial owners) mentioned in the lists attached to asset freeze orders. The same applies

when a close associate as defined under Article 2 letter b FIAA features in these lists. Usually, financial intermediaries report such bank accounts very quickly, namely within a few days of a new freeze order by the Federal Council coming into effect.

Definition of 'assets'

The term 'assets' is legally defined under Article 2 letter c FIAA. The dispatch clarifies this notion by referring in particular to its meaning in criminal law. Assets may be tangible or intangible, movable or immovable. The dispatch also refers to the former freeze orders that used the terms 'funds' and 'economic resources' specific to sanctions legislation. It follows from the above that the assets within the meaning of Article 2 letter c FIAA have a very broad scope (Federal Gazette 2014 5150 s.). Assets ('funds' according to the old terminology) are therefore all financial assets, including cash, cheques, monetary claims, drafts, money orders and other payment instruments, deposits, balances on accounts, debts and debt obligations, securities and debt instruments, stocks and shares, certificates representing securities, bonds, notes, warrants, options, mortgage bonds and derivatives, interest, dividends or other income accruing from or generated by assets, credit, right of set-off, guarantees, performance bonds, other financial commitments, letters of credit, bills of lading, bills of sale and documents showing evidence of an interest in funds or financial resources. Assets ('economic resources' in the old terminology) are also assets of every kind, whether intangible or tangible, movable or immovable, in particular property and luxury goods.

Definition of 'persons and institutions'

The definition of 'persons and institutions' contained in the FIAA is broad and is clarified in the preparatory work. Firstly it includes financial intermediaries as defined under Article 2 paragraph 1 letter a AMLA and dealers as defined under Article 2 paragraph 1 letter b AMLA. It also includes other actors to which the due diligence obligations set out in AMLA do not apply. This is the case for authorities, such as land registries, which are required to report properties covered by a freeze (Federal Gazette 2014 5164). It also applies to company administrators, asset managers, securities depositaries or even traders, who may also fall under this definition (Federal Gazette 2014 5164 s).

3. Relationship between the FIAA and AMLA

Some practical difficulties have arisen when financial intermediaries as defined under Article 2 paragraph 1 letter a AMLA are called on to credit Swiss bank accounts held by persons or non-listed commercial companies with incoming wire transfers corresponding to the execution of commercial contracts concluded with foreign companies

controlled by listed PEPs. Such difficulties may arise particularly in connection with contracts for the international sale of goods, when the seller has a Swiss bank account and the buyer is a company domiciled abroad and controlled by a listed PEP. Financial intermediaries that receive a wire transfer from abroad sometimes wonder whether it can be credited to the holder of the account in Switzerland without being subject to a SAR under the FIAA, or if instead the sum has to be frozen as an 'asset' of a listed PEP and be made the subject of a corresponding SAR.

Principles to comply with when applying Article 7 FIAA

Although the aims of the FIAA and the AMLA are not the same, these two pieces of legislation are complementary and should be applied in practice in a coherent manner. The concern about making it as easy as possible for financial intermediaries to implement the FIAA by assigning MROS the role of single point of contact to receive SARs instead of the FDFA has been clearly articulated during the preparatory work and parliamentary debates (Federal Gazette 2014 5164). It is therefore important to ensure that SARs filed under Article 7 FIAA and SARs filed under Article 9 AMLA do not produce results that are insufficiently coordinated or even contradictory. In this context, it is important to comply with the following principles:

1. Filing a SAR under Article 7 FIAA does not exempt the financial intermediary or dealer from filing a SAR under Article 9 AMLA (Federal Gazette 2014 5164 s.) if necessary, or from complying with its due diligence obligations in accordance with AMLA.
2. Conversely, filing a SAR under Article 9 AMLA does not exempt the financial intermediary or the dealer from filing a SAR under Article 7 FIAA if necessary.
3. No report should be filed under Article 7 FIAA when:
 - the account holder (or beneficial owner) is a PEP whose name does not appear in the appendix to the freeze order;
 - the account holder (or beneficial owner) is a close associate whose name does not appear in the appendix to the freeze order.
4. 'Funds' and 'economic resources' as used in old freeze orders (and sanction orders on the basis of the EmbA) constitute assets and must therefore be reported in accordance with Article 7 FIAA.
5. The freezing of assets under Article 3 FIAA is not a commercial sanction. However, all assets in Switzerland of a company with its headquarters in Switzerland and which is controlled by a listed PEP (or a listed close associate)

must be reported under Article 7 FIAA and will therefore be frozen.

6. When international wire transfers are received by financial intermediaries in order to be credited to the Swiss accounts of non-listed clients, and even if the transfer corresponds to the execution of a contractual obligation concluded with a listed person (or a company controlled by a listed person), it is not necessary to file a SAR under Article 7 FIAA once the listed person has permanently divested himself of the asset through payment to the financial intermediary. In such cases, the financial intermediary is still required to clarify the background and purpose of the transaction in accordance with its due diligence obligations arising from AMLA. If necessary, it may be required to file a SAR under Article 9 AMLA and it still has the option of filing a voluntary SAR under Article 305^{ter} paragraph 2 SCC. However, under the FIAA, the aforementioned clarification is not its responsibility.
7. Persons or institutions who are not financial intermediaries or dealers according to AMLA are required to file a SAR under Article 7 FIAA provided they hold or administer assets in Switzerland belonging to persons affected by an asset freeze (Art. 7 para. 1 FIAA). The same applies if, without holding or administering such assets in Switzerland, these persons or institutions have knowledge of such assets by virtue of the functions they perform (Art. 7 para. 2 FIAA). As these persons and institutions are not subject to the due diligence obligations set out in AMLA, they do not have to clarify the background and purpose of the transactions, or file a SAR under Article 9 AMLA.

5 International scene

5.1 Egmont Group

MROS is a member of the Egmont Group, a network of central Financial Intelligence Units. The Egmont Group perceives itself as a non-political international forum of operationally independent FIUs. In the area of anti-money laundering, predicate offences to money laundering and the financing of terrorism, the Egmont Group pursues the following objectives:

- establishing the preconditions needed for the systematic and mutual exchange of information;
- offering training courses aimed at improving the efficiency of FIUs and exchanging personnel to encourage the transfer of know-how;
- using suitable technology, such as a stand-alone internet connection, to ensure more secure international data transfers between FIUs;
- helping more FIUs to become operationally independent;
- providing guidance and resources for the creation of central FIUs.

In 2016, the Heads of Financial Intelligence Units (HoFIU), the Egmont Committee, the Egmont Plenary and the working groups all met in January/February. Further meetings were planned for July in Istanbul, but had to be cancelled due to the security situation there. As a result, several ad hoc meetings of the working groups took place. Because there was no plenary meeting, no new members joined the Egmont Group in 2016. Membership therefore remains at 151 jurisdictions.

Once again, great importance was given in 2016 to projects associated with combating the financing of terrorism and the financing of Islamic State. The working groups involved are currently analysing whether amendments to the Egmont regulations are necessary as a result.

The new Executive Secretary, Jérôme Beaumont, took up his position in September 2016 following his predecessor's resignation.

MROS has been a member of the Egmont Group since its inception in 1998. Since revision of the FATF Recommendations in 2012, MROS membership is now a clear prerequisite for an adequate system to combat money laundering and the financing of terrorism. In particular, the various FIUs declared their adherence to the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases. The possibility for MROS to directly contact and exchange information with FIUs is essential. With the entry into force on 1 January 2016 of

the Federal Act on Implementation of the Revised FATF Recommendations of February 2012, MROS's mandate has once again been expanded to cover additional predicate offences to money laundering. This legislative amendment strengthens MROS's analysis capacity and the exchange of information with its partners abroad.

During the reporting year, MROS took part in the meetings of the Egmont Committee Meeting, the Egmont Plenary Meeting and the meetings of the Information Exchange and Policy and Procedures working groups.

5.2 About the FATF

The Financial Action Task Force (FATF) is an inter-governmental body established by the G7 at a summit in Paris in July 1989. As the leading international body to fight money laundering and the financing of terrorism, it establishes international standards for measures to fight these crimes. Member country compliance is verified on the basis of reviews conducted at regular intervals. These reviews give rise to reports showing the extent to which evaluated countries adhere to FATF Recommendations.

In February 2012, the FATF published the latest version of its recommendations, which establish a complete and coherent framework of measures that must be implemented by countries in order to combat money laundering and the financing of terrorism. Member states are required to implement these measures. For the current fourth round of mutual evaluations, both the level of technical compliance and the recently introduced criteria of effectiveness will be tested.

The FATF produces two public documents assessing the level of compliance of certain non-member countries: the first public document is the FATF's Public Statement, which identifies high-risk jurisdictions perceived to be uncooperative in the global fight against money laundering and the financing of terrorism; the second public document is entitled Improving Global AML/CFT Compliance: On-going Process, which identifies jurisdictions with strategic AML/CFT deficiencies that have provided a high-level political commitment to address the deficiencies through implementation of an action plan developed with the FATF.

Switzerland was the subject of a FATF evaluation in 2016. The inspectors conducted numerous discussions with MROS to assess technical compliance of Switzerland's legislative framework and its effectiveness. The inspection also included a detailed analysis of MROS's activities and its scope of competence. Switzerland fulfils all the requirements of FATF Recommendation 29, which relates to MROS's activities. With regard to Recommendation 40 – international coop-

eration – the FATF criticised that MROS cannot approach financial intermediaries if the information it has received comes from an FIU abroad and no financial intermediary in Switzerland has submitted a SAR.

As part of the Swiss delegation to the FATF, MROS is active in the meetings of the Risks, Trends and Methods Group (RTMG). The aim is to study and analyse specific cases in an effort to recognise and analyse recurrent patterns and features associated with money laundering and the financing of terrorism so as to more effectively tackle these phenomena. In addition, MROS takes part in the meetings of the Policy Development Group (PDG), which is responsible for aspects surrounding regulations and guidelines. MROS also attends the meetings of the Evaluations and Compliance Group (ECG), which monitors and ensures compliance through mutual country evaluations and the follow-up process. Other working groups include the International Co-

operation Review Group (ICRG) and the Global Network Coordination Group (GNCG).

The FATF devoted considerable attention to terrorist attacks last year. During the reporting year a confidential report was published on terrorist financing, which identified high-risk indicators in various fields of business.

In 2016, MROS was active in one of the projects of the Risks, Trends and Methods Group (RTMG) called 'Domestic Information Sharing', which concerns the exchange of information for fighting terrorist financing. The project aims to publish a Best Practices Paper, which will serve the member states as a guideline. The project should be concluded in 2017.

Another project that was initiated at the end of 2016 deals with the topic of beneficial ownership. MROS will participate actively in the project in 2017, notably through contributing typologies.

6 Internet links

6.1 Switzerland

6.1.1 Money Laundering Reporting Office

www.fedpol.admin.ch

Federal Office of Police fedpol

www.fedpol.admin.ch/fedpol/en/home/kriminalitaet/geldwaescherei.html

Money Laundering Reporting Office MROS

https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/meldeformulare/9gwg/9_GwG_formular-e.docx

SAR form Art. 9 AMLA

https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/meldeformulare/305ter/305ter_Abs_2_StGB_formular-e.docx

SAR form Art. 305^{ter} SCC

6.1.2 Supervisory authorities

www.finma.ch

Swiss Financial Market Supervisory Authority FINMA

www.esbk.admin.ch

Federal Gaming Commission

6.1.3 National associations and organisations

www.swissbanking.org

Swiss Bankers Association

www.abps.ch

Swiss Private Bankers Association

www.foreignbanks.ch

Association of Foreign Banks in Switzerland

www.sv.ch

Swiss Insurance Association

6.1.4 Self-regulating organisations

www.arif.ch

Association Romande des Intermédiaires Financières (ARIF)

www.oadfct.ch

OAD Fiduciari del Cantone Ticino (FCT)

www.oarg.ch

Organisme d'Autorégulation des Gérants de Patrimoine (OARG)

www.polyreg.ch

PolyReg Allg. Selbstregulierungsverein

www.sro-sav-snv.ch

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

www.leasingverband.ch

SRO Schweizerischer Leasingverband (SLV)

www.sro-treuhandsuisse.ch

SRO Schweizerischer Treuhänderverband (STV)

www.vsv-asg.ch

SRO Verband Schweizerischer Vermögensverwalter (VSV)

www.vqf.ch

Verein zur Qualitätssicherung von Finanzdienstleistungen (VQF)

www.sro-svv.ch

Self-regulation organisation of the Swiss Insurance Association

www.sfama.ch

Swiss Funds & Asset Management Association SFAMA

www.svgig.org

Swiss Association of Investment Companies (SAIC)

6.1.5 Other links

www.ezv.admin.ch

Federal Customs Administration

www.snb.ch

Swiss National Bank

www.bundesanwaltschaft.ch

Office of the Attorney General of Switzerland

https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos.html

State Secretariat for Economic Affairs (economic sanctions under the Embargo Act EmbA)

www.bstger.ch

Federal Criminal Court

6.2 International

6.2.1 Foreign reporting offices

www.egmontgroup.org/en/membership/list

List of all Egmont members, partially with link to the website of the corresponding country

6.2.2 International organisations

www.fatf-gafi.org

Financial Action Task Force on Money Laundering

www.unodc.org

United Nations Office on Drugs and Crime

www.egmontgroup.org

Egmont Group

www.cfatf-gafic.org

Caribbean Financial Action Task Force

6.2.3 Other links

www.worldbank.org

World Bank

www.bis.org

Bank for International Settlements

www.interpol.int

INTERPOL

www.europa.eu

European Union

www.coe.int

Council of Europe

www.ecb.europa.eu

European Central Bank

www.europol.net

Europol

www.fincen.gov/

Financial Crimes Enforcement Network, USA

www.fbi.gov

Federal Bureau of Investigation FBI, USA

www.bka.de

Bundeskriminalamt BKA Wiesbaden, Germany

REPORT 2016

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