

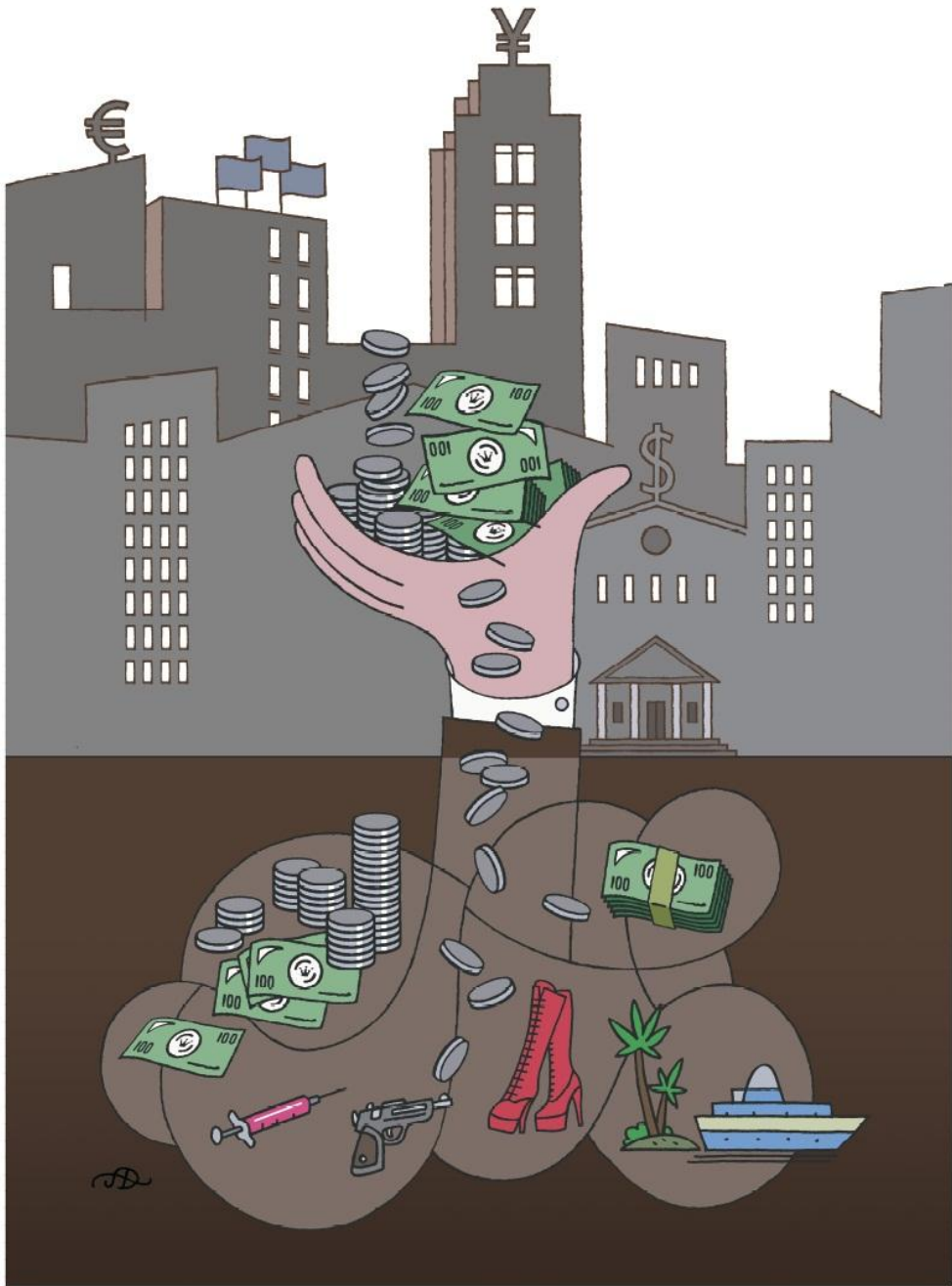
**White paper on criminal money**  
**20 years of combating money laundering and**  
**terrorist financing**



**Belgian Financial Intelligence Processing Unit**  
**(CTIF-CFI)**

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## PREFACE

The Belgian Financial Intelligence Processing Unit CTIF-CFI was established in accordance with the Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing. CTIF-CFI started its work twenty years ago in December 1993. Such events are usually celebrated symbolically, but we chose to publish a special report. In 2003, we published a fairly academic paper on CTIF-CFI's first ten years.

At the time, Belgium was preparing for the third round of mutual evaluations by the Financial Action Task Force (FATF) assessing the anti-money laundering and countering the financing of terrorism (AML/CFT) system and criminal justice system.

At the FATF plenary meeting in Singapore in 2005 it was confirmed that the outcomes of this evaluation were very positive and encouraging for our country. We were encouraged to further promote future developments, at legal, strategic and operational level, with the ultimate goal of enhancing the efficiency of this crucial fight in Belgium.

It is essential that democratic states continue to have the necessary (especially financial) resources to guarantee the integrity, dignity and exercise of fundamental rights and freedoms of all people. On 6 January 1941 F. D. Roosevelt named the freedom from want as one of these fundamental freedoms.

I would like to quote Stéphane HESSEL when he describes one of the two main challenges of our times: *“La très grave injustice infligée à une beaucoup trop grande partie de l’humanité, privée des fondements nécessaires à une vie décente, et pas seulement dans des régions lointaines du monde comme l’Afrique, l’Asie, Haïti, mais plus près, dans des banlieues de nos plus grandes villes là où l’isolement et la pauvreté nourrissent la haine et la révolte.”* [The great injustice done to far too many people, deprived of the basics needed for a decent life, not only in remote regions around the world such as Africa, Asia or Haiti but also closer to home, in the suburbs of our largest cities where isolation and poverty fuel hatred and uprising].

This quote can be a preface in itself and be used as a guide and compass to accompany the bare figures and technical, at times alarming, money laundering trends and typologies. These figures and trends result from the analysis of financial data linked to various forms of serious crime, ranging from human trafficking, trafficking in illegal labour and exploitation of prostitution to illicit trafficking in narcotics, organised crime or serious fiscal fraud, whether organised or not.

In order to combat money laundering one must always keep in mind these two challenges described by Stéphane HESSEL. Apart from the challenge cited above, the second challenge is to combat “infringements of freedoms and fundamental rights”.

This motivation, I would even call it an ideal, to efficiently contribute to combating this existing injustice –while observing the rule of law and corresponding regulations– is imperative. This injustice is created, maintained or even exploited with the sole aim of fraudulently obtaining illicit proceeds and increasing criminal assets.

From the outset to today these fundamental regulations have been the guiding principles for every one of CTIF-CFI's members and members of staff, as well as for its national and international public and private partners that have contributed or continue to contribute to this

mission of prevention, prosecution or policymaking. I would to take this opportunity to thank them for their commitment, their cooperation and their efforts.

The achievements of twenty years of unrelenting work by CTIF-CFI as an independent administrative authority at domestic, European or international level, be it legislative, regulatory or operational work carried out by some fifty members of privately-recruited staff were recorded in nineteen annual reports. These reports were presented to successive governments and subsequently published. These reports are available at [www.ctif-cfi.be](http://www.ctif-cfi.be).

Over the past twenty years money laundering has moved away from dated and national structures and opted for international and flexible organisations.

The banking crisis of 2008 and current events (crisis in Greece, Cyprus, the Cahuzac case in France, disclosures through “offshore leaks”, the case against HSBC bank) to cite but a few examples should suffice for political commitment to be self-evident, in terms of significance as well as the speed to opt for a genuine and fundamental approach. The aim should be to obtain tangible results, ultimately leading to the actual seizure of criminal proceeds and making these proceeds available to the government for the benefit of all citizens.

These recent events were only possible because for years the current complex reality resulted in political commitment that was only partial and one-sided at international, European and domestic or even local level.

We should absolutely bring such reasoning to a halt, as it underestimates the endless quest for illegal and/or criminal proceeds, solely benefiting indiscernible parties all over the world which, because of their vast financial resources, and despite all measures taken, sometimes manage to play a decisive role in the decision-making process.

They find protection in globalised fraud schemes and all types of criminal ventures yielding vast profits for criminal organisations, cartels and networks that subsequently need be laundered again to infiltrate the legitimate economic and financial systems.

Over a twenty-year period the Belgian preventive system detected suspicious transactions related to money laundering or terrorist financing for a total amount of EUR 22,499 billion with regard to the files reported to the judicial authorities.

When we look at the serious offences related to this amount, serious and organised fiscal fraud is the main offence (EUR 6,768 billion over a twenty-year period), followed by organised crime (EUR 5,149 billion). The various types of illicit trafficking, such as illicit drug trafficking, complete the list and amount to EUR 5,8 billion and EUR 2,376 billion.

Terrorist financing represents 1 % of the amount reported to the judicial authorities, i.e. EUR 226 million.

More than ever before criminal organisations use an international, commercial and financial line of reasoning. Their activities are no longer limited to traditional forms of serious crime such as trafficking in narcotics or banditry.

Financial and economic channels are not only used to launder the proceeds of crime but also to use these proceeds and generate profits by investing in other activities or profitable assets.

The legal, illegal and ensuing criminal economies are entwined, which is a threat to constitutional states.

New technology, combined with a globalised economy, enables these organisations and white-collar criminals to remotely access financial markets anywhere in the world to quickly transfer the proceeds of crime using traditional channels.

It is now possible to send criminal money abroad in less than two hours, while criminal and financial investigations are frequently impeded, mainly by using legal and financial structures or accountancy schemes. One of investigators' main difficulties is the lack of transparency, deliberately put into place by the ones behind these structures, who often use the alibi of fiscal ingenuity to cover up their tracks.

Even though these impediments are not insurmountable, they make the fight against criminal organisations and serious white-collar crime more difficult, longer and more complex. It is feared that this fight will gradually become less effective.

Awareness of the global risk and the need for a permanent assessment of the danger are two crucial requirements.

The extent to which our national systems and procedures can separately or as a whole tackle the threat of such risk efficiently is currently being examined and evaluated by the international community.

It quite a coincidence that, as with CTIF-CFI's tenth anniversary, at the time of the FIU's 20th anniversary Belgium will welcome the FATF as part of the fourth evaluation of its comprehensive system in the fight against money laundering, terrorist and proliferation financing.

During a two-week visit to Belgium at the start of the summer of 2014, an international team of experts will primarily assess the effectiveness of the results of the preventive AML/CFT system and criminal justice system.

The results of this evaluation are expected by February 2015 and will be of utmost importance to Belgium, not only because of the picture outlined of Belgium's effectiveness in combating issues that are internationally acknowledged to pose a risk to the financial, economic and social stability of democratic states, but also to enable our institutions to learn from these results and take measures and make resources available without delay, proportional to the risks and threats identified.

Jean-Claude DELEPIÈRE  
President of CTIF-CFI



## I. COMPOSITION OF CTIF-CFI

CTIF-CFI is an independent administrative government agency with legal personality, in charge of processing and reporting information aimed at combating money laundering and terrorist financing, including proliferation financing.

This agency is composed of financial experts and a senior officer seconded from the Belgian federal police.

The experts are appointed by the King for a renewable six-year term.

On 31 October 2013 the composition of CTIF-CTIF was as follows:

Honorary president	: Mr. Jean SPREUTELS <sup>(1)</sup>
President	: Mr. Jean-Claude DELEPIÈRE <sup>(2)</sup>
Vice President	: Mr. Philippe de MÛELENAERE <sup>(3)</sup>
Deputy Directors	: Mr. Boudewijn VERHELST <sup>(4)</sup> : Mr. Philippe de KOSTER <sup>(5)</sup>
Members	: Mr. Michel J. DE SAMBLANX <sup>(6)</sup> : Mr. Luc BATSELIER <sup>(7)</sup> : Mr. Johan DENOLF <sup>(8)</sup>

<sup>(1)</sup> Also President of CTIF-CFI from 1993 until 2004 and President of the FATF from 1997 until 1998.

<sup>(2)</sup> Since 2004. Also Deputy Director of CTIF-CFI from 1993 until 2003.

<sup>(3)</sup> From 1993 until 1994 and since 1999, Member of CTIF-CFI from 1994 until 1999.

<sup>(4)</sup> Since 1993. Also Chairman of the Egmont Group from 2010 until 2013.

<sup>(5)</sup> Since 2003.

<sup>(6)</sup> Since 1999.

<sup>(7)</sup> Since 2005.

<sup>(8)</sup> Since 2008 – senior officer seconded from the Belgian federal police.

In the first twenty years of its existence CTIF-CFI could also count on the skills of following experts:

Mr. Roger VANDENBORRE, Member of CTIF-CFI from 1993 until 1994

Mr. Herman DEBREMAEKER, Member of CTIF-CFI from 1993 until 1994 and Vice President of CTIF-CFI from 1994 until 1999

Mr. Walter MISSORTEN, Member of CTIF-CFI from 1993 until 1998

Mr. Guido VERNAILLEN, Member of CTIF-CFI from 1998 until 2005

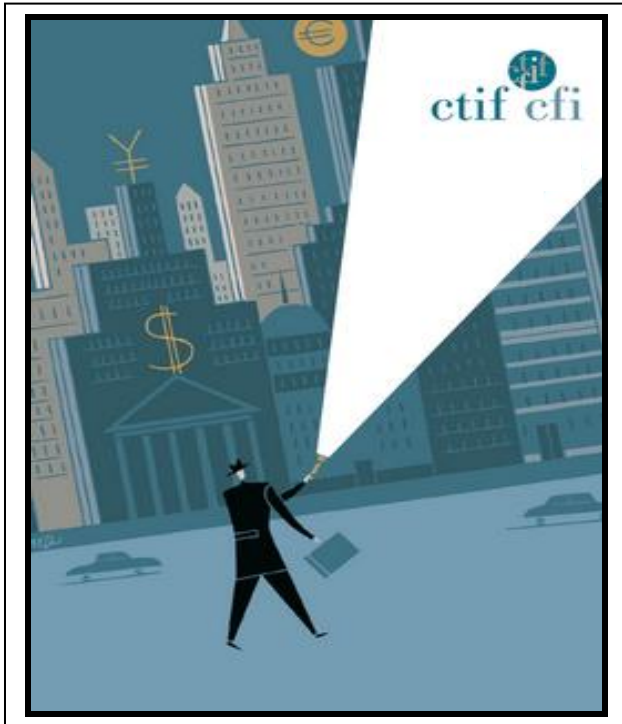
Mr. Jean-Claude LEYS, Member of CTIF-CFI from 2008 until 2012

CTIF-CFI has also had two Secretaries General:

Mr. Paul CLÉMENT, from 1993 until 2002.

Mr. Kris MESKENS, since 2012





## **White paper on criminal money**

## II. STATISTICS OVER A 20-YEAR PERIOD<sup>1</sup>

### 1. Key figures

Since CTIF-CFI was established in 1993 it has received and processed **60.540** files related to money laundering or terrorist financing on the basis of no fewer than **234.634** disclosures received from institutions and persons subject to the Law of 11 January 1993.

All of this information was analysed, further information was added and, in case of serious indications of money laundering or terrorist financing as referred to in the Law, reported to the judicial authorities.

Since 1993 CTIF-CFI has reported **16.004** files to the judicial authorities containing information from **97.404** disclosures, for a total amount of EUR **22,5** billion.

1993-2013 (20 years)	
Number of files received	<b>60.540</b>
Number of disclosures received	<b>234.634</b>
Number of files reported to the judicial authorities	<b>16.004</b>
Number of disclosures reported to the judicial authorities	<b>97.404</b>
Total amount <sup>(1)</sup> of transactions related to money laundering or terrorist financing reported to the judicial authorities	<b>22.499,16</b>

<sup>(1)</sup> Amount in million EUR

When examining five-year periods, the number of files, received and reported disclosures is as follows:

	1993-1998	1999-2003	2004-2008	2009-2013	1993-2013
Number of files received	5.329	10.333	18.853	26.025	<b>60.540</b>
Number of disclosures received	28.386	54.775	59.688	91.785	<b>234.634</b>
Number of files reported to the judicial authorities	1.671	4.094	4.388	5.851	<b>16.004</b>
Number of disclosures reported to the judicial authorities	17.153	33.064	22.927	24.260	<b>97.404</b>
Total amount <sup>(1)</sup> of transactions related to money laundering or terrorist financing reported to the judicial authorities	3.953,16	7.171,78	3.413,21	7.960,55	<b>22.499,16</b>

<sup>(1)</sup> Amount in million EUR



<sup>1</sup> The statistics refer to the period from 1 December 1993 until 31 August 2013. For 1993 and 2013 they respectively reflect a one-month and an eight-month period.

## 2. Disclosing entities

The scope of the anti-money laundering system was gradually extended to a larger number of financial professions to tackle new risks identified by the FATF and other international organisations (IMF, United Nations,...).

When CTIF-CFI was established members of the financial sector became disclosing entities in accordance with the anti-money laundering law. As early as 1996 it became clear that other professions such as notaries, estate agents, dealers in diamonds, bailiffs, casinos, accounting professionals and subsequently lawyers were also at risk.

In 2010 the Federal Public Prosecutor's Office and OLAF were enabled to provide information, respectively on terrorist financing and fraud detrimental to the financial interests of the European Union.

In March 2012 a new category of disclosing entities was also added to the anti-money laundering system: officials of administrative services of the State can also disclose suspicions of money laundering or terrorist financing to CTIF-CFI.

The table below provides an overview of the number of disclosures received by category of disclosing entity:

	1993- 1998	1999-2003	2004- 2008	2009-2013	1993-2013
<b>Financial sector</b>					
National Bank of Belgium	7	75	52	167	301
Credit institutions	6.835	12.797	21.251	19.930	60.813
Stock broking firms	3.672	2.064	234	115	6.085
Currency exchange offices	17.350	33.600	27.360	53.296	131.606
Postal service – bpost	198	49	867	2.956	4.070
Life insurance companies	42	569	530	397	1.538
FIU counterparts	228	976	2.501	2.021	5.726
Other	44	116	202	300	662
<b>Non-financial sector</b>					
Notaries and estate agents	3	64	1.387	2.031	3.485
Accountancy professionals <sup>2</sup>	0	40	211	495	746
Lawyers	0	0	8	15	23
Casinos	0	4.415	4.249	4.442	13.106
Others	1	2	12	38	53
Administrative services <sup>3</sup> and supervisory authorities	6	8	824	5.582	6.420
<b>Total</b>	<b>28.386</b>	<b>54.775</b>	<b>59.688</b>	<b>91.785</b>	<b>234.634</b>

The financial sector initially felt the new customer due diligence measures were an additional burden. At first the financial sector was rather reticent about contributing to money laundering prevention (disclosures were often regarded to be denouncements), yet the sector soon realised that money laundering prevention was important and became aware of the risks and the effect on their reputation.

<sup>2</sup> Accountants, external tax advisors, certified accountants, certified tax specialists-accountants and company auditors.

<sup>3</sup> Including all declarations in accordance with Directive (EC) nr. 1889/2005 of 26 October 2005 and the Royal Decree of 5 October 2006 on supervisory measures for the physical cross-border transportation of currency.

In 1996 we already received 600 disclosures per month, nowadays on average CTIF-CFI receives over 1.800 disclosures per month.

To ensure that the sector would cooperate and provide legal certainty in 1993 the legislator introduced an exception for (ordinary) fiscal fraud, which is outside of CTIF-CFI's competence. Only serious and organised fiscal fraud setting in motion complex mechanisms or using procedures with an international dimension fell within CTIF-CFI's competence. In order to take into account international developments in this regard the term serious and organised fiscal fraud setting in motion complex mechanisms or using procedures with an international dimension was replaced by serious fiscal fraud, whether organised or not.

Over time and in view of experience gained, the list of predicate offences was amended to improve the efficiency of the preventive system and fit in with predicate offences whose proceeds can be laundered. The current term trafficking in illegal labour replaces the term exploitation of illegal labour, as this offence was usually coupled with trafficking. Corruption now refers to public and private corruption, and to embezzlement by public officials. Illicit trafficking in goods and merchandise now also covers trafficking in hormones, antipersonnel mines, counterfeiting and piracy. Laundering the proceeds of investment services, foreign exchange or fund transfer services without authorisation is now also covered by the anti-money laundering legislation.

Customer due diligence was gradually considered to be a tool for the financial sector to shield itself from undesirable customers and the risk of getting involved in money laundering transactions, which could have financial consequences and lead to reputation damage.



### 3. Geographical breakdown of disclosures

The table below provides an overview of disclosures by location where the suspicious transaction was carried out. The fact that large banks and currency exchange offices have their registered office or head office in Brussels does not affect the trends below.

	1993- 1998	1999-2003	2004- 2008	2009-2013	1993-2013
Brussels Capital Region	14.056	27.064	27.399	46.050	114.569
Flemish Region	13.729	22.331	22.591	30.667	89.318
Walloon Region	356	4.348	7.052	12.515	24.271
German-speaking region	17	56	145	163	381
<b>Total</b>	<b>28.158</b>	<b>53.799</b>	<b>57.187</b>	<b>89.395</b>	<b>228.539</b>

This table does not include requests from FIU counterparts, nor online transactions.

The table below states the number of disclosures by judicial district:

Judicial district	1993-1998	1999-2003	2004-2008	2009-2013	1993-2013
Brussels	14.056	27.064	27.399	46.050	114.569
Antwerpen	9.445	10.198	8.237	14.678	42.558
Liège	131	2.045	1.804	4.011	7.991
Gent	722	4.522	5.781	4.013	15.038
Brugge	315	3.724	2.932	3.415	10.386
Charleroi	51	265	1.206	2.564	4.086
Hasselt	80	185	733	1.569	2.567
Tongeren	539	629	1.314	1.726	4.208
Kortrijk	86	621	989	1.473	3.169
Mons	66	175	723	1.623	2.587
Namur	26	721	1.234	1.305	3.286
Verviers	14	668	603	983	2.268
Leuven	86	161	773	1.031	2.051
Dendermonde	88	217	544	972	1.821
Mechelen	353	260	320	646	1.579
Tournai	15	191	333	602	1.141
Turnhout	1.967	1.695	570	653	4.885
Nivelles	20	125	533	764	1.442
Dinant	4	88	291	243	626
Oudenaarde	17	32	143	234	426
Veurne	24	65	145	139	373
Eupen	17	56	145	163	381
Arlon	9	44	132	150	335
Ieper	7	22	110	118	257
Huy	11	13	95	132	251
Marche-en-Famenne	5	7	47	60	119
Neufchâteau	4	6	51	78	139
<b>Total</b>	<b>28.158</b>	<b>53.799</b>	<b>57.187</b>	<b>89.395</b>	<b>228.539</b>

This table does not include requests from FIU counterparts, nor online transactions.

#### 4. Money laundering stages

When the Belgian preventive system came into force in 1993 most of the files reported to the judicial authorities were proportionately related to transactions in the first money laundering stage (placement).

	1993-1998	1999-2003	2004-2008	2009-2013	1993-2013
Placement	1.416	1.721	851	716	4.704
Layering	230	2.056	3.062	4.576	9.924
Integration	25	317	475	553	1.370
Money laundering attempt	0	0	0	6	6
<b>Total</b>	<b>1.671</b>	<b>4.094</b>	<b>4.388</b>	<b>5.851</b>	<b>16.004</b>

Over time this trend changed, nowadays most of the files reported to the judicial authorities relate to transactions in the second stage (layering).

The number of files in the third stage (integration) has risen steadily since 1993, in 2012 the number was slightly higher than the number of files in the placement stage.

This clearly shows that Belgium is increasingly used as a transit country. There is a good chance that criminals now use more lenient financial centres to carry out their transactions in the placement stage.

As a result, it is more difficult for financial and non-financial professions, CTIF-CFI and the judicial authorities to detect and investigate these transactions.

#### 5. Type of transactions

The table below provides an overview of the number of disclosures CTIF-CFI reported to the judicial authorities, by type of suspicious transaction.

Type of transaction	1993-1998	1999-2003	2004-2008	2009-2013	1993-2013
Withdrawals	158	498	1.276	2.468	4.400
Money remittance	1.067	11.144	11.495	12.858	36.564
Manual exchange transactions	14.091	15.575	2.794	195	32.655
International transfers	627	1.064	1.539	1.627	4.857
Deposits into account	132	472	1.143	1.160	2.907
Domestic transfers	60	333	798	1.235	2.426
Use of cheques	169	1.167	339	248	1.923
Credits	61	118	264	319	762
Casino transactions	0	1.045	946	521	2.512
Physical cross-border transportation of currency	0	0	34	167	201
Securities	48	94	160	84	386
Real estate	5	21	127	190	343
Insurance	7	22	45	56	130
Other	692	1.290	1.542	2.691	6.215
<b>Total</b>	<b>17.117</b>	<b>32.843</b>	<b>22.502</b>	<b>23.819</b>	<b>96.281</b>

This table does not include requests from FIU counterparts.

## 6. Offences

The number of files and disclosures reported to the judicial authorities since 1993 by money laundering offence is as follows:

<b>Predicate offence</b>	<b>Reported files</b>	<b>%</b>	<b>Reported disclosures</b>	<b>%</b>
Illicit trafficking in narcotics	3.394	21,21	22.855	23,46
Illicit trafficking in goods and merchandise	2.466	15,41	23.857	24,49
Fraud	2.427	15,16	9.642	9,90
Serious and organised fiscal fraud	1.322	8,26	7.459	7,66
Fraudulent bankruptcy	1.090	6,81	3.374	3,46
Organised crime	992	6,20	6.261	6,43
Human trafficking	865	5,40	6.607	6,78
Misappropriation of corporate assets	833	5,20	2.007	2,06
Exploitation of prostitution	768	4,80	7.068	7,26
Trafficking in illegal labour	733	4,58	3.720	3,82
Terrorism and terrorist financing, including proliferation financing	279	1,74	1.823	1,87
Breach of trust	239	1,49	497	0,51
Theft and extortion	168	1,05	554	0,57
Corruption	151	0,94	516	0,53
Trafficking in hormones	55	0,34	146	0,15
Improper public offering of securities	51	0,32	164	0,17
Unlicensed provision of investment, foreign exchange or fund transfer services	45	0,28	180	0,18
Counterfeiting goods	40	0,25	179	0,18
Stock market-related offence	38	0,24	175	0,18
Fraud detrimental to the financial interests of the European Communities	20	0,12	90	0,09
Serious environmental crime	15	0,09	46	0,05
Counterfeiting currency or bank notes	11	0,07	180	0,18
Hostage-taking	2	0,01	4	0,00
<b>Total</b>	<b>16.004</b>	<b>100</b>	<b>97.404</b>	<b>100</b>

The breakdown of the amounts reported to the judicial authorities since 1993 by predicate offence is as follows:

<b>Predicate offence</b>	<b>Reported files<sup>(1)</sup></b>	<b>%</b>	<b>Reported disclosures<sup>(1)</sup></b>	<b>%</b>
Serious and organised fiscal fraud	4.528,93	28,94	6.768,56	30,08
Organised crime	4.287,02	27,39	5.149,57	22,89
Illicit trafficking in goods and merchandise	2.502,16	15,99	3.527,94	15,68
Illicit trafficking in narcotics	1.006,09	6,43	2.376,55	10,56
Fraud	1.143,16	7,30	1.436,79	6,39
Fraudulent bankruptcy	527,32	3,37	721,48	3,21
Misappropriation of corporate assets	439,03	2,81	670,56	2,98
Trafficking in illegal labour	308,04	1,97	447,32	1,99
Corruption	206,42	1,32	255,22	1,13
Terrorism and terrorist financing, including proliferation financing	122,96	0,79	226,89	1,01
Human trafficking	143,98	0,92	202,00	0,90
Improper public offering of securities	43,43	0,28	140,92	0,63
Stock market-related offence	57,81	0,37	136,54	0,61

Exploitation of prostitution	79,75	0,51	101,18	0,45
Breach of trust	72,96	0,47	93,09	0,41
Unlicensed provision of investment, foreign exchange or fund transfer services	68,53	0,44	77,89	0,35
Counterfeiting goods	34,92	0,22	45,62	0,20
Trafficking in hormones	23,74	0,15	42,19	0,19
Fraud detrimental to the financial interests of the European Communities	13,49	0,09	34,65	0,15
Serious environmental crime	29,26	0,19	31,65	0,14
Theft and extortion	9,71	0,06	11,75	0,05
Counterfeiting currency or banknotes	0,48	-	0,67	-
Hostage-taking	0,14	-	0,14	-
<b>Total</b>	<b>15.649,33</b>	<b>100</b>	<b>22.499,16</b>	<b>100</b>

<sup>(1)</sup> Amounts in million EUR

With regard to illicit trafficking in goods and merchandise the most commonly trafficked goods were:

	Number of files	%
Cars	878	35,60
Minerals, gold and precious stones	185	7,50
Tobacco, cigarettes and alcohol	179	7,26
Mobile phones, computer equipment, video and telephone cards	92	3,73
Weapons	74	3,00
Clothing and textile	61	2,47
Counterfeit goods	40	1,62
Foodstuffs	35	1,42

Over the past twenty years mainly proceeds of trafficking in diamonds, cars, tobacco and cigarettes were laundered.

An explanation lies in the importance of Antwerp for the trade in diamonds, the port of Antwerp for trade in second-hand cars (from Belgium and neighbouring countries) as well as the excise duties payable in neighbouring countries (such as the United Kingdom) on tobacco and cigarettes.

From 2000 onwards, CTIF-CFI also reported several files to the judicial authorities related to trafficking in hormones and coltan.

With regard to VAT carrousels CTIF-CFI found that the following goods and merchandise were part of VAT carrousels.

	Number of files	%
Mobile phones, computer equipment, video	431	48,37
Cars	162	18,18
Oil products	62	6,96
Clothing and textile	21	2,36
Foodstuffs	18	2,02
Tobacco, cigarettes and alcohol	14	1,57
Minerals, gold and precious stones	6	0,67



## Evolution since 1993

With regard to the number of files reported to the judicial authorities:

<b>Predicate offence</b>	<b>1993-1998</b>	<b>1999-2003</b>	<b>2004- 2008</b>	<b>2009-2013</b>	<b>1993-2013</b>
Organised crime	183	322	240	247	<b>992</b>
Fraud	72	203	612	1.540	<b>2.427</b>
Illicit trafficking in goods and merchandise	154	1.097	664	551	<b>2.466</b>
Serious and organised fiscal fraud	112	467	403	340	<b>1.322</b>
Corruption	3	9	77	62	<b>151</b>
Fraudulent bankruptcy	17	98	374	601	<b>1.090</b>
Misappropriation of corporate assets	-	-	262	571	<b>833</b>
Trafficking in illegal labour	16	24	158	535	<b>733</b>
Human trafficking	24	239	339	263	<b>865</b>
Illicit trafficking in narcotics	1.025	1.174	637	558	<b>3.394</b>
Trafficking in hormones	9	13	21	12	<b>55</b>
Breach of trust	-	-	123	116	<b>239</b>
Unlicensed provision of investment, foreign exchange or fund transfer services	-	-	21	24	<b>45</b>
Exploitation of prostitution	35	324	218	191	<b>768</b>
Terrorism and terrorist financing, including proliferation financing	4	65	126	84	<b>279</b>
Improper public offering of securities	4	17	19	11	<b>51</b>
Stock market-related offence	-	14	16	8	<b>38</b>
Fraud detrimental to the financial interests of the European Communities	9	5	5	1	<b>20</b>
Counterfeiting goods	-	-	19	21	<b>40</b>
Theft and extortion	4	23	37	104	<b>168</b>
Counterfeiting currency or banknotes	-	-	7	4	<b>11</b>
Hostage-taking	-	-	1	1	<b>2</b>
Serious environmental crime	-	-	9	6	<b>15</b>
<b>Total</b>	<b>62</b>	<b>543</b>	<b>783</b>	<b>937</b>	<b>16.004</b>

With regard to the amounts reported to the judicial authorities<sup>(1)</sup>:

<b>Predicate offence</b>	<b>1993-1998</b>	<b>1999-2003</b>	<b>2004-2008</b>	<b>2009-2013</b>	<b>1993-2013</b>
Serious and organised fiscal fraud	1.045,84	3.321,65	971,53	1.429,54	<b>6.768,56</b>
Organised crime	602,53	945,64	249,85	3.351,54	<b>5.149,57</b>
Illicit trafficking in goods and merchandise	360,75	1.611,10	809,74	746,35	<b>3.527,94</b>
Illicit trafficking in narcotics	1.678,42	435,01	174,80	88,33	<b>2.376,55</b>
Fraud	174,00	342,77	247,81	672,21	<b>1.436,79</b>
Fraudulent bankruptcy	10,08	96,21	202,00	413,18	<b>721,48</b>
Misappropriation of corporate assets	-	-	246,79	423,77	<b>670,56</b>
Trafficking in illegal labour	7,98	6,87	130,44	302,04	<b>447,32</b>
Corruption	16,74	33,42	44,27	160,79	<b>255,22</b>
Terrorism and terrorist financing, including proliferation financing	5,20	74,67	109,98	37,04	<b>226,89</b>
Human trafficking	7,00	67,90	58,05	69,05	<b>202,00</b>
Improper public offering of securities	4,71	107,46	13,78	14,97	<b>140,92</b>
Stock market-related offence	0,94	85,68	4,09	45,83	<b>136,54</b>
Exploitation of prostitution	8,82	20,14	42,92	29,31	<b>101,18</b>
Breach of trust	-	-	41,17	51,92	<b>93,09</b>
Unlicensed provision of investment, foreign exchange or fund transfer services	-	-	34,68	43,21	<b>77,89</b>
Counterfeiting goods	-	-	4,99	40,63	<b>45,62</b>
Trafficking in hormones	5,17	18,81	13,93	4,28	<b>42,19</b>
Fraud detrimental to the financial interests of the European Communities	25,20	3,60	3,27	2,58	<b>34,65</b>
Serious environmental crime	-	-	5,48	26,17	<b>31,65</b>
Theft and extortion	0,24	0,85	3,10	7,56	<b>11,75</b>
Counterfeiting currency or banknotes	-	-	0,44	0,23	<b>0,67</b>
Hostage-taking	-	-	0,10	0,04	<b>0,14</b>
<b>Total</b>	<b>3.953,61</b>	<b>7.171,78</b>	<b>3.413,21</b>	<b>7.960,55</b>	<b>22.499,16</b>

<sup>(1)</sup> Amounts in million EUR

## 7. Judicial follow-up

Breakdown by Public Prosecutor's Office of the number of files reported to the judicial authorities between 1993-2013 and the judicial follow-up:

Public Prosecutor's Office	Total	%	Conv. <sup>(1)</sup>	Ref.	Inv.	Dis.	FJA	Clos.	Enq. <sup>(2)</sup>	Acq.
Brussels	5.771	36,06	541	94	136	72	33	3.954	742	24
Antwerpen	3.237	20,23	367	27	39	74	9	2.459	229	16
Liège	733	4,58	80	30	43	21	21	413	113	
Gent	628	3,92	107	19	7	19	6	350	112	3
Turnhout	607	3,79	166	9	9	8	6	339	51	17
Charleroi	528	3,30	48	28	26	9	6	213	167	
Brugge	448	2,80	77	21	13	28	15	241	44	3
Tongeren	441	2,76	96	15	16	13	3	230	51	12
Dendermonde	436	2,72	60	26	23	13		222	78	
Hasselt	420	2,62	76	7	3	8	2	286	32	3
Fed. Publ. Pros. Off.	409	2,56	40	18	20	10	4	198	108	
Mons	303	1,89	19	11	16	5	4	132	112	
Kortrijk	288	1,80	31	7	2	10	16	174	47	
Leuven	246	1,54	29	10	10	9	1	125	53	1
Tournai	239	1,49	30	12	12	4	34	87	48	
Namur	208	1,30	21	21	13	2	1	85	56	
Mechelen	185	1,16	34	8	6	7	1	63	58	1
Nivelles	184	1,15	17	8	14	2	2	73	49	
Oudenaarde	114	0,71	10	3	1	4		69	26	
Verviers	103	0,64	19	2	2	1	3	54	16	
Veurne	98	0,61	10	1	6		36	35	10	
Eupen	77	0,48	2		3		13	43	12	
Arlon	68	0,42	2	1	1		5	21	32	
Ieper	64	0,40	16	4	1	11	2	22	6	1
Dinant	55	0,34	8	3	4	3	1	23	12	
Huy	47	0,29	8	3	2	2	1	23	8	
Marche-en-Famenne	34	0,21	12	2	5		1	7	6	
Neufchâteau	33	0,21	12	1	2	3	1	8	3	
<b>Total</b>	<b>16.004</b>	<b>100%</b>	<b>1.938</b>	<b>391</b>	<b>435</b>	<b>338</b>	<b>227</b>	<b>9.949</b>	<b>2.281</b>	<b>81</b>

(1) Some of these judgments are not final.

(2) In 364 cases CTIF-CFI has not yet been informed of the judicial follow-up.

### Key:

Conv. :	conviction
Ref. :	referred to the Criminal court
Inv. :	judicial investigation in progress
Dis. :	court dismissal
FJA :	case handed over by the Belgian judicial authorities to foreign judicial authorities
Clos. :	case closed by the Public Prosecutor's Office
Enq. :	police enquiry in progress
Acq:	acquittal

The judicial follow-up of files related to money laundering and terrorist financing that CTIF-CFI reported to the judicial authorities is an issue that has been brought up several times before and deserves particular attention in the near future.

Back in 1996<sup>4</sup> CTIF-CFI already pointed out to political authorities that the quality of judicial follow-up of files reported by CTIF-CFI is essential to the proper functioning of the anti-money laundering system.

CTIF-CFI felt this issue should be a part of a broader reflection on both the legal and material resources made available to judicial and law enforcement authorities in the fight against organised crime and serious economic and financial crime.

In 1999 CTIF-CFI indicated<sup>5</sup> that a number of reforms seemed crucial to improve the judicial follow-up of the files that CTIF-CFI reported to the judicial authorities, such as amending the burden of proof with regard to the illegal origin of suspected laundered money and broader possibilities to seize and confiscate criminal assets.

In 2000 CTIF-CFI found that, even though the judicial follow-up of reported files resulted in a large number of convictions, there was still room for improvement. The key question on the time and resources available to the judicial authorities was raised.

Twenty years on this issue is still topical, the fourth mutual evaluation of Belgium by the FATF -commencing in 2014- will focus on this issue.

## **8. International cooperation**

Money laundering and terrorist financing do not stop at borders, CTIF-CFI has therefore always regarded international cooperation with foreign FIUs to be of utmost importance.

In 1995 the FIUs of Belgium and the United States were the founders of the Egmont Group, a forum created to facilitate and promote international cooperation between FIUs. The Egmont Group currently has 139 members.

Operational cooperation with foreign FIUs is usually based on written agreements between different FIUs (Memorandum of Understanding or MOU). CTIF-CFI has signed nearly ninety MOUs since 1993. Sometimes requests for information are sent to FIUs with which no MOU has been signed when this is useful for operational purposes and when the exchanged information is protected by strict confidentiality.

It should nevertheless be stressed that information is always exchanged in a secure way. The exchanged information may never be used without prior consent of the FIU providing the information and permission may only be granted on the basis of reciprocity.

Over the past twenty years CTIF-CFI most often cooperated with FIUs of neighbouring countries such as France, the Netherlands, Luxembourg, Germany and the United Kingdom, as well as with the FIUs of Spain, Switzerland, the United States, Canada, Russia, China, Hong Kong, Morocco, Turkey and the Democratic Republic of the Congo.

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<sup>4</sup> Cf. preface of CTIF-CFI's third annual report 1995 – 1996 – page 6

<sup>5</sup> Cf. preface of CTIF-CFI's sixth annual report 1998 – 1999 – page 6

## 9. Convictions – fines and confiscations

Between 1 December 1993 and 31 August 2013 courts and tribunals imposed fines and confiscations worth EUR 1,152 billion in files that CTIF-CFI reported to the judicial authorities.

The Public Prosecutor's Offices of Antwerpen, Brussels and Gent account for nearly 80% of the amount of EUR 1,152 billion.

The breakdown of the amount of EUR 1,152 billion is as follows:

<b>Public Prosecutor's Office</b>	<b>Fines</b>	<b>Confiscations</b>	<b>Total</b>
Antwerpen	93.995.346	476.453.176	<b>570.448.522</b>
Brussels	20.253.484	216.153.022	<b>236.406.506</b>
Gent	3.757.156	90.981.122	<b>94.738.278</b>
Tongeren	3.602.977	37.417.310	<b>41.020.287</b>
Turnhout	568.900	33.828.319	<b>34.397.219</b>
Mons	102.085	32.028.840	<b>32.130.925</b>
Liège	4.391.759	24.759.270	<b>29.151.029</b>
Brugge	1.188.565	21.777.385	<b>22.965.950</b>
Mechelen	215.260	20.151.078	<b>20.366.338</b>
Dendermonde	976.186	15.724.450	<b>16.700.636</b>
Nivelles	842.915	12.136.239	<b>12.979.154</b>
Hasselt	2.279.799	9.414.552	<b>11.694.351</b>
Charleroi	250.008	8.510.003	<b>8.760.011</b>
Kortrijk	233.471	6.330.618	<b>6.564.089</b>
Tournai	227.207	5.264.870	<b>5.492.077</b>
Namur	30.650	2.828.789	<b>2.859.439</b>
Leuven	398.354	1.736.786	<b>2.135.140</b>
Huy	16.065	927.374	<b>943.439</b>
Veurne	16.949	900.700	<b>917.649</b>
Dinant	183.735	419.708	<b>603.443</b>
Verviers	7.550	490.500	<b>498.050</b>
Arlon	23.941	371.840	<b>395.781</b>
Oudenaarde	10.457	226.037	<b>236.494</b>
Marche-en-Famenne	27.887	182.902	<b>210.789</b>
Ieper	26.600	156.855	<b>183.455</b>
Eupen	8.970	173.045	<b>182.015</b>
Neufchâteau	3.780	-	<b>3.780</b>
<b>Total</b>	<b>133.640.056</b>	<b>1.019.344.790</b>	<b>1.152.984.846</b>

Amounts in EUR



### III. MAIN TRENDS

The main trends identified by CTIF-CFI between 1993 and 2013 confirm how money laundering and terrorist financing change continuously. As illustrated below, criminals very quickly adapt in order to circumvent existing preventive measures or use major shortcomings in certain countries or jurisdictions.

The money laundering techniques have evolved significantly over this twenty-year period, criminals sought new industries that were not yet regulated or supervised, therefore complicating CTIF-CFI's and the judicial authorities' work. Flexibility is crucial to anticipate new threats to the financial system and strategic analysis should be used to pre-empt them.

Based on the information below, we can question to which extent our financial system is now in the grip of organised crime, to be used to criminals' advantage to get even richer. The reasons behind this are the negative consequences of a globalised economy, the lack of transparency and cooperation between some jurisdictions and the lack of (also judicial) response from some countries and the international community in general.

Financial crime and money laundering undoubtedly contributed to recent economic crises. Criminals have substantial financial resources and have probably already invested the proceeds of fiscal fraud, embezzlement of private or public funds, corruption and organised crime (to name but a few) in external speculative financing of government debt to which they largely contributed themselves<sup>6</sup>.

This finding is corroborated by the key role of white-collar crime, such as serious and organised fiscal fraud by using legal structures and various fraudulent intermediaries and advisers, corruption, fraudulent bankruptcy and misappropriation of corporate assets, stock market-related offences, insider trading and improper public offering of securities.

#### 1. CTIF-CFI's early years (1993-1998)

##### 1.1 Thousands of cash couriers from the north

In CTIF-CFI's early years illicit trafficking in narcotics was the main predicate offence in files reported to the judicial authorities. The proceeds of illegal drug trafficking were mainly laundered through manual exchange transactions carried out at currency exchange offices. These transactions are typical of the first money laundering stage, placement.

The type of exchanged banknotes was an important indication when CTIF-CFI analysed and processed these files. One of the important typological indicators in files where proceeds of illegal drug trafficking in the Netherlands were laundered was when occasional customers purchased Dutch guilders (NLG) in exchange for other European currencies using low-denomination banknotes.

Other remarkable elements include: the scope of the transactions (sometimes in excess of BEF 10 million in a single transaction), the use of various low-denomination banknotes, the banknotes were sometimes unsorted and were often just kept in a plastic bag, or the individuals were unaware of the value of the currency they were carrying.

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<sup>6</sup> Guilhem FABRE, *Du blanchiment aux crises* [From money laundering to crises] in "Manière de voir" ("Le Monde diplomatique"), nr 130, August – September 2013, pages 70-72.

Criminals frequently used couriers (“smurfing”) to inject large amounts of money into the financial system. There was no apparent reason for these customers to carry out such large manual exchange transactions. The exchange transactions were clearly carried out on behalf of others or there were reasons to assume so, as the customers were accompanied by a third party who monitored the transaction and refused to be identified.

Another feature was the absence of any economic or financial interest to carry out transactions in Belgium. The individuals or those for whom they acted primarily resided in the Netherlands, were not linked to Belgium in any way and could also have conducted these transactions in their own country. Splitting up the exchange transactions was also typical of these files, the individuals usually acted on behalf of different unidentified ordering parties. This also became clear from the different statements drawn up by the financial institution. The couriers were not necessarily known to the police for drug-related offences, but were often linked to crime in police information.

By using similarities in couriers’ profiles such as their place of origin and/or nationality, the use of the same currency exchange office in the same period (sometimes simultaneously or consecutively), type and amount of currency exchanged, the use of false identities, incorrect addresses, forged documents, questionable and similar economic rationales, potential organised networks were brought to light.

Courts and tribunals considered elements that correspond to the typological features identified in CTIF-CFI’s files: the use of couriers, a succession of structured manual exchange transactions using low-denomination banknotes, no economic rationale for conducting transactions in Belgium (no address or known official activities in Belgium).

Over the years CTIF-CFI gradually reported fewer files related to illegal drug trafficking and the amount exchanged by couriers got ever smaller, aimed at circumventing the preventive measures that had been introduced.

When euro notes and coins were brought into circulation in 2002 and manual exchange transactions of currencies in the euro area ceased to exist, the indicators linked to the type of suspicious transactions (manually exchanging foreign currency into NLG) and the type of currencies exchanged (foreign currency in high-denomination banknotes and various banknotes) could no longer be used, making CTIF-CFI’s work more complex.

The amounts identified these days in relation to this form of crime are quite small, even though drug trafficking in Belgium remains alarming. According to the European Drug Report 2013 Belgium is an important hub for distributing heroin and cocaine in Europe. Together with the Netherlands, Belgium also plays an important role in storing cannabis and is a hub for manufacturing amphetamines in north-west Europe<sup>7</sup>.

In addition to the money laundering techniques used, the use of cash is also typical of these files. Transit accounts and legitimate cash-intensive businesses (snack bars, garages, night

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<sup>7</sup> European Monitoring Centre for Drugs and Drug Addiction: Trends and developments, 2013. In August 2013 various newspaper articles also reported on the dismantlement of one of the largest ecstasy labs in Europe, which was part of a European network, and the pills discovered were worth in excess of EUR 1,3 billion. (*L’ecstasy saisie à la ferme vaut 1,3 milliards!* [Ecstasy seized at farm worth 1,3 billion] in “Le Soir”, 24 August 2013, page 9 and Yves BARBIEUX and Mark EEKHAUT *Grootste xtc-lab Europa ontdekt* [Europe’s largest ecstasy lab discovered] in “De Morgen”, 23 August 2013, page 5).



shops,...) are used to launder the proceeds of drug trafficking. These files feature several foreign nationals who do not officially reside in Belgium yet carry out financial transactions in this country. Complex techniques are also used: structures involving front companies, offshore financial centres, real estate investments based on experts' financial and legal advice are common. Other techniques try to circumvent the supervisory measures implemented by banks by using compensation. This was illustrated by "Operation Virus", revealing an extensive money laundering case in which an amount in excess of EUR 12 million<sup>8</sup> from Morocco, France and Switzerland was laundered.

## 1.2 The growing threat of organised crime

CTIF-CFI dealt with files related to organised crime as early as 1993. In the period from 1993 to 1998, files related to this type of crime often featured natural and legal persons that were not linked to Belgium in any way, apart from the fact that they came to Belgium to carry out transactions.

These files related to organised crime also regularly featured front companies and companies established in offshore financial centres, especially from Central and Eastern Europe. At the same time, the FATF confirmed this trend at international level<sup>9</sup>.

Criminal money was also frequently used for casino transactions. In several files related to organised crime, nationals from Central and Eastern Europe purchased gaming chips in cash. Domestic and international police and judicial information revealed they were known for organised crime and many of them used fake documents or aliases.

In files related to organised crime, criminal money was and often still is invested in real estate.

CTIF-CFI found that this money laundering technique was repeatedly used, this finding was also confirmed at international level by the FATF "Many of these organised crime groups bring their criminal proceeds to the nearby FATF members (...) where they make large real estate investments in such areas as the French and Spanish Mediterranean coast."<sup>10</sup>

### ***"Falconplein – A Russian mafia boss in Antwerp"***

In December 1994 CTIF-CFI received a disclosure on two suspicious international transfers from Russia totalling USD 500.000 (or ± EUR 400.000) on the account of a Belgian management company represented by a Belgian national residing in the area

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<sup>8</sup> This method used an asset management company to set up a compensation scheme. The company's customers who needed cash without raising any suspicions with the French authorities discreetly received cash in France. The money was taken from Swiss accounts and was subsequently transferred to accounts held by Moroccan nationals. The cash received by the company's customers in France was the result of selling large quantities of hash from Morocco. The advantage of this compensation scheme was that all links between the drug trafficking in France and the laundering of its proceeds were cleared. (Yves BORDENAVE, *Sept notables, trois frères et l'argent de la drogue* [Seven dignitaries, three brothers and drug money] in [www.lemonde.fr](http://www.lemonde.fr), 25/10/2012. URL: [http://www.lemonde.fr/societe/article/2012/10/25/reseau-de-blanchiment-ces-notables-qui-fuyaient-le-fisc\\_1780995\\_3224.html](http://www.lemonde.fr/societe/article/2012/10/25/reseau-de-blanchiment-ces-notables-qui-fuyaient-le-fisc_1780995_3224.html), accessed on 9 October 2013).

<sup>9</sup> FATF, 1997 – 1998 Report on Money Laundering Typologies, op. cit., page 18.

<sup>10</sup> FATF, 1998 – 1999 Report on Money Laundering Typologies, op. cit., page 18.

of Antwerp. This money was intended to partially fund a property that a Russian national, who also lived in the area of Antwerp, wanted to acquire.

This Russian national owned a commercial company that primarily manufactured vodka. This product was manufactured near Hasselt and then exported to Russia with approval of the then rulers of Russia.

Several natural and legal persons, of Belgian or Russian descent, were influenced by this mafia boss. One of them was another Russian national who was murdered in cold blood a few years later, probably ordered by the Russian mafia.

All of these natural and legal persons held bank accounts with banks around Antwerp or had mortgages with these banks. The accounts were used for fraudulent activities and to launder the proceeds of their illicit activities. The Russian national owned several movables and luxurious properties around Antwerp as well as in London and the United States.

In 1995 and 1996, CTIF-CFI reported no fewer than seven files and additional reports featuring this Russian national and other natural or legal persons linked to this individual.

Apart from these “semi-legal” activities, this Russian national also smuggled cocaine and heroin between Thailand and the United States via Poland and the port of Antwerp, smuggled cigarettes and laundered money. At the time, this Russian national was considered to be the third most powerful mafia boss in Europe<sup>11</sup> and he operated all over the world: Russia, Ukraine, Poland, the United States, Africa and South America<sup>12</sup>. Antwerp was his operating base, even though he did not always live there.

At the end of the nineties, his company was declared bankrupt after newspaper articles had alluded to links between his company and the Russian mafia. In 2000, this drug baron was convicted to four years imprisonment in Belgium for laundering EUR 3 million and embezzling an even larger amount of corporate assets.

When he was released by the Belgian judicial authorities in 2004 he resumed his illegal activities, until his arrest in London in October 2007<sup>13</sup> by order of the Drug Enforcement Administration (DEA) and extradited to the United States, where he is currently serving a ten-year prison sentence for drug trafficking<sup>14</sup>.

Thanks to efforts of the Belgian authorities, this drug baron was arrested in 2007, extradited to the United States and convicted by the New York judicial authorities in 2008. The Belgian investigators thoroughly analysed this drug baron’s and his accomplices’ financial transactions.

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<sup>11</sup> Cf. *Aufstieg der russischen Mafia* [Rise of the Russian mafia], Jurgen Roth – published in January 1996.

<sup>12</sup> Maud OEYEN, *Vette cheque voor arrestatie maffiabaas* [Fat cheque for mafia boss arrest] in “De Morgen”, 12 September 2012, page 10.

<sup>13</sup> *Van Pool tot maffiatsaar: de criminele carrière van Riccardo Fanchini* [From Pole to mafia tsar: Riccardo Fanchini’s criminal career] in “Humo” 3517, 25 January 2008.

<sup>14</sup> St. D, *La police fédérale reçoit 800.000 dollars de l’oncle Sam* [The Federal Police gets USD 800.000 from Uncle Sam] in “Le Soir”, 12 September 2012, page 8.

Following this financial investigation, the American authorities seized USD 2.000.000. Forty percent of this amount (USD 800.000<sup>15</sup>) was returned to the Belgian authorities by the American government.

### **International branches of organised crime**

Over the years, CTIF-CFI has found that files related to organised crime have become increasingly complex.

Money launderers have gradually moved away from national structures and opted for flexible international organisations using specialised advisers, complex strategies with regard to communication, planning of costs, benefits and investments in the pursuit of economic profit.

Transnational organised crime is never stagnant but evolves constantly. Apart from consequences for the legitimate economy the globalised economy also affected crime and contributed to the increasing power of transnational criminal organisations. “National” criminal groups were able to expand into transnational criminal organisations and explore new markets.

In recent years there has been a rise in both the number of files related to organised crime and the scope of these files.

In the period from 2008 to 2013 one file related to organised crime was particularly striking. This file featured financial flows in excess of EUR 2 billion, involved a bank from Eastern Europe and also had an international dimension.

#### **“The Ukrainian mafia in Belgium”**

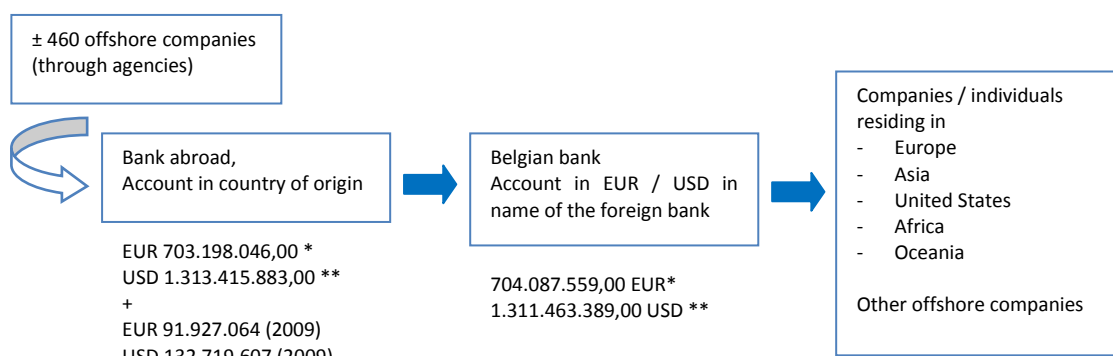
A foreign bank established in an Eastern European country opened two accounts in Belgium for correspondent banking. These were used to transfer money from various offshore companies, customers with this bank, to various counterparties across the world.

The transactions on these accounts revealed they were used as transit accounts. The credit transactions were transfers from the foreign bank (money from accounts mainly opened by offshore companies) and the debit transactions were payments by customers of the foreign bank to various countries, especially tax havens. Many of these transactions were conducted in USD and worth in excess of EUR 2,14 billion. Information showed that 75% of the foreign bank’s customers (over 460 companies) were companies headquartered in tax havens. Little or no information was available on the articles of association or these companies’ activities. CTIF-CFI’s analysis showed that several of these companies were known for serious and organised tax fraud, corruption, embezzlement, fraud and organised crime.

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<sup>15</sup> Nikolas Vanhecke, *625.000 euro’s misdaadgeld voor schatkist* [EUR 625.000 of criminal money for treasury] in “De Standaard”, 12 September 2012, pages 6, 22 and 23.

The bank chose to involve another bank, in this case a Belgian one, as it was quite unlikely that a bank would disclose another bank's activities. The bank made sure it could conceal the nature of the money. Part of the money on the foreign bank accounts was jointly transferred to two accounts with a bank in Belgium to carry out payments to third parties. Each separate credit transaction in the foreign bank's country of origin was then grouped with other credit transactions and transferred to the bank in Belgium. This made it difficult for the bank in Belgium to determine the origin of the money.



\* In 2008 for the EUR account

\*\* In 2008 for the USD account

The Belgian press reported on this case<sup>16</sup>, the international press also focussed on this case's international scope. It involved potential money laundering transactions related to organised crime and tax evasion in Ukraine through a scheme known as "conversion centres"<sup>17</sup>.

According to an investigation by *Business New Europe (Bne)* "conversion centres" are set up by Ukrainian banks to facilitate tax evasion by Ukrainian nationals. Some Baltic banks played a crucial role in these conversion transactions by transferring money away from and to Ukraine via "front companies". These transactions were entirely illegal as they were based on fictitious contracts. There was no real economic activity behind these transfers. After receiving a commission part of the money was returned to Ukraine, either in cash or by transfer. According to the investigation by *Business New Europe (Bne)* the Ukrainian banks' dirty money could be laundered by injecting it into the international financial system via Belgium. Every year these "conversion centres" are used to channel billions of dollars that Ukrainian authorities cannot recover, despite the police's modern investigation techniques. The magazine concluded that this scheme is tantamount to organised crime, which would not be possible without bribing public officials.

According to CTIF-CFI's information the Federal Public Prosecutor's Office closed this case, but an investigation is said to be ongoing in Lithuania.

<sup>16</sup> Lars BOVÉ, *1,7 miljard euro witgewassen – Litouwse bank misbruikt vertrouwen Belgische instelling* [EUR 1,7 billion laundered – Lithuanian bank breaches trust of Belgian bank] in "De Tijd", 28 May 2010, page 1 and 8 and L.B. *Le blanchiment d'argent utilise le monde des affaires* [Launderers use business world] in "L'Echo", 28 May 2010, page 1 and 11.

<sup>17</sup> Graham STACK, *Baltic banks at the "Hearts" of Ukraine graft* in "Business New Europe (Bne)", 23 January 2013, [http://www.bne.eu/story4439/baltic\\_banks\\_at\\_the\\_hearts\\_of\\_ukraine\\_conversion\\_centres](http://www.bne.eu/story4439/baltic_banks_at_the_hearts_of_ukraine_conversion_centres).

## Safe investments

In May 2011 CTIF-CFI recorded a sharp rise in money laundering transactions through the trade in gold related to organised crime. In the past the FATF had already warned the financial sector that gold could be used for money laundering or terrorist financing purposes<sup>18</sup>.

The price of gold, as well as copper, increased steadily between 2008 and 2012. This increase was the result of a growing demand for gold on the international market, following the uncertain economic situation in the United States and Europe and the increasing demand for gold to manufacture luxury products such as jewellery in China and India<sup>19</sup>.

Wholesalers buying gold (raw gold or in jewellery) from private individuals looking for cash has become quite common these days. Internet research shows there are plenty of wholesalers buying old gold. Large companies established in Belgium smelt and reuse this gold, which is then resold to financial institutions or other important customers looking for investments.

CTIF-CFI found that these channels, subject to very few regulations up to then, were used in 2012 to launder the proceeds of drug trafficking or exploitation of prostitution.

Robbery of jewellery containing gold is a similar issue. These jewels are then sold at dishonest jewellers<sup>20</sup>. This does not just happen in Belgium, but all over Europe. A well-organised criminal organisation usually involves a thief, an intermediary and a receiver of the stolen goods. The jewellery is often stolen in one country and then transported in bulk to another country where the jewellery is smelted.

In 2012 CTIF-CFI reported ten files to the judicial authorities related to the trade in gold, for a total amount of EUR 1 billion.

### **“Smelters in aid of organised crime”<sup>21</sup>**

A wholesaler in precious metals held various bank accounts in Belgium. Analysis of these accounts showed he mostly paid suppliers of precious metals in cash. In 2012, a total amount in excess of EUR 800 million was withdrawn in cash over a one-year period. The volume of transactions carried out on his account in 2012 was sixfold the volume of transactions in 2011. The account mainly received payments for purchases of precious metals through a Belgian bank.

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<sup>18</sup> FATF, 1997-1998 Report on Money Laundering Typologies – FATF, 2002-2003 Report on Money Laundering Typologies – FATF Report on Money Laundering Typologies (10 June 2005) – [www.fatf-gafi.org](http://www.fatf-gafi.org)

<sup>19</sup> Alexandre BEAUCHAMP, *Bijoux, cadeaux, placements, gage... les multiples débouchés de l'or en Inde* [Jewellery, gifts, investments, collateral... many markets for gold in India] in “L’Echo”, 27 July 2013, page 31.

<sup>20</sup> L. Ws, *Tribunal correctionnel de Liège. Deux ans avec sursis pour le créateur-receleur de bijoux* [Correctional Court of Liège. Two-year suspended prison sentence for jewellery designer / receiver of stolen goods] in “Le Soir”, 15/11/2011, page 18

<sup>21</sup> In some files involving transactions related to trade in gold CTIF-CFI believed there were more serious indications of laundering the proceeds of serious and organised fiscal fraud setting in motion complex mechanisms or using procedures with an international dimension. The increase in the number of files and laundered amounts can also be found in files related to serious and organised fiscal fraud.

A trader in old gold supplied old gold to the wholesaler and paid him in cash. Upon request of his customers from whom he purchased gold this trader also paid them in cash. In the financial records the trader recorded the supplying companies as private individuals, without any form of identification. The business is said to be a cover for illegal activities, i.e. laundering proceeds of crime by exchanging money.

The wholesaler was known to the police for money laundering. Its customers are said to be mainly shops selling gold in Antwerp, private individuals and intermediaries that were all recorded as “private individuals” in the accounts. Much of this gold was said to come from the black market (jewellery theft) as well as from criminal organisations linked to prostitution and drugs. The wholesaler paid for the gold in cash, even amounts over EUR 15.000,00. Larger quantities of gold were split up so the price would never exceed EUR 15.000,00. Other of the trader’s suppliers were known to the police. This led to suspect that the wholesaler was used to launder criminal proceeds. Providing anonymity and cash payments attract customers from a criminal environment, which could explain the increase in turnover.

The modus operandi in these files is as follows:

- when companies that “recycle” precious metals purchase gold, large sums of cash are withdrawn (totalling almost EUR 1 billion);
- transfers are carried out to merchants that sell old jewellery and gold coins and later resell them to these companies;
- the accounts of these merchants and traders are also used to withdraw large amounts in cash;
- cash can be used anonymously, facilitating the money laundering process and the process of reselling jewellery;
- gold and silver, in jewellery, bars or coins can be transferred from one country to the next, they are anonymous and can therefore be easily transferred;

## **2. Traditional forms of crime (1999-2003)**

### **2.1 Widespread illicit trafficking in goods and merchandise**

Illicit trafficking in goods and merchandise can refer to various types of goods or merchandise. Between 1999 and 2003 CTIF-CFI primarily recorded the laundering of the proceeds of illicit trade in tobacco (linked to the United Kingdom) and illicit trade in cars (mainly second-hand cars). Both trends are further illustrated below.

#### **2.1.1 The Belgian coast as the centre of tobacco smuggling**

Illegal trade in tobacco can refer to: (international) smuggling of genuine tobacco (i.e. main brands and “other brands), (international) smuggling of counterfeit cigarettes, and the illegal production and distribution in the European Union (without paying customs duties, VAT or excise duties).

In the first ten years of CTIF-CFI’s existence the FIU reported a large number of files to the judicial authorities in which pound sterling (GBP, as well as Scottish and Northern Ireland banknotes) were changed into Belgian francs (BEF) and since the introduction of the euro,

into EUR. These transactions were linked to tobacco smuggling between Belgium, Luxembourg and the United Kingdom.

The transactions were generally carried out by British nationals or individuals claiming to live in the United Kingdom. Several of them were lorry drivers travelling through the United Kingdom. They often already had a record of such illegal activities in the United Kingdom, or claimed to have purchased cigarettes or other tobacco products in Belgium to substantiate their exchange transactions. They purchased BEF or EUR, mainly at currency exchange offices but also banks, frequently at the Belgian coast.

This is linked to the excise duties payable in the United Kingdom, which are considerably higher than those in Belgium. Criminals purchase tobacco in Belgium and then sell this tobacco in the United Kingdom without paying any excise duties or VAT in the United Kingdom<sup>22</sup>.

The proceeds of this fraudulent tobacco trade in pound sterling (GBP, also in Scottish and Northern Ireland banknotes) are then changed into Belgian francs (BEF) and EUR. This enables the smuggling to continue by delivering purchases allegedly carried out by private individuals<sup>23</sup>.

Over the years CTIF-CFI has found that exchange transactions were less frequently carried out at currency exchange offices at the Belgian coast and that money launderers increasingly conducted their transactions in Brussels instead to avoid raising any suspicions. Structuring the transactions amongst various people was intended to avoid arousing any suspicion. In addition, individuals from Central and Eastern Europe, not linked to Belgium whatsoever, were often involved in this trade.

A recent trend in tobacco trade consisted in British nationals or British residents (sometimes front men) setting up companies or taking over existing Belgian companies at the Belgian coast or near the French border. They immediately start selling large quantities of tobacco to French or British nationals. This is a possible explanation for the fall in the number of exchange transactions involving pound sterling in recent years. These companies use electronic payments and accept bank and credit cards.

Apart from files with exchange transactions there are also more complex files featuring the use of transit accounts, front men, legal and financial experts and front companies in tax havens. These files usually involve organised gangs operating internationally.

Another trend identified at European level was that in recent years the relative share of smuggling of these 'main brands', has decreased. On the other hand, counterfeiting, illegal production and, most importantly, smuggling of "other brands" ("cheap whites") are on the

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<sup>22</sup> The money laundering transactions in Belgium also lead to fraud detrimental to the financial interests of the European Communities. These losses come from unpaid customs duties as well as taxes, including value added tax (VAT) and excise duties.

<sup>23</sup> According to the estimates of the European Anti-Fraud Office (OLAF) the illicit trade in cigarettes causes annual financial losses of over EUR 10 billion in the budgets of the European Union and its Member States. The estimation is based on seizures reported by the Member States, which amounted to 4.5 – 4.6 billion cigarettes per year between 2005 and 2011.

rise, fuelling the shadow economy, almost exclusively the domain of organised criminal groups operating across borders<sup>24</sup>.

The increase in tobacco products evading national taxes coincided with a diversification of the transport of this production to the areas in Europe where these products are used. Apart from the usual container transport, other options are used such as cross-border smuggling, increasingly popular online shopping delivered by airmail or express services and the recent emergence of storage facilities in the European Union and in Belgium, where cigarettes are manufactured as well<sup>25</sup>.

Belgium primarily seems to be a transit country in the tobacco trade and products are mainly discovered in ports. “Transglobal” criminal networks<sup>26</sup> operating from China, the United Arab Emirates and former Soviet Union countries ship tobacco products to Western Europe.

Although a number of judgments were passed in files that CTIF-CFI had reported to the judicial authorities sentencing individuals to imprisonment<sup>27</sup>, this offence continues to be very profitable and the sentences are hardly dissuasive. The final conclusions of a recent study on money laundering linked to illicit tobacco trade by the FATF state that “low detection rates, low levels of prosecution for offenders, easy payment of fines, lacking cooperation, coordination and information sharing at national and international levels as well as the lacking of a common strategic impetus at said levels, all act as factors to be regarded as conducive towards illicit tobacco trade and resulting money laundering and terrorist financing to occur.”<sup>28</sup>

## 2.1.2 The Port of Antwerp – a hub of trade in second-hand cars

Ever since CTIF-CFI was set up in 1993 the files related to illicit trafficking in goods and merchandise reported to the judicial authorities have been predominantly linked to illegal trade in cars.

Analysis of the files in this period shows that the natural persons generally resided in Belgium and were known to the police for illegal trade in cars. The legal persons were often

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<sup>24</sup> European Commission, Communication from the Commission to the Council and the European Parliament, *Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products – A comprehensive EU Strategy*, COM(2013) 324 final, June 2013.

<sup>25</sup> See newspaper articles published in June 2013 about the seizure of 25 tonnes of raw tobacco in an illegal factory in Ghlin (Belgium) producing counterfeit cigarettes, equivalent to more than 50 million cigarettes or 22 million in evaded excise duties and taxes (inter alia J. La. *Une usine clandestine de cigarettes à Ghlin* [An illegal cigarette factory in Ghlin] in “La Libre Belgique”, 29 June 2013, page 10).

<sup>26</sup> See the answer dated 5 August 2013 by the Minister of Finance to question nr. 451 about tobacco smuggling (Belgian Chamber of Representatives, 4<sup>th</sup> session of the 53<sup>rd</sup> term, 2012-2013, QRVA 53, page 602).

<sup>27</sup> See inter alia Correctional Court of Gent, 14 May 2003, judgment in a defended action, unpublished. A judgement by the Court of Appeal of Gent confirmed the typological features identified by CTIF-CFI. The defendants, including a lorry driver, carried out various exchange transactions near the Belgian coast. The pounds were the proceeds of fraudulent sale of tobacco in the United Kingdom for which British excise duties and VAT had not been paid. Part of the exchanged money was used to buy cigarettes that were subsequently smuggled to England once again, another part was used for personal purposes (Gent, 7 January 2005, judgment in a defended action, unpublished).

<sup>28</sup> FATF, “Illicit tobacco trade”, June 2012, page 77.



automotive companies (garages, companies importing and exporting cars or companies trading in second-hand cars<sup>29</sup>).

The transactions carried out were mainly international transfers, cash deposits, cashing of cheques, followed by cash withdrawals. Private individuals' accounts were used to conduct business transactions for a company to which these individuals were linked, aimed at concealing the money's criminal origin.

Laundering the proceeds of this offence remained topical these last few years. There are many second-hand car dealers in Belgium and the port of Antwerp seems to be a hub of trade in second-hand cars bound for Africa. Some 600 000 new and second-hand cars are shipped through the port of Antwerp.

The figures related to the physical cross-border transportation of currency confirm this trend. Seventy-five percent of the EUR 320 million in cash declared by passengers entering the European Union to the Customs and Excise Administration originates from North Africa and is intended for purchasing cars.

In 2005 Belgium decided, in accordance with Directive 2005/60/EC, not to make second-hand car dealers disclosing entities subject to the law on preventing use of the financial system for purposes of money laundering and terrorist financing but to add an article to the Law of 11 January 1993 (the current Article 21) prohibiting a merchant from accepting cash when selling a product worth EUR 15 000 or more.

The Programme Law (I) of 29 March 2012 decreased the amount from EUR 15 000 to EUR 5 000 (EUR 3 000 in 2014) and also made the cash ban applicable to the provision of services. Article 21 of the Law of 11 January 1993 stipulates that the price of a sale by a merchant of one or more products, as well as the price of one or more provision of services supplied by a service provider, for an amount of EUR 5 000 (EUR 3 000 in 2014) or more may not be paid in cash, unless the amount does not exceed 10% of the sale price and as long as this amount does not exceed EUR 5 000 (EUR 3 000 in 2014), regardless of whether the sale or service takes place in a single or in several apparently related transactions. Article 21 is applicable to the sale and provision of services by merchants or service providers (this article does not apply to transactions between private individuals) but in the strict sense of the Law of 11 January 1993 does not apply to purchases and provision of services upon request of these merchants, except for purchases and provision of services between Belgian merchants.

In general, few ML/TF problems are reported with regard to the trade in new cars<sup>30</sup>. Trade in second-hand cars is far more vulnerable on the other hand<sup>31</sup>. It is up to the political authorities

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<sup>29</sup> In this regard the Belgian Parliamentary Committee of Inquiry into organised crime in Belgium mentions in its report that to facilitate things a commercial structure is used, whose legitimate activities act as a cover for its illegal activities, *Rapport fait au nom de la commission parlementaire chargée d'enquêter sur la criminalité organisée en Belgique par MM. COVELIERS et DESMEDT* [Report on behalf of the Parliamentary Committee of Inquiry into organised crime in Belgium by Messrs COVELIERS and DESMEDT], Parl. Doc. 1998-1999, 1-326/9, page 182.

<sup>30</sup> New car dealers sometimes find that customers wish to pay in cash, yet just in a handful of cases and the existing legislation suffices to mitigate the money laundering risk.

<sup>31</sup> This business is difficult to regulate, monitor and supervise: it is common knowledge that cash is often used in this business and sales transactions are structured to comply with the threshold for cash payments. Second-hand cars can feature in various types of illicit trafficking (handling stolen cars, handling stolen cars upon request, wrecks shipped to Africa because processing is more expensive in Europe) or can conceal other

to implement appropriate and feasible measures to improve the transparency of business transactions for the trade in second-hand cars.

## **2.2 The nineties – the financial abyss of VAT carousels**

When CTIF-CFI was set up in 1993 files related to serious and organised fiscal fraud only represented a small part of the files reported to the judicial authorities. Over the years, a growing number of files related to serious and organised fraud were reported to the judicial authorities. As a result in 2003, serious and organised fiscal fraud became the most common predicate offence in the ranking of files reported to the judicial authorities by predicate offence.

This trend was mainly linked to the increase in the number of files related to VAT carousel fraud reported to the judicial authorities. The number of files continued to rise and became increasingly significant, both with regard to the complex corporate and financial structures used as well as the amounts involved in these files.

CTIF-CFI mainly found that the money laundering flows developed locally: foreign companies used to simulate foreign involvement were established in neighbouring countries (France, Luxembourg, the Netherlands) and the accounts used were Belgian accounts. The “regional” fraud organisers often already had a criminal record.

Ever more new parties were involved in the financial transactions. They merely acted as front men or front companies, were often unknown to the police and initially did not seem directly involved in the VAT fraud. Illicit trafficking in goods and merchandise was also used to commit this type of fraud. Because of complex financial structures it was increasingly difficult to detect laundering of VAT that was wrongfully refunded by governments. These funds were mingled with the proceeds of trafficking of goods from this fraud and legitimate activities in the same industry.

Due to fierce competition in the sector or high VAT rates on certain products some products were very vulnerable to VAT carousel fraud, in particular computer equipment, cars, mobile phones, petroleum products, textile, as well as hi-fi, video and electronics.

Files reported to the judicial authorities between 1998 and 2003 were often linked to petroleum fraud. Fraud was committed with import duties as well as excise duties and VAT when petroleum products were sold in Belgium. The key players of the laundering were fuel suppliers known for petroleum fraud who were usually established abroad, as well as various front companies and front men. CTIF-CFI’s analysis showed that the front companies’ accounts were used as transit accounts: the funds transferred to these accounts and cheques cashed from customers in the petroleum sector were rapidly used to issue cheques and carry out transfers to suppliers in this industry. These accounts also revealed a very high turnover over a period of just a few months. It turned out that these front companies, whose accounting and administration were rarely processed correctly evaded large amounts of VAT. By mutually exchanging invoices, these companies could very quickly launder large amounts of money. Most of them featured in files that CTIF-CFI had already reported to the judicial authorities for other types of serious and organised VAT carousel fraud.

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types of illicit trafficking (illicit trafficking in goods, drugs, weapons, waste,...). These cars are not worth a lot and are often left behind once the contents have been collected. A stolen car can also be used in the exchange of narcotics for instance.

## The Pakistani petroleum mafia

Between 1995 and 1997, CTIF-CFI reported two significant money laundering files in which the proceeds of large-scale petroleum fraud, committed by a single family of Pakistani descent, were laundered. Many additional files were also reported to the judicial authorities. These two files combined money laundering transactions worth nearly EUR 300 million. During this period CTIF-CFI also dealt with several smaller cases that were also reported to the judicial authorities.

Several members of the same family were mentioned in an ongoing judicial inquiry started in 1992 in Brussels into illicit trafficking in petroleum products. They were also known to the tax authorities for tax violations.

In the nineties, hundreds of millions of euros were defrauded from the treasury through petroleum fraud. In 1994 and 2001, the independent petrol stations owned by the Pakistani family were searched twice. As a result, the fraud was pushed back to a level that could no longer be compared to the fraud in the nineties. They purchased their petroleum in the Netherlands and were able to sell this petroleum cheaply and below market price as they evaded paying VAT. In May 2011, nearly twenty years later, the family leader was convicted for the first time by the Correctional Court of Antwerp (appeal is still possible). In 2008 and 2011, the Court of Appeal in Brussels acquitted the individual in two fraud cases due to prescription<sup>32</sup>.

CTIF-CFI also reported many files related to VAT carousel fraud involving mobile phones and computer equipment. Usually money was transferred to or from companies in the same industry, cheques handed over or cash withdrawn or deposited worth several million EUR.

Even though various judgments confirm the typological elements identified by CTIF-CFI it should be stressed that as a result of the complexity of some files and the lack of resources and staff at the Federal Public Service Justice the reasonable term was exceeded and various cases with regard to VAT fraud, especially in Brussels, became prescribed.

## Large-scale VAT carousels

One of these files involved a company selling mobile phones. Back in the nineties CTIF-CFI already reported files with money laundering transactions by this company to the judicial authorities. It was one of the largest VAT carousels in Belgium worth several million EUR set up by selling mobile phones. The phones were fictitiously sold abroad using front companies. The importers kept the VAT and sold the phones on the black market in France. In the end, nineteen defendants (including a lawyer and an official of the VAT Administration) were acquitted, the court ruled prescription. The money seized during the investigation had to be returned<sup>33</sup>.

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<sup>32</sup> Lars BOVÉ, *Gerecht klist peetvader Pakistaanse petroleumclan* [Godfather petroleum clan caught by judicial authorities] in *“De Tijd”*, 28 May 2011, page 5.

<sup>33</sup> Bjorn MAECKELBERGH, *Fraudeonderzoek verjaard: verdachten krijgen miljoenen terug* [Prescription in fraud investigation: millions returned to defendants] in *“De Morgen”*, 27 June 2013, page 10 and Gilbert DUPONT, *Un autre gros dossier de fraude prescrit* [Prescription in another large fraud case] in *“La Dernière Heure”*, 27 June 2013, page 10.

In the second half of the nineties CTIF-CFI reported money laundering transactions to the Public Prosecutor's Office in Gent in a similar file involving a company selling computer equipment (hardware). The VAT carousel was estimated to be worth in excess of EUR 100 million. The VAT carousel spread to Germany, Spain, Luxembourg and the United Kingdom. On 17 November 2010 all 35 defendants were acquitted<sup>34</sup> in the criminal proceedings, the judge ruled prescription<sup>35</sup>. Following this judgment the Belgian tax authorities (claiming damages from the computer company) expected to recover EUR 128 million. The civil proceedings resulted in three judgments requiring the company to pay over EUR 100 million to the Belgian State. The judge in fiscal affairs at the court of first instance in Gent ruled there was no prescription and considered the offences to be proven. Due to prescription of the criminal proceedings and the judgment in the civil proceedings, the chances of recovery in this case were very slim. In case the company would have had to pay such a fine, it would have gone bankrupt straight away.

In 2004 CTIF-CFI reported several files to the judicial authorities related to VAT carousel fraud in the phone and telecommunication sector, in particular to phone cards. Phone shops are particularly prone to change and shops were opened, closed down and sold time and again. The services provided to customers led to numerous cases of fraud, also linked to serious organised crime<sup>36</sup>.

From 2006 onwards, CTIF-CFI found that financial institutions detected transactions typical of this fraud ever more quickly and as a result, these transactions were also disclosed more promptly. This led to a drop in financial flows related to this offence as there was less time for the fraud to develop and it was more difficult for criminals to benefit from this fraud.

Figures of the VAT support unit (OCS) confirm the decrease in organised VAT fraud thanks to quick tracing through which the loss for the Belgian State was greatly reduced, i.e. from EUR 1.100 million in 2001 to approximately EUR 181 million in 2005 (Federal Police – General Board Judicial Police – Board for combating economic and financial crime, Fourth annual report 2005, page 44).

Organised VAT fraud is in decline because of rapid detection, reducing losses for the Belgian State. Although on the basis of figures of one country alone we cannot conclude that carousels are disappearing altogether, as it would disregard the fact that these illicit activities can be moved to other countries.

From 2006 onwards CTIF-CFI's files featured carousels set up by international groups. Several other countries were involved in the Dubai network for instance, a number of files revealed links from outside the European Union in the carousel invoice chain, making it more difficult to supervise the international movement of goods<sup>37</sup>.

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<sup>34</sup> Christof VANSCHOUBROEK, *Opnieuw megafraudezaak in vuilnisbak* [Other massive fraud case ends up in the waste-paper basket] in "De Morgen", 18 November 2010, page 34-35.

<sup>35</sup> Mark EECKHAUT and Karel VAN KEYMEULEN, *ATC moet 25 miljoen euro aan fiscus* [ATC has to pay EUR 25 million to tax authorities] in "De Standaard", 12 December 2012, page 4 and (Belga), *ATC doit payer 100 millions à l'Etat* [ATC has to pay EUR 100 million to Belgian State] in "La Libre Belgique", 15 December 2012, page 34.

<sup>36</sup> Proceedings of the Belgian Senate, nr. 3-70, 8 July 2004.

<sup>37</sup> This trend is confirmed by police services who have found that goods from non-members are being imported. The goods are subsequently used through a transport company or with a VAT number of the tax representative established abroad and then delivered within the Community. Ultimately, the goods are sent to

The use of accounts in offshore financial centres also became increasingly common. This trend indicates that criminals adapt and conduct their transactions in other countries.

Thanks to early detection by the financial sector, CTIF-CFI and the Anti-Fraud Coordination service (CAF), combined with effective automated systems there seemed to be fewer VAT carousels by the end of 2007. Yet VAT carousels were being set up in other industries, using services instead of goods. VAT carousel fraud with carbon emission rights<sup>38</sup> was one of these trends.

### **VAT carousel fraud with carbon emission rights**

Since starting its activities as an intermediary in the carbon emission trade (EUA) a Belgian company sold various emission rights through its bank in Belgium worth several million EUR. The debit transactions consisted of transfers between the company's accounts. The vast majority of the money was transferred to a Swedish company's account in Denmark. Analysis of the company's account showed it was used as a transit account.

According to Europol, VAT fraud with carbon emission rights in the European Union has amounted to EUR 5 billion since mid-2008.

The fraud is committed as follows: given that tax systems are not harmonized in the European Union fraudsters purchase emission rights in countries where they are exempt from VAT (especially in the United Kingdom) and immediately sell them to companies in countries where VAT is payable. The emission rights are re-sold, increased by 21% VAT pocketed by the fraudsters, which is never refunded to the tax authorities. The companies involved in this fraud are often registered with the Danish carbon emission register as this registration procedure is quicker. Some companies use fake addresses or bankrupt companies in Denmark that have not been taken off the Danish national register. These VAT carousels can easily be used on the carbon emission market as these gasses are virtual assets that are hard to trace.

Police sources showed that the company was known for VAT fraud linked to carbon emission rights. The company was registered with the Danish carbon emission register and one of the managers featured in files that had been reported to the judicial authorities for serious and organised crime in the oil industry.

This generated significant financial flows, some EUR 5 billion in less than two years. A warning on VAT carousel fraud with carbon emission rights was posted on CTIF-CFI's

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Dubai through persons in the United Kingdom (Federal Police – General Board Judicial Police – Unit for combating economic and financial crime, Fourth annual report 2005, page 45).

<sup>38</sup> This market was created following the introduction of the Kyoto protocol and the commitments of the European Union to reduce carbon dioxide emissions. The market operates as follows: every year companies are entitled to a number of carbon emission rights according to a number of criteria. Some get too few and others get too many. These emission rights or "EUA" certificates are worth a lot of money. This resulted in a large market (several billion EUR per year) where they are traded for money. This trade is subject to VAT and can be traded through ad hoc markets that are only accessible to corporate customers or through some banks that have developed this trade for their customers.

website and was circulated by the Belgian Financial Sector Federation Febelfin. By the end of 2009, this type of fraud was brought to a halt following a legislative amendment<sup>39</sup>.

Nevertheless, a major Belgian bank engaged in such activities fell victim to this type of fraud. The bank lost EUR 72 million after doing business with a company that subsequently turned out to be a “missing trader”<sup>40</sup>.

This example demonstrates to which extent to preventive “know your customer” measures enforced by the FATF may not only be of use with regard to money laundering but also to avoid being involved in fraudulent transactions.

Article 5 of the Law of 11 January 1993 was recently amended by the Law of 15 July 2013 on urgent fraud prevention measures, published in the Belgian Official Gazette of 19 July 2013. From now on the prevention of laundering the proceeds of serious fiscal fraud shall refer to the predicate offence of laundering the proceeds of serious fiscal fraud, whether organised or not (including serious and organised fiscal fraud setting in motion complex mechanisms or using procedures with an international dimension). The aim was to harmonize the definition used in the Law with the new FATF Recommendations<sup>41</sup>.

Pending a possible amendment of the Royal Decree of 3 June 2007<sup>42</sup>, disclosing entities must, when detecting fiscal fraud as a predicate offence of potential money laundering, consider the indicators listed in this Royal Decree to determine the extent of seriousness and organisation.

### **3. 2000 onwards – A world in turmoil (2004-2008)**

#### **3.1 11 September 2001 – Two hours that changed the world and the impact on the anti-money laundering system**

Even prior to the attacks of 11 September 2001 CTIF-CFI reported files to the judicial authorities due to indications of money laundering transactions linked to terrorism. In the period from 1993 to 2004, six such files were reported in total.

The Law of 12 January 2004 made it possible to apply the obligations of the preventive anti-money laundering legislation (obligation to identify the customer, keep documents, detect unusual transactions and disclose to the FIU) to terrorist financing. The Law ensured that

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<sup>39</sup> Cf. the Royal Decree of 10 January 2010 amending the Royal Decree nr. 1 of 29 December 1992 regarding the payment of value-added tax.

<sup>40</sup> Lars BOVÉ, *Klimaatfraudeurs maken Fortis 72 miljoen lichter* [Climate fraudsters defraud Fortis of EUR 72 million] in “De Tijd”, 13 April 2011, page 1 and 3 and JFS, *Une fraude aux quotas de CO2 fait perdre 72 millions d’euros à BNP Paribas Fortis* [Fraud with carbon emission rights makes BNP Paribas Fortis lose EUR 72 million] in “L’Echo”, 13 April 2011, page 5.

<sup>41</sup> The indicators and trends identified by CTIF-CFI over the past twenty years primarily refer to money laundering transactions and techniques. We cannot overstate the fact that typologies, strategic and operational analyses are aimed at helping disclosing entities detect money laundering transactions. Even though some techniques in some money laundering stages in some periods are more frequently related to specific predicate offences it is now virtually impossible to determine one of the predicate offences solely based on objective criteria. These are indicators of potential money laundering, not indications of the existence of a predicate offence. Money laundering chains that obscure transactions by concealing the identity of economic beneficiaries and make it impossible to determine the origin of assets can be used to launder the proceeds of serious fiscal fraud, drug trafficking, human trafficking or prostitution.

<sup>42</sup> <http://www.ctif-cfi.be> – Legal provisions – Belgian legislation

Belgium complied with international obligations<sup>43</sup> and made terrorist financing an autonomous offence, not just a predicate money laundering offence.

The detection of suspicious transactions in combating terrorist financing largely depends on the intelligence that can be obtained from Belgian or foreign intelligence services or police services.

That is why CTIF-CFI closely cooperates with partners in these areas: the police, the Federal Public Prosecutor's Office, the Coordination Organ for Threat Analysis (OCAM–OCAD), and the State Security Department (*Sûreté de l'Etat / Veiligheid van de Staat*) and General Intelligence and Security Service of the Armed Forces (SGRS-ADIV). To gain insight into international terrorist networks it is vital to combine intelligence from various sources<sup>44</sup>.

Following the attacks of 11 September 2001 and based on the Special Recommendations on Terrorist Financing adopted by the FATF in Washington in October 2001 CTIF-CFI considered it had an key role to play as the intermediary between the financial sector and non-financial professions as disclosing entities on the one hand and the police on the other.

Upon request of the American FIU FinCEN and in accordance with the law CTIF-CFI forwarded lists of suspected terrorists linked to the attacks of 11 September 2001 between 2001 and 2006. These lists received from the American embassy in Brussels and FinCEN related to Al Qaeda and the Taliban in Afghanistan played a role in reporting over twenty files and numerous additional files to the judicial authorities between 2001 and 2006.

The amounts of money involved in these files are rather small, preparing an attack is also fairly inexpensive. Yet the fact that financial ties between suspected terrorists in CTIF-CFI's files can be revealed is crucial to the authorities combating terrorism.

Open-source information can also be of great significance, as illustrated by the file below in relation to the attacks in Mumbai. This file was reported to the judicial authorities based on open-source information.

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<sup>43</sup> These obligations stemmed from the United Nations Convention for the Suppression of the Financing of Terrorism of 9 December 1999, the revised FATF Recommendations and FATF Eight Special Recommendations on Terrorist Financing.

<sup>44</sup> To this end CTIF-CFI intensified cooperation with the Coordination Organ for Threat Analysis (OCAM–OCAD), the State Security Department (*Sûreté de l'Etat / Veiligheid van de Staat*), and the General Intelligence and Security Service of the Armed Forces (SGRS-ADIV) in 2012. The Programme Law of 29 March 2012 also amended Article 33 of the Law of 11 January 1993. As a result, from 16 April 2012 onwards intelligence services are also disclosing entities just like banks and currency exchange offices. In practice, this means that CTIF-CFI may use all of its investigative powers and add financial data to this initial information. In case of serious indications of terrorist financing the file will be reported to the Federal Public Prosecutor's Office.

## The attacks in Mumbai<sup>45</sup>

Between 2005 and 2009 a naturalised Belgian citizen of Indian descent sent and received a total amount of over EUR 41.000 in and from Belgium using money remittance. The counterparties of these transactions were located in India and in other countries such as Italy, the United Kingdom, Spain, Russia, Bahrain and Albania. In total, the individual sent some EUR 25.000, of which EUR 22.000 to India. In 2009 and 2010, he also carried out various cash deposits on his bank accounts for some EUR 100.000. The money was used for everyday payments. He owned several night shops and a food shop.

The file was reported to the Federal Public Prosecutor's Office based on open-source information found online<sup>46</sup>.

According to open-source information, the terrorists deemed responsible for the bloody attacks in Mumbai that took place from 26 until 29 November 2008 kept in touch with each other and the ordering parties using VOIP<sup>47</sup>. A virtual American VOIP number and five "Direct Inward Dialling" (DID<sup>48</sup>) numbers with the Austrian country code were used. The virtual American VOIP number was allocated to an individual in India. The VOIP account was activated following a money remittance payment from an individual in Pakistan. The person in India is also said to have requested the five Austrian Direct Inward Dialling (DID) numbers from the same American telecommunications operator, claiming that some of his customers phone from different countries, including India. The account was paid using money remittance on 28 November 2008 at a branch in Brescia, Italy by an individual with a Pakistani passport.

Analysis of the money remittance transactions revealed that an individual in India who featured in disclosures to CTIF-CFI back in 2006 received a little over USD 3000 from an individual in Italy with the same surname and first name and the one who paid for the five Austrian DID numbers.

The individual from India had already received money from counterparties located in Italy from 2005 onwards. He collected the money from different branches, presumably no avoid arousing any suspicion. He also sent money to an individual in India with the same surname and first name as one of the suspects of a bombing in Lahore, Pakistan in 2008.

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<sup>45</sup> Ayfer ERKUL, *Islamabad geeft voor het eerst link toe met moordende aanslagen in India* [Islamabad admits link with deadly attacks in India for the first time] in "De Morgen", 13 February 2009, page 5 and (AFP), *Pakistan/Inde. Les attentats de Bombay. Le Pakistan reconnaît une préparation sur son sol* [Pakistan / India. The attacks in Mumbai. Pakistan admits preparation on its soil] in "La Libre Belgique", 13 February 2009, page 14.

<sup>46</sup> I.a. the "South East Asian Terrorist Portal" (<http://www.satp.org/satporctp/countries/india/document/papers/dossier.pdf>), <http://www.hindu.com/nic/dossier.htm>, <http://www.reuters.com/article/newsMaps/idUSTRE51N31P20090224>, <http://www.canada.com/entertainment/television/Mumbai+attackers+cellphones+linked+Italy+Report/1323732/story.html>.

<sup>47</sup> Voice Over IP or VOIP uses the Internet or another IP network to convey speech.

<sup>48</sup> Phone companies provide the option of using "DID" or "Direct Inward Dialing" (in Europe also called DDI) in combination with customers' PBX system. The telephone company attributes a series of numbers linked to one or several phone lines.



He also sent a small amount to India to a suspected activist of the “International Sikh Youth Federation”.

Terrorist organisations can use different financing methods and the potential use of legitimate sources of financing clearly distinguish them from criminal organisations. Financing through legitimate sources often takes place by misusing non-profit organisations (NPOs) or misappropriating donations to charities.

The files analysed by CTIF-CFI between 2004 and 2008 mainly involved organisations established in Belgium. Their bank accounts were used to raise funds, usually donations, which were ultimately used for terrorist purposes. The most common financial transactions in these files were cash deposits (donations), followed by cash withdrawals, international transfers or investments in real estate.

### **Were donations to charity used for terrorist purposes?<sup>49</sup>**

Early 2002 CTIF-CFI reported files to the judicial authorities with regard to three NPOs, two of these were established in Belgium, one NPO in the Netherlands. Their representatives were Jordanian, Moroccan, Tunisian and Syrian nationals. Some of them lived in Belgium, others in the Netherlands. One of these individuals provided an address in Germany. These organisations claimed to provide humanitarian aid in the Middle East.

These NPOs’ accounts in Belgium were used to deposit cash and transfer donations from private individuals. Some of these funds were subsequently transferred to one of the individual’s accounts, which he withdrew in cash later on. Part of the money was also transferred to other NPOs in Jordan, Palestine, Israel and Egypt. Transactions involving securities and real estate (purchasing securities, purchasing and selling properties in Belgium) were also carried out.

The information CTIF-CFI received (from the police, foreign FIUs, intelligence services) pointed in the same direction. These three NPOs were linked to an organisation in the Middle East considered to be a terrorist organisation and was listed as such by the United States, Canada and the European Union. The German branch of the Belgian organisation was the official representative of this movement in Germany. Several individuals were also known to be terrorists.

CTIF-CFI found that, taking into account the information collected and the nature of the transactions (numerous cash deposits, transfers to a personal account, investing donations in real estate), the humanitarian aid provided by the organisations was probably used as a cover for transactions linked to terrorist activities.

The transactions in this file totalled nearly EUR 10 million.

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<sup>49</sup> Marie-Cécile ROYEN, *Belgique Islamisme – Les frères musulmans font leur foire* [Belgium – Islamism – The Muslim Brotherhood holds a fair] in “Le Vif l’Express”, nr. 38, 21 September 2012, pages 28-29.

From 2006 onwards, CTIF-CFI found that the involvement of NPOs in financial transactions had become an element arousing suspicion and was therefore quickly detected. This led to a change in terrorists' modus operandi in files reported to the judicial authorities. Even though in some files charities' bank accounts are used to raise funds for terrorist purposes, CTIF-CFI found that compared to previous years business activities were used instead of NPOs to raise or move funds for terrorist financing purposes<sup>50</sup>.

The use of social benefits to financially support terrorist organisations is on the rise from 2010 onwards. Benefit recipients usually withdraw these funds in cash and channel the money to organisations supporting terrorism.

Some terrorist developments identified at international level also occurred in Belgium. A number of files were reported to the judicial authorities in which one individual ("lone wolf") radicalizes at one point in time and then plans an attack on his own. Personal funds are used for this attack, there is no organised financial support from an organisation. This type of terrorism was a new challenge for the bodies involved in combating terrorist financing.

### **Social benefits used to finance a bombing in Copenhagen (Denmark) in 2010<sup>51</sup>**

On 10 September 2010, a Belgian national of Chechen descent was arrested in Denmark after detonating a bomb in a hotel in Copenhagen (Denmark).

Between September 2009 and September 2010 a total amount of nearly EUR 13.000, consisting of transfers from the Belgian Federal Public Service Social Security and child benefits, was transferred to the account of this Belgian national of Chechen descent residing in Belgium. The money was consistently withdrawn in cash. At the end of August 2009, he withdrew a substantial amount in cash. Presumably, the cash withdrawals prior to August 2010 were entirely or partly used to buy components to manufacture the letter bomb.

After August 2010 more cash withdrawals were carried out (including a last withdrawal at Brussels airport at the end of September 2010), even though he had already been arrested in Denmark (see above). As there were no proxy holders on the account of this Belgian national of Chechen descent he seemingly gave his bank card to a third party after leaving for Denmark, who then carried out the last cash withdrawal in Belgium.

In May 2010, he transferred money to the embassy of Tajikistan in Belgium in order to obtain two visas. Tajikistan is one of the countries where Islamic terrorist groups are very active.

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<sup>50</sup> Traditional criminal organisations increasingly use legitimate companies. As stated in Europol's 2005 EU Organised Crime Report organised crime groups increasingly use legitimate corporate structures to carry out or conceal their criminal activities and launder proceeds of crime, page 8.

<sup>51</sup> (AFP), *Danemark Enquête à Bruxelles aussi – Un lien belge pour le poseur de bombe* [Denmark Investigation in Brussels as well – A Belgian link to the bomber] in "Le Soir", 13 September 2010, page 7 and Frank DEMETS, *Deense bomaanslag krijgt Belgisch staartje* [Belgian aftermath of Danish bombing] in "De Morgen", 13 September 2010, page 8.

When comparing the period during which the visa for Tajikistan were purchased and the bombing in September 2010 it is believed that he travelled to Tajikistan for “training” to carry out the attack in Denmark.

In addition, this Belgian national of Chechen descent was linked to various other people. He and these other people sent money using money remittance for a total amount of some EUR 5 000 to beneficiaries in Egypt, the Netherlands, Russia, Finland and Poland.

CTIF-CFI found that an increasing number of people or organisations from the Caucasus were involved in such files. The long-standing disputes in Chechnya and other areas in the region seem to incite terrorist activities in Russia as well as in Europe<sup>52</sup>.

Apart from the formal banking system alternative payment systems can also be used to raise or move funds for terrorist activities. Alternative payment systems use parallel networks that operate more quickly and more discreetly than traditional banking systems. Alternative payment systems are often embedded in specific ethnic communities, transactions are trust-based and conducted using compensation. These alternative payment services are popular in large parts of Asia and the Middle East, and apart from (limited) illegal use, are very successful in the legal economy.

Cross-border transportation of currency has played a key role in terrorist financing in recent years, cash appears to one of terrorist organisations’ preferred ways to move funds.

### **Terrorist financing in West Africa**

Over a period of three consecutive days, three different individuals declared a total amount of some EUR 90.000,00 in cash to customs officials at the airport in Zaventem. The funds are said to originate from an NPO from Germany as part of humanitarian aid in Burundi, Benin and Zimbabwe. All three couriers were Belgian nationals and had been living in Belgium for a long time.

All three individuals had bank accounts. Money was transferred to these accounts from a Belgian coordinating body of a radical Islamic organisation. Over a period of one year, a total amount of nearly EUR 20.000,00 was withdrawn in cash. Some EUR 10.000,00 was transferred to Turkey.

According to the German FIU, the NPO was one of the largest Islamic organisations in Germany. The NPO was said to be linked with an organisation that had been banned in Germany for allegedly supporting a terrorist group. All board members of this organisation also played a major role in the NPO.

Information from the Belgian intelligence services indicated that all three individuals were known to be involved in local branches of a radical Islamic organisation. Given the nature of the transactions and the NPO’s potential links with the banned organisation and its links with a terrorist group, it is probable that at least part of these funds could have been used to support terrorist activities.

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<sup>52</sup> Cf. CTIF-CFI’s Annual Report 2010 – <http://www.ctif-cfi.be> – Annual reports

After having reported this file to the judicial authorities, CTIF-CFI received several new disclosures featuring new individuals, especially Belgian nationals. The transactions were similar to the ones carried out by the three individuals. The NPO raised funds in Germany that were subsequently sent to various African countries, including Burkina Faso, Togo and Mali. When declaring the transport of currency to customs they mentioned that the funds were intended for supporting Islamic organisations.

Given the conflicts in these African regions the individuals involved in this file could have been used as cash couriers to provide financial support for terrorist activities.

In addition to the use of cash, another new trend is financing through the use of illegal sources.

Funds intended for terrorist financing are ever more frequently proceeds of ordinary law offences. Various types of illicit trafficking in goods such as drugs, cigarettes, counterfeit goods, diamonds and weapons, as well as human trafficking or piracy and kidnapping, appear to be used for terrorist financing purposes.

All of West Africa, in particular the coastal zones, has faced complex criminal problems for years: cocaine, cigarettes and weapons arrive at the west coast of Africa and provide funds to organisations such as Al-Qaida in the Islamic Maghreb (AQMI). This is not a recent trend, criminal networks have lived off this trafficking for over a decade<sup>53</sup>.

Kidnappings are on the rise from Somalia to Mauritania. Weapons, drugs, fuel or people, in some areas of the desert anything is for sale and gangster rule prevails<sup>54</sup>.

Other sources claim that the West African economy is now partially fuelled by cocaine and drug money. Some of the cocaine entering Spain, Italy, Greece, Turkey, Scandinavia, as well as Romania, Poland and Russia is shipped through Africa. Heroin from Afghanistan and cocaine from South America are shipped through Africa (either by plane or by cargo ship)<sup>55</sup>.

Combating terrorist financing is also linked to tackling radicalism and extremism. Despite a recent bill and requests by CTIF-CFI<sup>56</sup>, the FIU is still not competent to deal with the financing of extremism.

### 3.2 The Arab Spring

A growing number of money laundering transactions related to corruption has been identified in recent years, as a result of the FATF's efforts raising awareness in the world of finance to tackle this offence and also as a result of the Arab Spring.

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<sup>53</sup> Alain LALLEMAND, *Un double risque terroriste remonte des rives de l'Afrique* [Double terrorist risk along the coast of Africa] in "Le Soir", 25 October 2012, page 18-19.

<sup>54</sup> Olivier GOSSET, *Le "gangstérisme" gangrène l'Afrique* ["Gangsterism" taints Africa] in "L'Echo", 24 September 2010, page 2.

<sup>55</sup> "Courrier International" – 16-26 July 2009 – *Afrique – La poudre blanche fait parler d'elle* [White powder rears its head]

<sup>56</sup> CTIF-CFI's Annual Report 2011 – page 93

In 2009, the number of reported files was not that significant (4 out of a total of 1.020 files reported to the judicial authorities). Following the Arab Spring in 2011, the number of suspicious transactions identified by the financial sector and reported by CTIF-CFI rose considerably, in terms of the number of files as well as the amounts<sup>57</sup>.

The main features of money laundering transactions related to corruption are that they are typically conducted through the banking system; a succession of transactions is usually carried out: these are international transfers, mainly from African countries, followed by international transfers, mostly to opaque financial centres. Belgium is used as a transit country, the accounts in Belgium are merely used for money laundering purposes. Non-financial professionals are used as third-party business introducers and third parties (relatives, associates) are used in files involving politically exposed persons.

### **Money laundering, corruption and politically exposed persons**

United Nations Security Council Resolutions 1970 (26 February 2011) and 1973 (17 March 2011) on the situation in Libya (sanctions against the Libyan regime and a no-fly zone) enforced freezing assets (apart from Mummar Qadhafi, members of his family and senior officials or the Libyan state) of five institutions (Libyan banks and the Libyan national oil company) described as potential sources of funding of the Qadhafi regime. The frozen assets must later be made available to the Libyan people and used in the people's interest.

In Annex IV of Council Decision 2011/178/CFSP of 23 March 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya the Council of the European Union listed fifteen institutions controlled by Mummar Qadhafi and members of his family, nine of these institutions were potential sources of funding of the regime.

CTIF-CFI received a disclosure in this regard. Analysis of the accounts of the Libyan embassy in Brussels revealed direct international transfers at the start of 2011 from the Libyan treasury for an amount of nearly EUR 1.500.000. The main debit transactions were cash withdrawals. These cash withdrawals were unusual due to the large amounts and timing of the transactions. An embassy account was used but it was unclear how the money would ultimately be used.

Based on these elements it was likely that funds the Libyan treasury transferred to the Libyan embassy in Brussels partly or entirely originated from institutions listed on lists of the United Nations and the Council of the European Union and described as potential sources of funding of the Qadhafi regime. As these institutions were controlled by Mummar Qadhafi and his family it was quite possible that these were used as a cover to finance public funds or illegal activities of the Qadhafi clan linked to corruption. According to the Law of 11 January 1993, any direct or indirect use of such funds is considered to be money laundering.

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<sup>57</sup> Cf. CTIF-CFI's Annual Report 2012 – <http://www.ctif-cfi.be> – Annual reports

#### **4. Money laundering at its peak (2009-2013)**

Criminals have been operating at an international level for a number of years and use the world of business and finance to launder money.

They not only resort to traditional forms of serious crime such as drug trafficking or criminal conspiracy as a source of money laundering, criminal organisations now increasingly turn to financial and white-collar crime.

Given that some offences are very profitable these organisations often make use of offences such as fraud, VAT fraud, counterfeiting, illicit trafficking in diamonds and precious metals, car trade, fraudulent bankruptcy, misappropriation of corporate assets, private or public corruption, European subsidy fraud and stock market-related offences.

In order to conceal money laundering transactions it has become ever more common to combine these with totally legitimate transactions. The ensuing greater fusion of the legal and illegal economy is a real threat to democracies.

Because of new technologies and the globalisation of the economy, criminals have access to the financial system anywhere in the world. They can quickly move the proceeds of crime using both traditional channels and alternative networks. At the same time criminal and financial investigations may take several years, without a guaranteed satisfactory result.

The opaqueness of some offshore financial centres also complicates investigations, especially as these financial centres have become key players of the financial system.

These factors may not be unavoidable obstacles, though they do make it more difficult and complex to combat these criminal organisations and seize, confiscate and share the proceeds of their crimes.

##### **4.1 Social fraud – An alibi for human trafficking**

Through its analysis, CTIF-CFI brought organised networks of trafficking in human beings and illegal labour to light. These two offences are often committed at the same time: they complement one another and one offence can fuel or conceal the other.

These criminal activities are very profitable. People traffickers handle millions of EUR every day and are prepared to exploit poor people. The value of a human life is calculated according to its return. The price of slavery as if it were!

Social law inspectors find illegal workers on building sites on a daily basis. Every case of social fraud is also reported. Yet (serious and organised) fiscal fraud nearly always conceals cases of human trafficking.

International bodies confirm that such human trafficking networks are a reality. The FATF recently published a report on the laundering of proceeds of human trafficking and smuggling<sup>58</sup>.

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<sup>58</sup> FATF, Money Laundering Risks Arising from Trafficking of Human Beings and Smuggling of Migrants, July 2011; Tracfin, *Rapport d'activités* [Activity Report] 2010.

According to the FATF<sup>59</sup> these networks can be fairly basic, involve a limited number of people or be so complex that they are tantamount to organised crime. In countries where measures have been taken to combat human trafficking and migrant smuggling basic networks have been replaced by complex human trafficking networks.

CTIF-CFI recently found that these networks have become ever more professional in their operations.

As stated below, this implies combating much more than just undeclared work. These files feature offences such as forgery and the use of forged documents. One must also bear in mind that entrepreneurs launder money, are part of a criminal organisation or use violence against uncooperative employees who are often not paid for their work.

In Belgium CTIF-CFI initially identified networks of trafficking in human beings and illegal labour that were quite basic, even though they were organised to some extent.

From 2009 onwards, CTIF-CFI reported files to the judicial authorities related to companies in the construction industry or industrial cleaning. These companies were led by Brazilian or Portuguese nationals and used for trafficking in illegal labour and human trafficking. By using a fake Portuguese identity or a front man, Brazilian “entrepreneurs” took over Belgian companies, often using specialised trusts, at fairly low prices. The corporate goals were modified if necessary to ensure that the activities were applicable to the construction industry or industrial cleaning. As soon as the initial formalities were completed these companies were used to commit fiscal and social fraud. The companies were subsequently declared bankrupt due to their high tax debts. When the liquidation was ordered the person behind the fraud had already vanished. He was covered by a front man or a fake identity, the fraudster resigned shortly before the bankruptcy and then sold the company to another Brazilian national.

The suspicious transactions in these files were mainly transfers to other companies (often with an excellent reputation) in the same sector, followed by cash withdrawals that were theoretically intended to pay workers working for the company illegally. Given the nationality or the individuals’ origin money was often sent to Brazil or Portugal. This way part of the proceeds of this fraud was sent to the individuals’ country of origin.

#### **“Unfair competition from so-called Brazilian networks”**

In less than a year nearly EUR 400.000 was transferred from various companies in the construction industry to a building company’s account. Later on, the money was consistently withdrawn in cash. Part of the money was sent by the company’s (current or former) managers (of Brazilian descent) to Brazil. It was striking that there had been frequent changes in management since the company was set up.

In this period, no transactions were carried out to pay VAT, social security contributions, wages or suppliers. Information from the National Social Security Office showed that the company was not registered with the National Social Security Office. According to Directorate General Social Inspection, the company had been checked by the local inspectorate. A report was drawn up for the following offences: infringing the rules of employment of foreign workers, employing foreign workers

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<sup>59</sup> FATF, Money Laundering Risks Arising from Trafficking of Human Beings and Smuggling of Migrants, July 2011, Tracfin, *Rapport d’activités* [Activity Report] 2010 – page 13.

without a work permit, failing to register two employees upon commencement of employment. Reports were sent to the Public Prosecutor at a Labour Tribunal.

The current manager of the company was known to the police for using fake identity documents and unauthorised residence.

These files reported to the judicial authorities have become ever more complex over the years. In order to protect themselves from checks by social security and police authorities they have improved their modus operandi and they now use Portuguese companies that officially employ posted personnel.

Increased European integration and the resulting increased mobility are reflected in a growing number of posted workers<sup>60</sup>.

We will now describe one of the most complex modus operandi. Illegal Brazilian workers are recruited in Belgium and then brought to Portugal. In Portugal, the illegal workers are registered with the Portuguese Ministry of Finance using a fictitious lease. Once registered, they obtain a “fiscal card” with their real name. In Belgium the illegal workers, often through a forger linked to their employer, pay for a fake Portuguese residence permit with their real Brazilian name (identical to their passport and Portuguese fiscal card). An employment contract is subsequently drawn up for each illegal worker by a Portuguese company set up for that purpose. A “Limosa”<sup>61</sup> declaration is also filed. This electronic declaration is required for all foreign workers (employee, self-employed, intern) temporarily working in Belgium or for a Belgian employer. Genuine or forged documents for the posting are also provided. The illegal workers can use these documents to be “sent” all over Europe to work on building sites. It is very difficult for social law inspectors to determine whether these documents are genuine, as they are bound by the decision of the country from which an employee is posted. When they suspect the posting is not genuine, they need to await a decision by the country from which the employee is posted before they can take any further steps.

This is not a purely Belgian matter, but an issue on an international scale<sup>62</sup>. Moreover, these files do not only involve Brazilians but also feature other nationalities such as Romanian, Bulgarian and Czech nationals.

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<sup>60</sup> From 1 May 2010 onwards Regulation (EC) No 883/2004 stipulates which social security legislation is applicable to nationals of EU Member States carrying out their professional activities in one or more EU Member States. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer’s behalf shall continue to be subject to the legislation of the first Member State, provided that (Article 12.1 of Regulation (EC) No 883/2004): the anticipated duration of such work does not exceed twenty-four months; the employer carries out significant economic activity in the country where the posting takes place (merely managing the business is not considered to be an economic activity); the relationship of employer and employee remains during the entire duration of the posting; the employee was insured by the social security scheme of the country of origin thirty days immediately prior to the posting; the employed person is not sent to replace another posted worker.

<sup>61</sup> Prior to the posting either the employer or the employee can request a posting form (certificate A1 = LIMOSA in Belgium) from the competent body in the country where the posting takes place.

<sup>62</sup> Cf. Tracfin, *Rapport d’activités* [Activity Report] 2010; FATF, *Money Laundering Risks Arising from Trafficking of Human Beings and Smuggling of Migrants*, 2011.



Apart from posting personnel, fraudsters or exploiters also use pseudo self-employment to cheaply employ workers. The Belgian Social Law Inspectorate identified an increasing number of cases in recent years.

All European citizens are free to set up their own business in Belgium, a “self-employed permit” is not required. A company or self-employed worker from a European Union Member State may also freely provide services in another Member State than the one where he/she is established and post own members of staff.

As the individuals are self-employed workers, fraudsters are able to exploit them: they do not need to comply with the conditions of employment with regard to salaries or working and resting times.

The construction industry and night shops are particularly exposed to this. It seems that Pakistanis running night shops employ pseudo self-employed workers who do not hold any shares (or very few, without having paid for them). These so-called self-employed workers do not have access to the accounts, cannot determine the dates of their leave or their working times, and often sleep in the kitchen behind the shop or in cellars<sup>63</sup>.

The transactions conducted in files involving pseudo self-employed workers are often international transfers to bank accounts in Romania, Poland or Bulgaria held by employees “subcontracted” to Belgian “shell companies”.

#### **“Pseudo self-employed workers from the East”**

The Belgian company A, specialising in business services, was managed by two Belgian companies B and C, represented by X and Y. Subsequently two other Bulgarian companies were appointed as managers, also represented by X and Y.

Over a period of six months’ time an amount in excess of EUR 3.500.000 was transferred to company A’s account, mainly from companies in the automotive industry. Part of the money was transferred to individuals in Romania, Bulgaria, the Czech Republic or a Belgian temping agency. Another part was withdrawn in cash.

According to the Belgian National Social Security Office, the Limosa form for posting stated that company A employed some thirty Bulgarian, Romanian and Czech nationals as self-employed workers. CTIF-CFI’s analysis showed that most of the beneficiaries were not registered with the Belgian National Social Security Office as employees or as self-employed workers and not a single worker stated to be employed in Belgium.

Company A was said to recruit staff in Bulgaria, Romania and Czech Republic, presumably via two Bulgarian companies led by X and Y. As Bulgarian, Romanian and Czech self-employed workers these members of staff remained residents of their countries of origin and were brought to Belgium without having an address in Belgium.

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<sup>63</sup> Centre for Equal Opportunities and Opposition to Racism, Annual Report 2010 – Combating social fraud to prevent trafficking in human beings, page 120.

They were used as pseudo self-employed workers to circumvent the legislation on illegal labour and exploited by company A. They did not have an employment contract but a “Contract Service Agreement”, stating that company A was their client and their wage was EUR 4 an hour, far less than the usual prices in Belgium.

These unfair practices offered many advantages to company A: by using pseudo self-employed workers the employer’s social security contributions were not paid as is customary with wage labour. The provisions protecting employees were also disregarded. Employees were required to pay social security contributions and wage tax. The workers were not entitled to notice or compensation in case of termination of the contract, nor to minimum wage in case of incapacity for employment due to accident or illness.

Based on the information collected, CTIF-CFI reported this file to the judicial authorities due to laundering the proceeds of human trafficking.

## **4.2 Organised crime cunningly uses new technology**

The development and distribution of information technology have expanded rapidly these past five years, both in the West and in developing countries. This social evolution, with many positive outcomes, is irreversible and will influence society greatly in years to come.

The growing computerisation of society was also clearly reflected in CTIF-CFI’s files in recent years. One clear example is the ever-increasing number of files related to fraud. These files predominantly feature various types of mass fraud, where fraudsters can reach out to a large group of potential victims using mass communication. Once victims respond, the fraud becomes more specific and different attempts are made to get hold of money. The background information provided by the fraudsters is imaginative and may vary, but is primarily either a “romance scam”, where victims are deluded with a relationship or a “Nigerian scam”, where a very lucrative offer is made.

Analysis of the financial flows identified in these files shows that the term “Nigerian scam” is still appropriate. Files on mass fraud indicate that money is primarily sent to West Africa and that Nigeria, Côte d’Ivoire and Ghana are the main countries to which funds are sent. The digital divide between the West and some parts of Africa is getting smaller, though apart from many positive effects this has also led to some unpleasant side effects. In countries such as Nigeria and Côte d’Ivoire, fraud has almost become a fully-fledged economic sector, ruled almost entirely by criminal organisations. It is clearly an issue on a massive scale of which only the tip of the iceberg is revealed due to the low disclosure rate. Tackling this rapidly expanding form of crime is challenging: various departments consider this type of fraud to be a low priority and legal action is virtually impossible due to the international scale and high degree of anonymity of perpetrators. The media coverage of this topic seems to yield little result for the time being. Yet prevention is the most appropriate way to eliminate mass fraud in the long run. In order to define the scale and modus operandi the judicial authorities need to adopt a centrally coordinated approach. CTIF-CFI contributes to various national initiatives aimed at tackling mass fraud. As yet there are no indications that this type of fraud will disappear in years to come.

Apart from mass fraud, CTIF-CFI also recorded an increase in other types of Internet fraud or cyber crime from 2009 to 2013. Various files revealed successful attacks on online banking systems through “hacking” or “phishing”.

The victims of “hacking” were generally located in one of Belgium’s neighbouring countries and the proceeds were usually collected by making fraudulent payments to Belgian intermediaries (so-called “money mules”). The victims of “phishing” were typically located in Belgium, Belgian “money mules” and accounts were used to launder the money.

A growing number of CTIF-CFI’s files relate to fraud in e-commerce, as a result of the boom in e-commerce in Belgium in recent years. The total annual turnover of e-commerce in 2012 was EUR 1,52 billion, a 12% increase compared to 2011<sup>64</sup>. Even though the incidence of fraud compared to the total number of online transactions is low, CTIF-CFI recorded a sharp rise in the number of files. The fraud mainly consisted of goods sold online that were never delivered, even though the items were paid for in part or in full. Goods were also traded unofficially without any form of registration, especially in files reported to the judicial authorities for laundering proceeds of illicit trafficking in goods and merchandise. As Belgium is still lagging behind in e-commerce compared to neighbouring countries, the expectation is that the number of files relating to fraud in e-commerce will continue to rise in years ahead.

At the same time so-called “new” payment systems have evolved greatly over the past five years. The different types of new payment systems can be divided into three categories: prepaid debit cards, online payment systems and mobile payment systems on mobile phones. These are not traditional payment service providers enabling customers to carry out transactions on their bank accounts using the Internet or mobile phones but rather new types of money remittance that are not linked to a traditional bank account. These service providers can be financial institutions, phone companies or new parties operating in cooperation with such companies. The fact that they can be used internationally is typical of these new payment methods. This is especially the case for Internet payment systems that can be accessed anywhere. The service provider is not necessarily located in the same country as the customers, casting doubts on which legislation is applicable to the transactions. International cooperation between competent authorities is essential to create a consistent framework for these new payment systems and to check their operations against the applicable legal requirements, including money laundering. Due to their technical nature, some payment systems are not yet supervised or regulated for the time being, the “Bitcoin” system being the most well-known example. The challenges of these payment systems’ future developments for financial investigators and the judicial authorities are vast. Although CTIF-CFI has received only a few disclosures involving new payment systems up to now, developments are closely monitored and it is being assessed how these systems could pose a money laundering risk.

#### **4.3 Organised crime at a time of economic and financial crisis**

A second major social trend that impacted CTIF-CFI’s activities over the past five years is unquestionably the financial and economic crisis. The impact of the crisis is clearly

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<sup>64</sup> Source: [becommerce.be \(https://www.becommerce.be/nl/overbecommerce/feiten/d/detail/becommerce-x-mas-2012\)](https://www.becommerce.be/nl/overbecommerce/feiten/d/detail/becommerce-x-mas-2012), accessed on 28 October 2013.

demonstrated by the number of bankruptcies of Belgian companies mounting every year<sup>65</sup>. It is therefore no surprise that CTIF-CFI reported an ever-increasing number of files to the judicial authorities with indications of laundering the proceeds of fraudulent bankruptcy or misappropriation of corporate assets. Fraudulent bankruptcy or misappropriation of corporate assets are two predicate offences of money laundering that reflect the economic situation. Many of the files reported to the authorities linked to these predicate offences also involved various types of organised social fraud. CTIF-CFI received numerous disclosures in recent years related to companies or natural persons in the construction or cleaning industry involving Brazilian nationals or where money was sent to Brazil. Analysis of these files, together with information from the Social Law Inspectorate and open-source information revealed the operations of a criminal network, specialising in fiscal fraud by exploiting illegal workers.

The characteristics identified in files related to fraudulent bankruptcy are:

*Regarding the company's profile*

- Negative equity capital and successive losses
- In order to conceal the actual beneficiary natural persons acting as managers try to remain in the background by using a front man to carry out the transactions. Front men are mainly used when individuals can be linked to companies that went bankrupt shortly after being established to withdraw corporate assets.

*Regarding suspicious transactions*

- The transactions are mainly carried out using the banking system.
- Often a personal account is used as a transit account.
- The account holder is often the manager of the commercial company.
- The money is laundered by immediately withdrawing it in cash, transferring it abroad and subsequently using this money.
- The funds are mainly sent from and to Belgium.
- Sometimes transactions have an international dimension, yet to a lesser extent.
- Transactions usually involve neighbouring countries or opaque financial centres.

Transactions related to fraudulent bankruptcy may be relatively simple, sometimes planning is involved. The offences can be divided into two groups: organised and planned bankruptcies or somewhat spontaneous bankruptcies, where the offences are committed in an attempt to make the best out of a bad job<sup>66</sup>.

According to the type of bankruptcy simple or relatively complex methods can be used.

The financial crisis also created new opportunities for organised crime. Companies in financial trouble are less critical of new investors that spontaneously turn up. An economic downturn combined with many companies in search of funding is an ideal climate for criminal organisations to inject their funds into the legitimate economy and obtain the

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<sup>65</sup> Source: FPS Economy (<http://statbel.fgov.be/nl/statistieken/cijfers/economie/ondernemingen/faillissementen/jaarreeks>), accessed on 28 October 2013.

<sup>66</sup> *Nationaal Politieel Veiligheidsbeeld 2011* [National Police Security Image 2011].

required legitimacy. The banking crisis has made financial institutions more vulnerable and also made them a potential target for shady investments. The preventive anti-money laundering system is primarily aimed at supervising financial institutions' front office activities and partly depends on the cooperation of financial institutions themselves as disclosing entities. When a criminal organisation would successfully acquire a large share of a financial institution's capital, it would be possible for this organisation to commit large-scale money laundering. Due to the banking crisis, a similar situation was not inconceivable in a number of Eastern European countries or even in Belgium.

The financial and economic crisis also radically changed public opinion on fiscal fraud. The drastic measures taken to save banks and support the ailing economy have made people less tolerant of fiscal mechanisms used to elude the principle of solidarity. The past five years have seen recurring attacks on financial institutions facilitating large-scale tax evasion using international structures. Jurisdictions consenting to the creation of such schemes were also targeted ("*offshore leaks*"). CTIF-CFI reported several files to the judicial authorities in recent years in which specific international structures were set up to launder proceeds of serious fiscal fraud or other predicate offences. One example of such structure is the use of a UK Limited company in Belgium to circumvent Belgian corporate legislation. Analysis of the files showed that structures involving Limited companies were set up by financial experts, these ready-made companies were then marketed online. Selling these companies is very profitable and the various bodies combating fraud will have to focus on these service providers. The facilitators enable fraudsters and criminal organisations alike to develop their activities and link the legitimate and illicit side of the economy. Often supervisory authorities lack the required legal framework or a comprehensive approach to deal with these financial intermediaries.



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