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**Meyer van den Berg
Chairperson: The Law Society of Namibia
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Dear Mr. van den Berg

**FEEDBACK ON STATUTORY REPORTS FILED BY LEGAL PRACTITIONERS WITH THE
FINANCIAL INTELLIGENCE CENTRE (FIC)**

The Financial Intelligence Centre (FIC) appreciates efforts of Accountable Institutions (AIs) within the Legal Practitioners Sector geared towards enhancing the effectiveness of the national Anti-Money Laundering, Combating Terrorism and Proliferation Financing (AML/CTF/CPF) regime. A significant part of such combating efforts is premised on the implementation of effective control measures that can enable the detection of Suspicious Transactions or Activities.

From May 2009 when the FIA came into operation, all Accountable and Reporting Institutions were expected to employ measures that can efficiently detect transactions which met specified thresholds or characteristics and report such to the FIC. This report presents feedback on

qualitative and quantitative observations from the reporting behavior of legal practitioners for the period 29 July 2009 to 31 December 2019. The report equally highlights some notable challenges identified in the reporting behavior which require improvement.

We trust that you will find the enclosed useful, but should the need arise for any further discussions, please do not hesitate to contact the FIC.

Yours sincerely,

A handwritten signature in black ink, appearing to read "P.P. K. [unclear]". The signature is stylized and somewhat cursive.

LEONIE DUNN
DIRECTOR: FINANCIAL INTELLIGENCE CENTRE



FINANCIAL INTELLIGENCE ACT, 2012

(ACT NO.13 OF 2012) AS AMENDED

STATISTICAL FEEDBACK REPORT

LEGAL PRACTITIONERS SECTOR

Date: 27 January 2020

The information contained in this report is strictly confidential and may not be disseminated to third parties without the specific consent of the Financial Intelligence Centre. Any unauthorized dissemination constitutes a criminal offence as per section 49 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) as amended, and which may also attract administrative penalties as per section 56 of the Act.

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1. Introduction

The Financial Intelligence Act, 2012 (Act No.13 of 2012) as amended (FIA) classifies Legal Practitioners as Accountable Institutions 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 thus reported to the Financial Intelligence Centre (FIC). These reports are primarily Suspicious Transaction Reports (STRs), Suspicious Activity Reports (SARs) and Additional Information Files (AIFs). These reports result in analysis by the FIC with the aim of producing value adding intelligence products shared with Law Enforcement and other relevant authorities in the ML/TF/PF combatting chain.

The FIA also requires Accountable Institutions to submit mandatory reports which may not necessarily be suspicious in nature. Such reports include Cash Transaction Reports (CTRs), International Funds Transfers (IFTs) and Electronic Funds Transfers (EFTs). These reports form part of the FIC database which are used in operational analysis and strategic activities.

In essence, all these reports are used by the FIC and various other relevant authorities to enhance ML/TF/PF combating efforts. The quality of such reports can shape the outcome of an ML/TF/PF case within the domains of the Receiver of Revenue, FIC, Law Enforcement Agencies and the Office of the Prosecutor General. Overall, the outcomes of ML/TF/PF cases¹ is the essence which demonstrates the effectiveness of a country's entire AML/CFT/CPF combating system. As such, all efforts should be made to enhance the quality of STRs/SARs reported to the FIC. Given this, it is in furtherance of the national AML/CFT/CPF effectiveness objectives that the FIC avails this feedback report to enable a reflection on areas that may need improvement.

The results of this analysis, as documented herein should be used by AIs and RIs within the Legal Practitioners Sector to guide implementation of measures necessary to enhance reporting behavior.

¹ which at most times starts with the reports from accountable and reporting institutions

2. Summary of analysis and observations

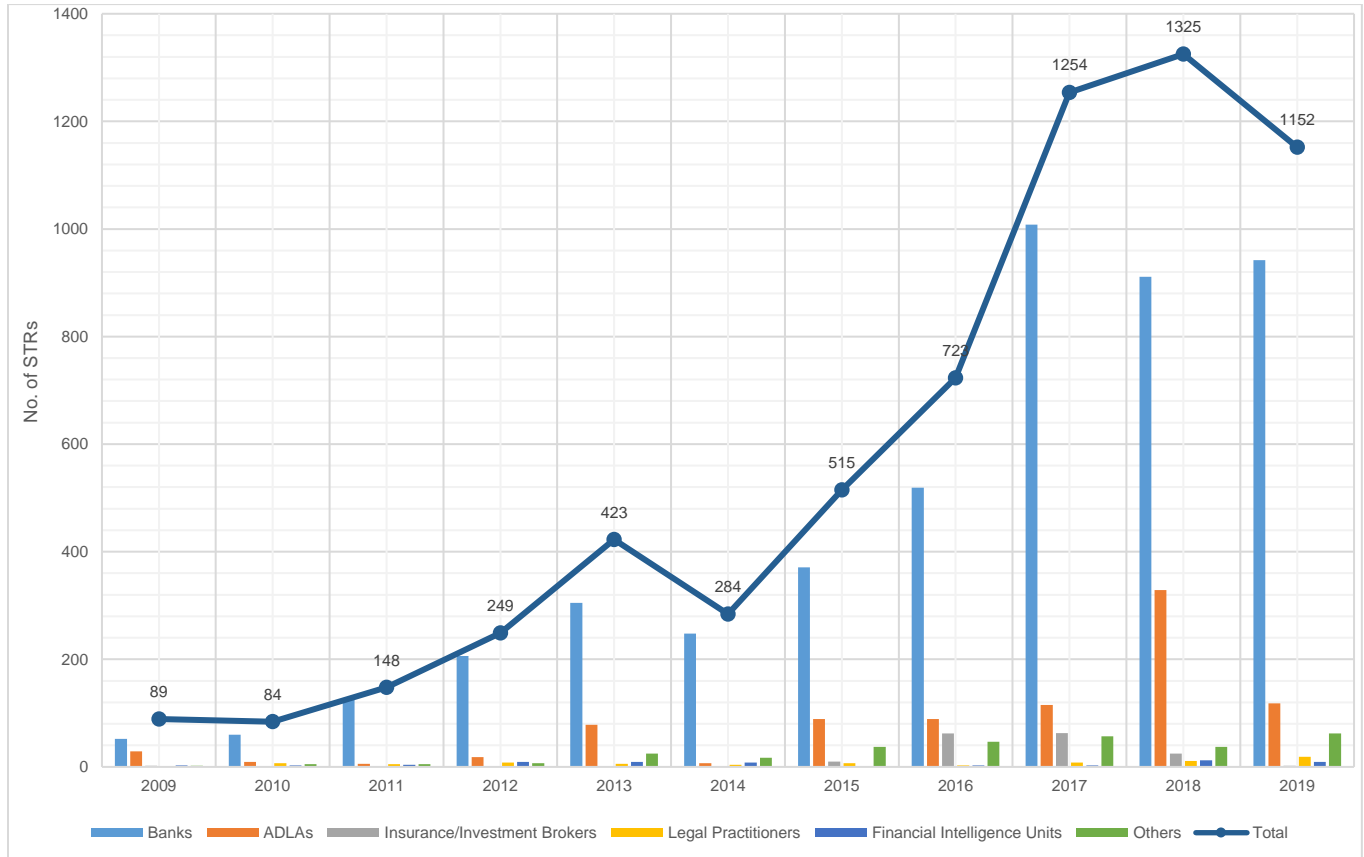
2.1. STRs and SARs

An institution that 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, must report such transaction to the FIC within 15 working days after it has noticed such suspicion or belief.

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 to 31 December 2019d.

Chart 1. STRs received from reporting sectors per annum



The banking sector submitted the most reports during the period under review, filing 76% of the reports followed by the ADLAs filling 14% of the total reports. Overall, the Legal Practitioners sector filed the fourth highest volume of reports.

Annually, the highest number of STRs were received in the year 2018, a record high of 1,325 STRs. The Legal Practitioners sector filed a collective total of 79 STRs during the period under review (2009 – 2019).

The “Others” category in the chart above comprises of the following sectors:

- | | |
|---|---|
| 1. Foreign Financial Intelligence Units | 13. Casinos |
| 2. Supervisory and Regulatory Bodies | 14. Dealers in precious metals and stones |
| 3. Unit Trust Management Companies | 15. FIU |
| 4. Asset Management Companies | 16. Law Enforcement Agencies |
| 5. Auctioneers | 17. Law Enforcement Agency |
| 6. Lending Institutions | 18. Life Insurance Broker or Agent |
| 7. Individual Reporting Entities | 19. Motor Vehicle Dealers |
| 8. Local Authorities | 20. Non-Profit Organizations |
| 9. Long Term Insurances | 21. Pension Fund Administrators |
| 10. Public Prosecutors | 22. Real Estate Agencies/Agent |
| 11. Accountants | 23. Regional Governments |
| 12. Short term Insurances | 24. Money and Value Transfers Service Providers |

Table 1. SARs received from reporting sectors per annum

	2014	2015	2016	2017	2018	2019	Total
Banks	20	42	103	123	159	168	615
Real Estate Agencies	-	-	1	7	41	12	61
ADLAs	-	11	5	3	11	8	38
Financial Intelligence Units	-	2	7	3	7	13	32
Asset Management Companies	1	-	-	-	14	13	28
Supervisory and Regulatory Bodies	-	1	2	8	4	1	16
Individual Persons	1	2	2	1	1	2	9
Legal Practitioners	-	1	1	1	3	2	8
Law Enforcement Agencies	-	3	-	-	-	4	7
Money and Value Transfer Companies	-	3	3	1	-	-	7
Others	2	3	3	4	15	9	36
Total	24	68	127	151	255	232	857

The table above shows that the number of SARs filed by the reporting entities since the reporting obligation commenced totaled 857 reports at the end of the 2019 calendar year. It further shows that the banking sector collectively submitted a significant total of 615 SARs which represents 71% of the total reports followed by real estate agencies and Legal Practitioners in third.

The “Others” category in the table above comprises of the following sectors:

- | | |
|-------------------------------------|--|
| 1. Trust and Loan Service Providers | 10. Public Prosecutors |
| 2. Life Insurance Brokers or Agents | 11. Accountants and Auditors |
| 3. Auctioneers | 12. Casinos |
| 4. Motor Vehicle Dealers | 13. Dealers in precious metals and stones |
| 5. Insurance/Investment Brokers | 14. Foreign Financial Intelligence Units |
| 6. Stock Brokers | 15. Courier and Customs Clearing Agents |
| 7. Short term Insurances | 16. Micro Lenders |
| 8. Unit Trust Schemes | 17. Money and Value Transfer Service Providers |
| 9. Public Prosecutors | |

2.2 Level of prioritization of reports from the Legal Practitioners Sector

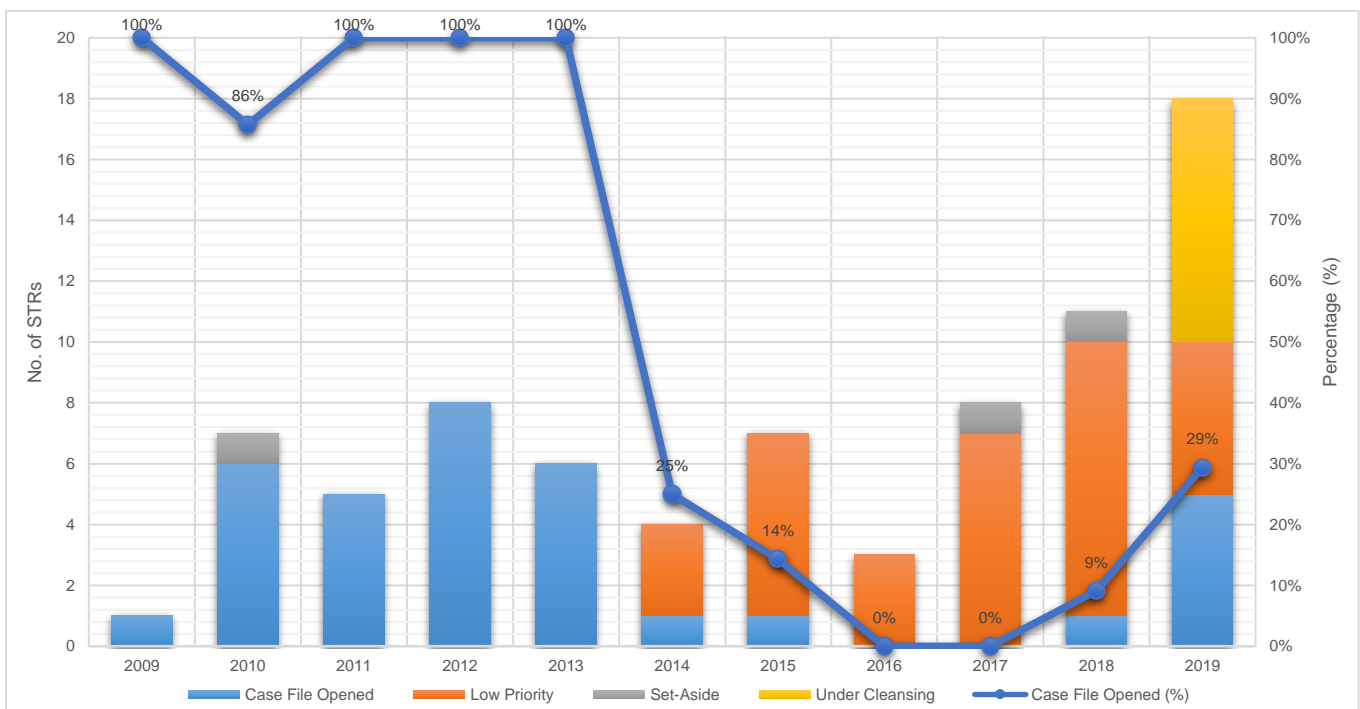
The FIC applies a risk-based approach in determining the prioritization level to be assigned to reports received from all sectors. Reports are assessed and assigned priority levels. Reports accorded a ‘low priority status’ are not attended to immediately are . Amongst other factors, a report could be classified as low priority when the observed suspicion does not fall within law enforcement priority areas of investigation. At times, the amounts involved could be negligible (or insignificant) in comparison to amounts in other reports. On the other hand, a report which meets certain requirements could eventually result in a case file being opened, and escalated for further analysis within the FIC. Usually, reports subjected to further analysis are those that are accorded a ‘high priority status’.

Factors which collectively inform prioritization levels include, but are not limited to:

- ✚ Strategic priorities of Law Enforcement Agencies, which are informed by the risk areas identified in the National Risk Assessment (NRA) and National Crime and Threat Assessments (NCTA);

- ✚ Known ML, TF and/or PF indicators;
- ✚ Watch lists [Politically Exposed Persons (PEP) and various sanctions lists];
- ✚ Prior reports on same subject/entity;
- ✚ Geographic risk areas involved;
- ✚ Duplicate/erroneous filing (which could result in the STR/SAR being set-aside);
- ✚ Risk of funds being placed out of the reach of law enforcement; and
- ✚ Human Resource constraints within FIC’s Financial Investigations and Analyses Division.

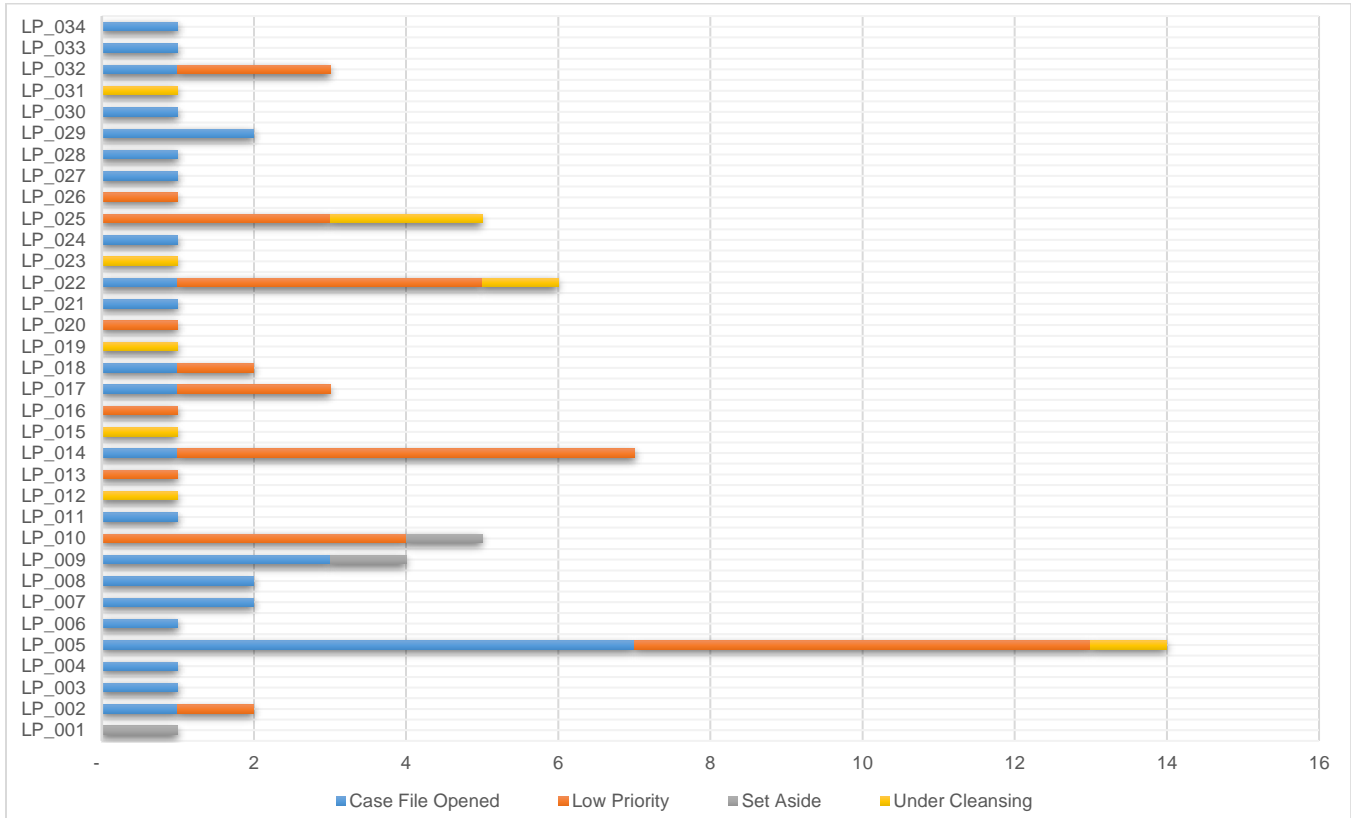
Chart 2. Categorization of STRs received from the Legal Practitioners Sector per annum



Overall, 51% of the STRs received from Legal Practitioners were accorded a ‘high priority status’ and escalated for further analysis. These STRs resulted in actionable intelligence which was forwarded to relevant Law Enforcement Agencies and Investigating Authorities for further investigation. It is notable from the above that the volume of case files opened dipped in the years 2013 to 2017, slightly picking up in early 2018.

On the other hand, most of the STRs accorded a ‘low priority status’ was primarily because of the insignificant amounts of money involved.

Chart 3. Categorization of STRs by Reporting Legal Practitioners



During the period under review, LP_005 filed the majority of STRs (a total of 14 STRs or 17.7%). This was followed by LP_014 and LP_022 with 7 and 6 STRs respectively. It is important to note that LP_005 also filed the most STRs that were accorded ‘high priority status’ (a total of 7 STRs or 20.6%).

Table 2. Categorization of SARs received from the Legal Practitioners Sector per annum

	2015	2016	2017	2018	2019	Total
Case Files opened	1	-	-	1	-	2
Under Cleansing	-	-	-	-	1	1
Low Priority	-	1	1	2	1	5
Total	1	1	1	3	2	8

Table 3. Categorization of SARs by Reporting Legal Practitioners

	Case File opened	Under Cleansing	Low Priority	Total
LP_001	1	-	-	1
LP_002	1	-	1	2
LP_003	-	1	-	1
LP_004	-	-	1	1
LP_005	-	-	1	1
LP_006	-	-	1	1
LP_007	-	-	1	1
Total	2	1	5	8

The Sector has submitted a relatively small number of SARs, totaling 8 reports only. The majority of these reports were filed during the year 2018.

About 25% of the SARs filed from the Sector were escalated for further analysis. The SARs escalated resulted in actionable intelligence which were forwarded to relevant Law Enforcement Agencies for further investigation. Amongst other factors, the further escalation to Law Enforcement is indicative of the quality level of such reports.

2.3 Other reports received from the Legal Practitioner’s Sector

Additional Information File (AIF): Refers to the filing of new additional information related to a STR or SAR previously filed with the FIC;

Cash Transaction Report (CTR): These are mandatory reports to be submitted to the FIC on all cash transactions above the threshold/limit of NAD 99,999.99, within five (5) working days of their occurrence;

Electronic Funds Transfers (EFT): Refers to the movement of money from one account to another electronically;

International Funds Transfers (IFT): Refers to the inward and outward remittance of funds electronically from one jurisdiction to another; and

Cross Border Movement of Cash Report (CBMCR): Refers to any in-bound or out-bound physical transportation of currency or bearer negotiable instruments (BNIs) from one country to another.

Table 4. Total AIF, CTR, EFT, IFT and CBMCRs by the Legal Practitioners Sector

	AIFs	CTRs	EFTs	IFTs	CBMCRs
Number of Reports	0	349	129	3	1
Number of Transactions	0	388	131	3	1
Amount Involved	0	317,761,037	211,289,432	3,430,160	7,275

The table above indicates that the Sector filed a total of 349 and 129, CTRs and EFTs respectively. However, they did not file any AIFs during the period under review. Given the

sector's volume of clients and transactions, the FIC is convinced that the sector could do more. Reasons for such low reporting are unknown at this stage. .

Table 5: Summary of suspected predicate offenses, recipient agency and amounts

Recipient	Total Disclosures	Potential Predicate Offense	Amount Involved (N\$)
Anti-Corruption Commission of Namibia	6	Corruption	1,665,985.00
		Corruption	920,000.00
		Corruption	390,000.00
		Corruption	3,600,000.00
		Corruption	1,209,880.00
		Corruption	79,035.00
NamPol: Criminal Investigation Division	9	Money Laundering	1,665,985.00
		Money Laundering	920,000.00
		Money Laundering	390,000.00
		Money Laundering	437,838.00
		Theft	55,000.00
		Unknown source of funds	40,000.00
		Fraud	692,600.00
		Fraud	111,000.00
NamPol: AML/CFT Division	1	Fraud	N/A
NamPol: Asset Recovery Division	3	Tax Evasion	1,665,985.00
		Tax Evasion	920,000.00
		Tax Evasion	390,000.00
Ministry of Finance: Receiver of Revenue	14	Tax Evasion	3,880,000.00
		Tax Evasion	2,217,229.00
		Tax evasion	667,102.00
		Tax Evasion	8,039,613.00
		Tax Evasion	5,000,000.00
		Unknown source of funds	1,450,000.00
		Unknown source of funds	5,290,520.00
		Unknown source of funds	7,075,000.00
		Unknown source of funds	1,948,000.00
		Unknown source of funds	40,000.00
		Unknown source of funds	79,035.00
		Unknown source of funds	1,829,010.00
		Unknown source of funds	22,133.00
		Unknown source of funds	80,430.00
Angolan FIU	3	Unknown source of funds	9,765,000.00
		Unknown source of funds	872,570.00
		Unknown source of funds	2,266,500.00
Marshall Islands Domestic FIU	1	Unknown source of funds	9,983,300.00
Namibia Central Intelligence Service	1	Money Laundering	N/A
	38		78,658,750.00

In the period under review, a total of 38 spontaneous disclosures were disseminated to Law Enforcement Agencies as a result of STRs and SARs received from the Legal Practitioners. The Ministry of Finance - Receiver of Revenue received the highest number of disclosures, followed by the Namibian Police - Criminal Investigations Division. “Unknown source of funds”² featured as the leading potential offense with 14 such potential offenses recorded involving a suspected total amount of NAD 40,741,498. This is followed by Tax Evasion with 8 such potential offenses and Corruption with 5 potential offenses involving total amounts of NAD 22,779,929 and NAD 7,864,900 respectively.

3. Summary of matters worth noting

FIC observations are that reporting volumes of STRs, SARs and CTRs in the entire sector is generally an area of concern and the quality of such reports requires further intervention. Major irregularities observed in the quality in reports from the sector include:

- ✚ CTRs involving an amount below the threshold of NAD 99 999.99;
- ✚ Poorly articulated “Reasons for Suspicion” in STRs;
- ✚ Duplicate and erroneous filing of reports; and
- ✚ Filing of incomplete STRs.

Legal Practitioners are urged to consider the said shortcomings and devise means to enhance internal controls accordingly.

4. Conclusion

The FIC appreciates the Legal Practitioners continuous efforts geared towards the ML/TF/PF combatting. Such helps to safeguard Namibia’s financial integrity.

² the source of the funds could not be determined; not in line with the subject’s profile or the subject is unwilling to disclose the source of funds