FINANCIAL INTELLIGENCE ACT, 2012

(ACT NO.13 OF 2012) AS AMENDED

STATISTICAL FEEDBACK REPORT

AUTHORISED DEALER IN FOREIGN EXCHANGE WITH LIMITED AUTHORITY SECTOR

Date: March 2024

Table of Contents

1. Introduction 3
2. Summary of analysis and observations 4
   2.1 STRs and SARs 4
      Chart 1: STRs received from reporting sectors per annum 4
      Chart 2: SARs received from reporting sectors per annum 5
   2.2 Level of prioritization of reports from the ADLA Sector 7
      Chart 3: Categorization of STRs received from the ADLA Sector per annum 7
      Chart 4: Categorization of STRs reported by the ADLA Sector per Entity 8
      Table 1: Categorization of SARs from the ADLA Sector per annum 9
      Chart 5: Categorization of SARs from the ADLA Sector per Entity 9
   2.3 Other reports received from the ADLA Sector 9
      I. Additional Information File (AIF) 9
      Chart 6: AIFs from the ADLA Sector per annum 10
      Table 2. Total CBMCR, CTR, EFT and IFT filed by the ADLA Sector 10
3. Potential indicators from cases under FIC 10
4. Summary of matters worth noting 11
5. Conclusion 12

1. Introduction

The Financial Intelligence Act, 2012 (Act No.13 of 2012) as amended (FIA) classifies Authorized Dealers in Foreign Exchange with limited Authority (ADLA) as Accountable Institutions (AI) under Schedule 1. Consequently, the FIA requires these institutions to implement control measures aimed at combatting Money Laundering, Terrorism Financing and Proliferation Financing (ML/TF/PF) activities. These controls include measures to enable timely detection of transactions/activities that may be suspicious and timely reporting such to the Financial Intelligence Centre (FIC). These reports are primarily Suspicious Transaction Reports (STRs), Suspicious Activity Reports (SARs) and Additional Information Files (AIFs). FIC analysis of such reports results in the production of value-adding intelligence which is shared with Law Enforcement Agencies (LEAs) and other relevant authorities in the ML/TF/PF combatting chain.

The FIA also requires institutions to submit mandatory reports which may not necessarily be suspicious. Such reports include Cash Transaction Reports (CTRs), International Funds Transfers (IFTs) and Electronic Funds Transfers (EFTs). These reports form part of the FIC's database. This database is used by the FIC and various other relevant authorities to enhance ML/TF/PF combating efforts. The quality of reports filed can shape the outcomes of ML/TF/PF cases within the domains of the Namibia Revenue Agency (NAMRA), FIC, LEAs and the Office of the Prosecutor General (OPG). As a country, the finalization of ML/TF/PF cases (be it through asset forfeitures and/or criminal sanctions) is an essential element in demonstrating the level of Namibia's AML/CFT/CPF overall effectiveness. As such, all efforts should be made to enhance the quality of STRs/SARs reported to the FIC. It is therefore in furtherance of such national effectiveness objectives that the FIC avails this feedback to enable a reflection on areas that may need improvement.

The results of this analysis, as documented herein, should be used by ALDAs to guide the implementation of measures necessary to enhance reporting behavior.

2. Summary of analysis and observations

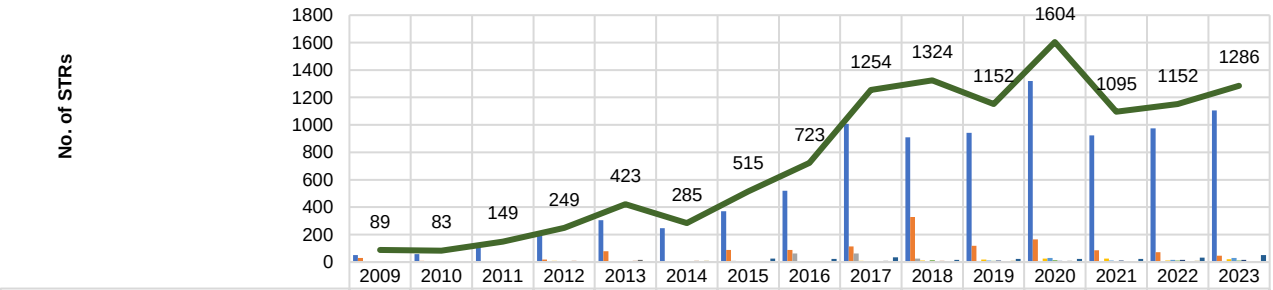
2.1 STRs and SARs

A suspicious transaction arises when an institution has knowledge of any suspicious transactions concluded by it or suspects that it has received or is about to receive the proceeds of unlawful activities or has been used or is about to be used in any other way for ML, TF or PF purposes. Importantly, an institution should report such a transaction to the FIC without delay, upon noticing such suspicion. Depending on the factors at hand, the institution may file a Suspicious Transaction Report.

A Suspicious Activity Report is different from a Suspicious Transaction Report described above in that a suspicious activity is not a transaction per se, but activities that may escalate to a future transaction or activities that give rise to reportable/suspicious matters.

The chart below presents a record of STRs received by the FIC from various reporting sectors since the FIA came into operation up to 31 December 2023.

Chart 1: STRs received from reporting sectors per annum[1]



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Banks	52	59	129	206	305	248	371	519	1007	910	942	1319	923	976	1106
ADLAs	29	9	6	18	78	7	89	89	115	329	118	166	87	71	47
Insurance/Investment Brokers	2	0	0	1	0	0	10	62	63	25	2	0	0	1	0
Legal Practitioners	1	7	5	8	6	4	7	3	8	11	19	26	26	12	21
Asset Management Companies	0	1	2	1	2	1	0	4	3	5	12	30	12	15	30
Motor Vehicle Dealers	0	1	0	3	2	1	5	7	5	13	10	14	4	12	11
Unit Trust Schemes	1	1	1	0	0	0	2	3	4	3	12	10	11	17	16
Financial Intelligence Units	3	3	4	9	9	8	1	3	1	8	2	2	1	6	0
Long Term Insurance Companies	0	0	1	0	15	2	0	2	10	2	2	8	6	2	2
Individual Persons	0	0	0	0	1	8	5	7	3	1	10	6	1	8	2
Others	1	2	1	3	5	6	25	24	35	17	23	23	24	32	51
Total	89	83	149	249	423	285	515	723	1254	1324	1152	1604	1095	1152	1286

[1] The "Others" category in the chart above comprises of the following sectors: Foreign Financial Intelligence Units; Casinos; Short Term Insurance Firms; Accountants; Supervisory and Regulatory Bodies; Dealers in precious metals and stones ; Unit Trust Scheme Companies; Unit Trust Scheme Companies; Financial Intelligence Units; Public Prosecutors; Regional Governments; Asset Management Companies; Law Enforcement Agencies; Money and Value Transfers Service Providers; Auctioneers; Life Insurance Broker or Agents; Real Estate Agencies/Agent; Long Term Insurance Firms; Lending Institutions; Trust and Loan Companies; Pension Fund Administrators; Local Authorities; Individual Reporting Entities and Non-Profit Organizations.

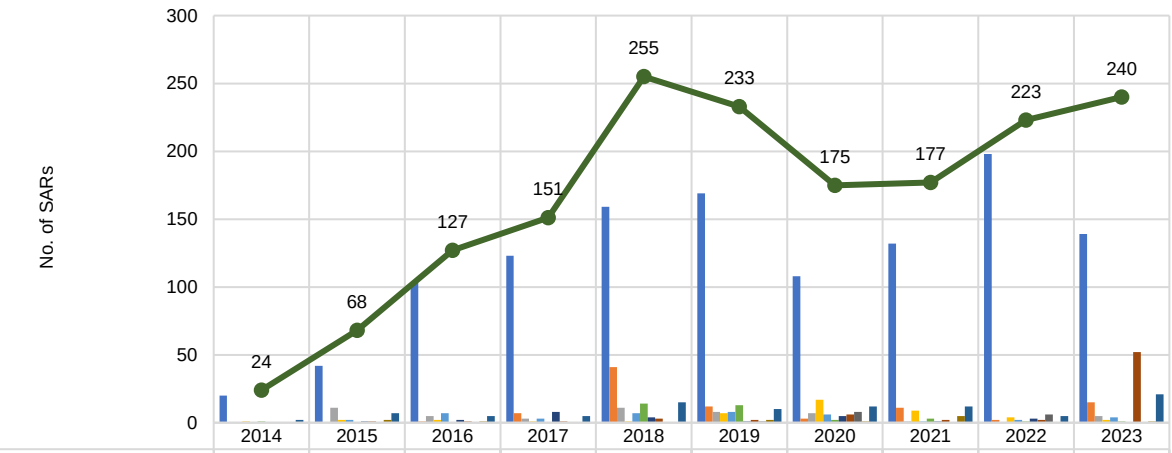
The banking sector submitted the most reports in the period under review, filing 80% (or 9,073 reports) followed by the ADLAs filing 11% (or 1,258 reports). This supports the NRA observations over the years which rate banks and ADLAs as being the highest risk sectors in the national AML/CFT/CPF regime. In terms of reporting periods, the highest number of STRs were received in the year 2020, a record high of 1,604 STRs.

Even though various potential predicate offences have been reported to the FIC, tax-related offences featured as the leading predicate offence from all sectors. While ADLAs submitted the second highest number of reports to the FIC, 99% of their reports were accorded “low priority” status due to various reasons such as lack of ML/TF and/or PF indicators in the reports, insignificant amounts involved and poorly articulated reasons for suspicion in reports filed, amongst others.

The 2023 National Risk Assessment (NRA), an update to the 2020 NRA indicates that Close Corporations (CCs) are most vulnerable to ML and TF abuse. The use of CCs to advance financial crimes is common in Namibia. According to the reports analyzed, the same trend continues to show the overwhelming findings that suggest CCs as the most preferred vehicles employed in the advancement of ML and TF. As per the information provided by the Business and Intellectual Property Authority (BIPA), 85% of the involved CCs (reported to the FIC) are locally owned. Importantly, 76% of directors/beneficiaries of involved entities are Namibian nationals. Chinese nationals are the second highest beneficiaries at 7% followed by Indian nationals at 5% and then Zimbabweans at 3%. Though ADLAs do not directly deal with legal persons, it is helpful to keep in mind that clients whose financial profile suggests being involved in a CC (e.g as member, owner or employee) may thus inherently present higher risks.

The FIC has noted with concern some challenges when it comes to the analysis of the reports filed by sectors. In some reports filed, there was no information provided for the involved subjects such as names, nationalities, professions and others. Neither potential ML/TF predicate offenses were indicated on some occasions. Such information could assist analysts in coming up with identifiable trends and typologies that would be helpful to the sectors.

Chart 2: SARs received from reporting sectors annually



	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Banks	20	42	103	123	159	169	108	132	198	139
Real Estate Agencies/Agents	0	0	1	7	41	12	3	11	2	15
ADLAs	0	11	5	3	11	8	7	1	0	5
Individual Persons	1	2	2	1	1	7	17	9	4	2
Financial Intelligence Units	0	2	7	3	7	8	6	1	2	4
Asset Management Companies	1	0	0	0	14	13	2	3	1	1
Supervisory and Regulatory Bodies	0	1	2	8	4	1	5	1	3	0
Legal Practitioners	0	1	1	1	3	2	6	2	2	52
Long Term Insurance Companies	0	0	0	0	0	1	8	0	6	0
Short Term Insurance Companies	0	2	1	0	0	2	1	5	0	1
Others	2	7	5	5	15	10	12	12	5	21
Total	24	68	127	151	255	233	175	177	223	240

Chart 2 above shows that the number of SARs filed by the reporting entities since the reporting obligation commenced totaled 1,673 reports at the end of the 2023 calendar year. It further shows that the banking sector collectively submitted a total of 1,193 SARs (71%), followed by Real Estate Agencies and then ADLAs in third position. This study could not find reasons for the decrease in the number of reported SARs in the periods 2021 to 2023.

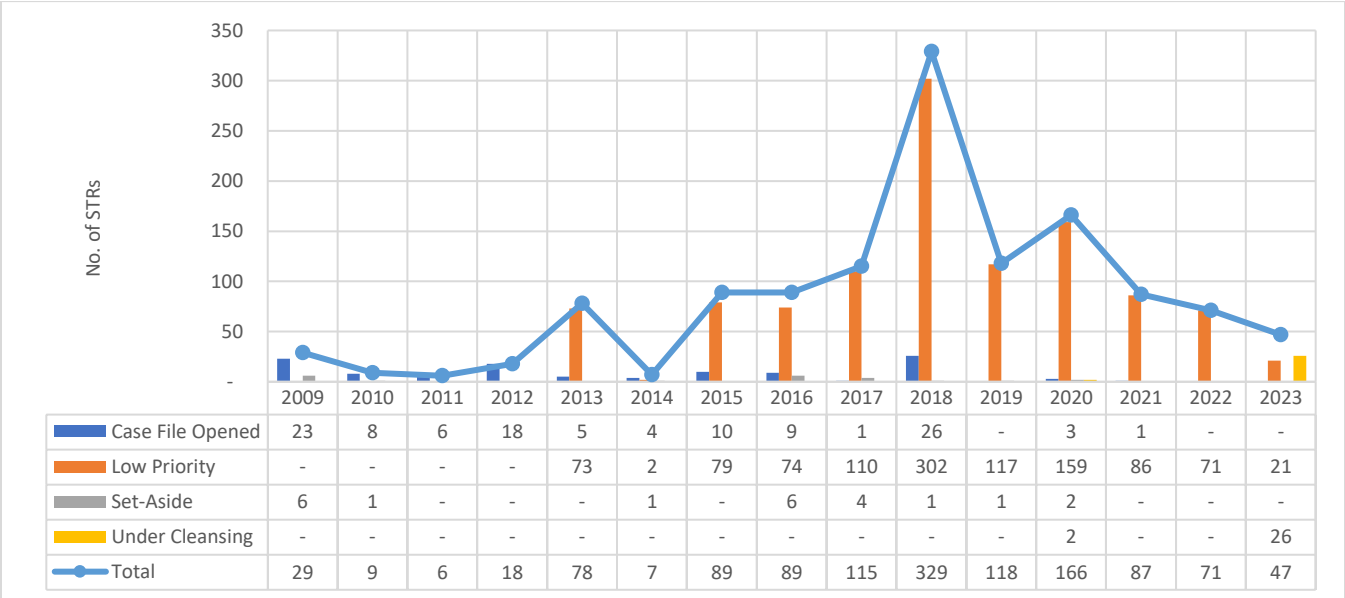
According to the typology report issued by the FIC on the vulnerability/rate of abuse of different types of legal persons and arrangements in the advancement of money laundering, the highest volume of SARs (reported to the FIC) involves Individual Persons at 65%, followed by Proprietary Limited Companies at 23% and then Trusts at 8%.

While the nature of AML/CFT/CPF is that there is no yardstick for indicating the volume of suspicious reports that should be detected and reported, the FIC is generally concerned about the low reporting behavior of some entities/sectors. It could thus be helpful for AML Compliance Officers to indicate any challenges experienced as far as identifying and filing various reports is concerned. If need be, interventions from the FIC's side can be considered to enhance reporting behavior. The challenges highlighted in chart 1 above also applied to SARs filed.

2.2 Level of prioritization of reports from the ADLA Sector

When reports are received, they go through a cleansing process which results in their prioritization. The FIC applies a risk-based approach in determining the prioritization level assigned to reports from all stakeholders. The cleansing due diligence entails an assessment of reports which results in assigning priority levels. Reports which are accorded a "low priority status" are not attended to immediately. Due to resource constraints and the risk-based approach (especially consideration of potential impacts), only reports which are accorded a "high priority status" are investigated and analyzed (case files opened). Amongst other factors, a report could be classified as low priority when the observed suspicion does not fall within law enforcement's priority areas of investigation. At times, the financial values involved could be negligible (or insignificant) in comparison to values in other reports. On the other hand, a report that meets certain requirements could eventually result in a case file being opened and escalated for further analysis/investigation within the FIC[2].

Chart 3: Categorization of STRs received from the ADLA Sector per annum



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Case File Opened	23	8	6	18	5	4	10	9	1	26	-	3	1	-	-
Low Priority	-	-	-	-	73	2	79	74	110	302	117	159	86	71	21
Set-Aside	6	1	-	-	-	1	-	6	4	1	1	2	-	-	-
Under Cleansing	-	-	-	-	-	-	-	-	-	-	-	2	-	-	26
Total	29	9	6	18	78	7	89	89	115	329	118	166	87	71	47

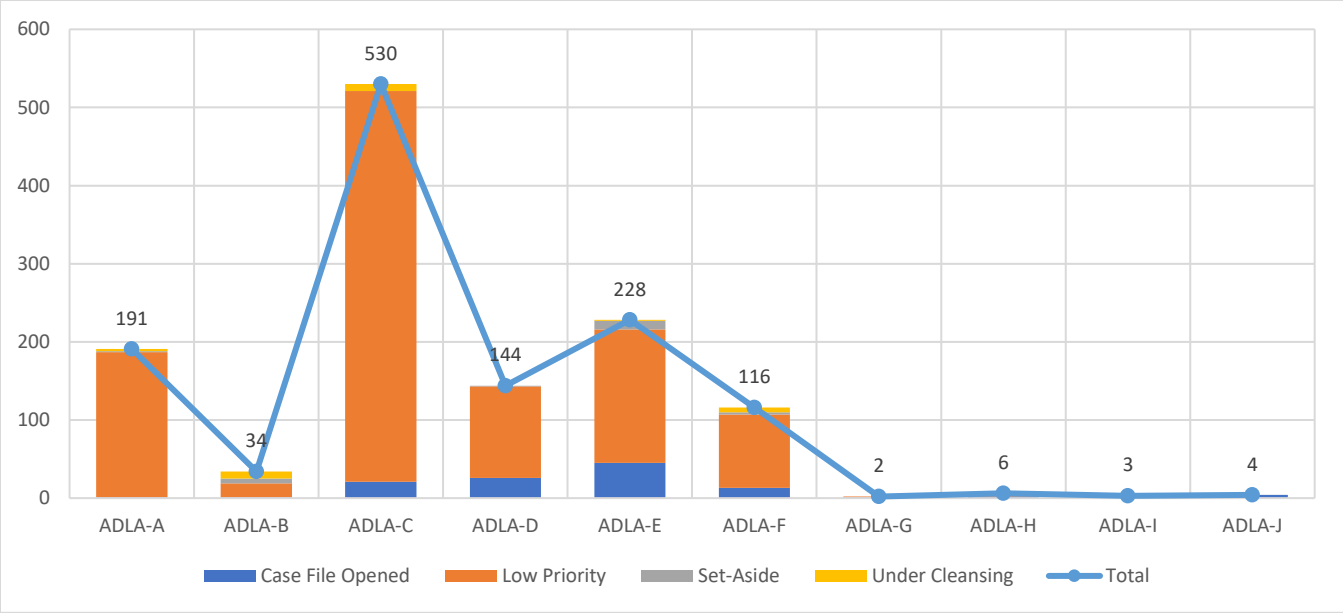
[2] In summary, factors which collectively inform prioritization levels include, but are not limited to:

a. known ML, TF and/or PF indicators;
b. sanctions and watch lists [e.g. lists of high risk persons];;
c. prior reports on same subject/entity;
d. geographic risk areas involved;
e. duplicate/erroneous filing (which could result in the STR/SAR being set-aside);
f. risk of funds being placed out of reach of law enforcement;
g. human resource constraints within FIC's Financial Investigations and Analyses Division; and
h. consideration of the monetary, asset and other values or impacts associated with such report.

Worth noting is that 9% (or 114) reports from the ADLAs were accorded a 'high priority' status and escalated for further analysis. Such STRs were forwarded to relevant Law Enforcement Agencies and Investigating Authorities for further investigation.

A total of 1,094 STRs (or 87%) reported were accorded a "low priority" status. Most of the STRs were accorded a "low priority" status primarily because of the insignificant amounts of money involved, human resource constraints within FIC's Financial Investigations and Analyses Division and lack of ML/TF and/or PF indicators in the reports filed, amongst other factors.

Chart 4: Categorization of STRs reported by the ADLA Sector per Entity



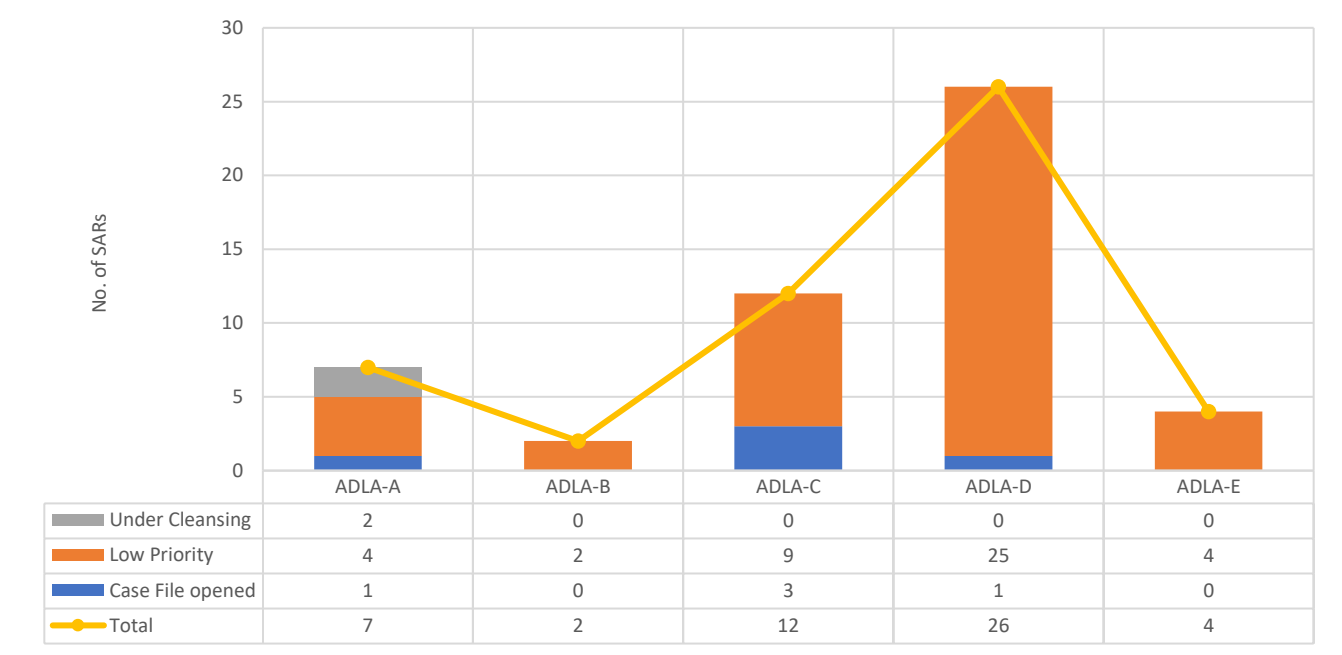
In the period under review, ADLA-C filed the majority of STRs (a total of 530 STRs or 42%) from the sector. This was followed by ADLA-E with 228 STRs and then ADLA-A filing a total of 716 STRs. Worth noting is that ADLA-J has the highest ratio of STRs escalated to Cases (Case Files Opened) for further analysis when compared to the total STRs they have filed, a total of 4 out of 4 STRs (or 100%). Although such entity has filed few reports, most of the reports filed have significant information required that lead to such reports being escalated to cases for further investigations and analysis. It is however important to indicate that some ADLAs have filed relatively a very low number of STRs during the period under review and such low filing is below expectations.

Table 1: Categorization of SARs from the ADLA Sector per annum

	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
Case File opened	3	0	0	2	0	0	0	0	0	5
Low Priority	8	5	3	9	8	7	1	0	3	44
Under Cleansing	0	0	0	0	0	0	0	0	2	2
Total	11	5	3	11	8	7	1	0	5	51

In the period under review, only 10% of SARs filed from all sectors were accorded a 'high priority' status and escalated for further analysis. Further, 84% of the reports were accorded a "low priority" status.

Chart 5: Categorization of SARs from the ADLA Sector per Entity



The Sector has submitted a total 51 reports. ADLA-D filled the majority of SARs (51% of the sector).

2.3 Other reports received from the ADLA Sector

I. Additional Information File (AIF)

AIFs refers to the filing of new or additional information related to a STR or SAR previously filed with the FIC. From 2015 to 2023, the FIC received a total of 58 AIFs from the ADLA Sector, of which 38 (or 81%) emanated from ADLA-A, as illustrated on chart 6 below.

Chart 6: AIFs from the ADLA Sector per annum

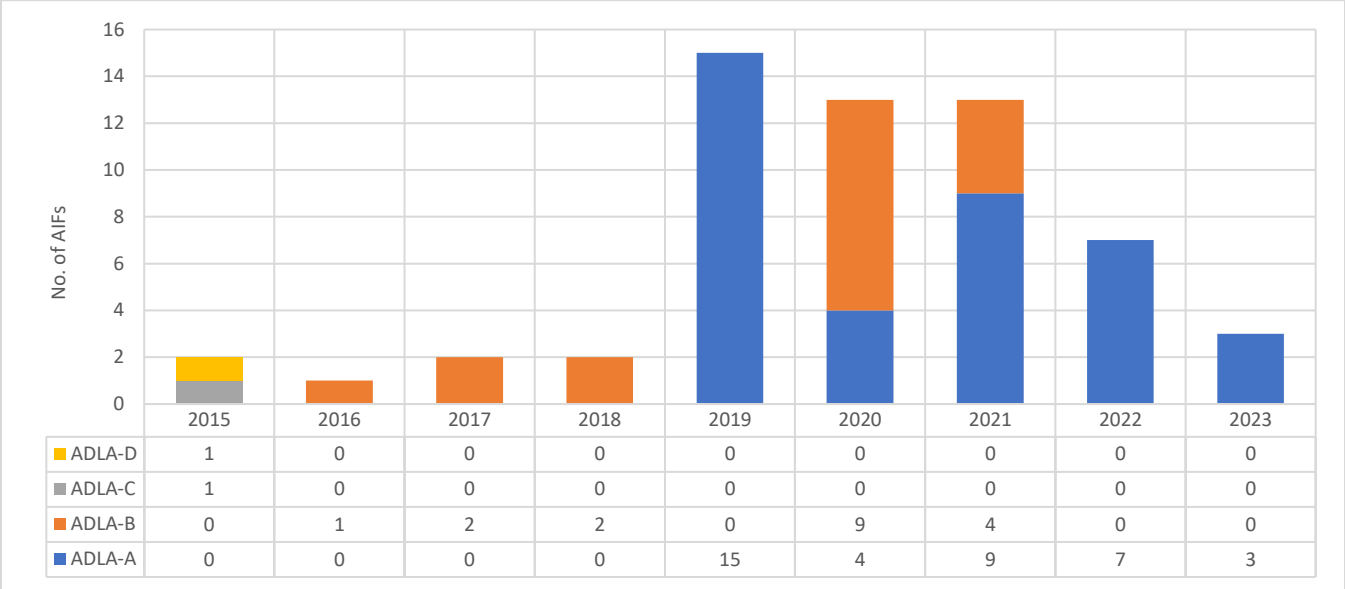


Table 2. Total CBMCR, CTR, EFT and IFT filed by the ADLA Sector

	CBMCRs	CTRs	EFTs	IFTs
No. of Reports	0	1,855	117	143,003
No. of Transactions	0	2,054	153	1,485,708
Amount Involved	0.00	364,858,292	23,669,861	6,397,395,704

The table above shows the number of other reports that ADLAs filed in the period under review.

3. Potential indicators from cases under FIC

There are various predicate offenses of Money Laundering. For supervised institutions to be in a position to identify such activities, the essential foundation is having an effective Anti-Money Laundering policy and procedures, as per section 39 of the Financial Intelligence Act 2012. Based on reports from the sectors, the following have been identified as some of the most common potential indicators: tax related offences, fraud, theft, wildlife crimes and corruption amongst others. When each indicator is viewed in isolation, it may not readily point to potentially suspicious ML, TF or PF activity or transaction, however when viewed with other indicators and relevant factors, it may highlight the presence of reportable suspicions. Importantly, ADLAs are advised to familiarize themselves with **Guidance Notes[3] and Directives** which explain high risk

[3] https://www.fic.na/index.php?page=2023-guidance-notes

scenarios of ML/TF/PF plus guidance on risk mitigation within various sectors. Equally, ADLAs are urged to familiarize themselves with indicators highlighted in such guidance notes[4].

4. Summary of matters worth noting

Below is an overall summary of major irregularities observed in the quality of reports filed by reporting institutions in general including ADLAs:

a. **Lack of ML/TF and/or PF indicators in the reports:** It is helpful that upon reporting, such information is availed. If the internal risk assessment, Customer Due Diligence (CDD) and ongoing monitoring measures are effective, such should expose indicators that may inform the suspicion. AML Compliance Officers are encouraged to reach out to the FIC when uncertain of suspicions or their indicators;

b. **Poorly articulated "Reasons for Suspicion" in STRs/SARs:** Usually, when adequate CDD has been undertaken, it is easier to explain grounds for suspicion when making an analysis of flagged transactions. Regardless, attempts should be made to adequately explain why we find transactions or activities suspicious as such helps with FIC analysis of reports;

c. **Duplicate and erroneous filing of reports:** More care needs to be taken, especially by AML Compliance Officers to reduce erroneous and duplicate reporting. The initial cleansing processes of each report take from the valuable time that FIC analysis resources could deploy to other activities; and

d. **Filing of incomplete STRs/SARs:** More could be done to ensure the completeness of information shared in STRs/SARs. It helps with value addition from such reports. If the internal risk assessment, CDD and ongoing monitoring measures are effective, such should expose indicators that inform the suspicion. AML Compliance Officers are encouraged to reach out to the FIC when uncertain.

The above shortcomings were also observed in other sectors. ADLAs are urged to consider the said shortcomings and device means to enhance CDD, monitoring and detection controls

[4] https://www.fic.na/index.php?page=publications

accordingly. The findings herein support the overall observations in the periodic FIA compliance assessment reports which point to a greater need to enhance activities that improve overall reporting behavior.

5. Conclusion

The FIC appreciates the ADLAs' continuous efforts geared towards ML/TF/PF prevention and combatting. Such helps to safeguard the national and international financial system's integrity. Whilst encouraging that more be done to enhance reporting volumes, the FIC equally encourages that more be done to enhance overall reporting quality. Such can only happen if other controls such as CDD and transactional monitoring are operating as expected. This can lead to effective investigations, prosecutions, asset forfeitures and asset/tax recoveries for the combatting framework.

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