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# FINANCIAL INTELLIGENCE UNIT



Annual Report

Year 2007 / 2008

**Fighting Money Laundering And Terrorist Financing**

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# Financial Intelligence Unit

ANNUAL REPORT - YEAR 2007 / 2008

December 1, 2008

The Honourable Goodall E. Gondwe

Minister of Finance

P O Box 30049

**LILONGWE 3**

Dear Minister

**RE: FINANCIAL INTELLIGENCE UNIT ANNUAL REPORT**

Pursuant to Section 21 (b) of the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act 2006, it is my honour to submit to you the first Annual Report of the Financial Intelligence Unit. The Report provides information about our activities and achievements for the year ended 30<sup>th</sup> June 2008 and our priorities for 2008-09.

The FIU plays a pivotal role in the detection of money laundering and terrorist financing by analysing suspicious transactions and making disclosures to the appropriate law enforcement agency when there are reasonable grounds for suspicion. During this first year of operations, we have made significant strides in laying down the foundation for us to make an effective contribution in the fight against money laundering and terrorist financing.

Yours Faithfully

Tom Malikebu

**DEPUTY DIRECTOR**

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# **MALAWI FIU**

**ANNUAL REPORT – 2007 / 2008**

**LAYING THE FOUNDATION**

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## MESSAGE FROM THE DEPUTY DIRECTOR

The Financial Intelligence Unit (FIU) was established in July, 2007 following the promulgation of the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act in 2006. Hence, this is the first report of the FIU since its establishment and covers the period July 2007 to June 2008.

The FIU received 10 Suspicious Transaction Reports (STRs) one of which (having an aggregate value of MK654 million) was disseminated to law enforcement agencies; 3 Cross Border Currency reports (XCR) with an aggregate value of US\$117,995 & UK£ 17,500; and 483,456 Large Currency Transaction Reports (LCTRs). The XCR reports were prosecuted by the Malawi Police Service and Directorate of Public Prosecutions and the rest of the STRs were still undergoing analysis as at the close of the year.

Being the first year of operations, the FIU had a lot of tasks at hand whose overarching objective was to erect the necessary pillars to support the fight against money laundering and terrorist financing in Malawi. Some of the activities included setting up the operational infrastructure and systems, designing and implementing the reporting regime, conducting sensitization meetings with key stakeholders, establish relationships with domestic partners, building the capacity of staff, developing a strategic plan and participating in the activities of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). Tucked inside these activities was an assessment of Malawi's anti-money laundering and combating terrorist financing (AML/CFT) regime by the World Bank which was carried out in February/ March 2008.

With support from Government, Reserve Bank of Malawi and the US Treasury, the FIU has managed to set up its office, installed a Local Area Network, internet, physical and logical security systems, acquired and installed operating systems and Microsoft software. These software packages will support the establishment of a robust database and effective receiving, analyzing and disseminating of information.

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One of the key pillars of an effective AML/CFT regime is 'interdependence' amongst various domestic stakeholders. It is our conviction that we have to operate from a paradigm of 'interdependence'. Interdependence reinforces the law of harvest, success or achievement. The principle postulates that by working together we can achieve much more than the sum of our individual achievements. It is in recognition of this fact that we coordinated the establishment of a National Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Committee. The main objective of this Committee is to act as a forum for exchange of information which is a vital component in an AML/CFT regime. As we look back, we are encouraged by the strength of relationships built out of this Committee and the commitment of its members to combine skills and experiences in the common cause against financial crime.

In the year under review, Malawi was evaluated by the World Bank in the context of a Financial Sector Assessment Program (FSAP). This evaluation came at an opportune time because the report acted as a diagnostic tool by identifying the weak spots in the AML/CFT regime and offering recommendations to address the deficiencies. The report will guide us, illuminate the path and keep us focused in various activities such as the development of our strategic plan.

The year has been quite challenging, as it has seen us move into new territory, accept new responsibilities and adopt a range of new management and analysis tools. The FIU staff operated on a tight schedule. However, in view of their dedication, willingness to learn and innovative spirit the FIU has accomplished a lot within a space of one year. Now that we have laid down the foundation and consolidated our position, I am fully optimistic that we will achieve even much more in the year lying ahead.

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Finally, I wish to express my appreciation for the support the FIU has received from the Ministry of Finance, the Reserve Bank of Malawi, various other domestic partners, foreign partners:- mainly the FIU of Mauritius, the Financial Intelligence Centre of South Africa, US Department of Treasury, the Millennium Challenge Corporation and USAID Malawi. I also appreciate the role played by the FIU staff. Without their contribution and dedication, our success in 2007 – 2008 would not have been possible.

**Tom K Malikebu**  
**DEPUTY DIRECTOR**

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## 1. INTRODUCTION AND AML/CFT OVERVIEW

### 1.1. The Enactment of the ML Act and the Formation of FIU

Many people have questioned the need for an FIU in Malawi to fight money laundering and terrorist financing. Most people consider this as a foreign problem. However the need for an ML Act and the FIU can be justified by among others the following reasons;

- Malawi being a cash based economy is vulnerable to money launderers, who usually want to deal in cash, which is difficult to trace, unlike transactions carried out by credit cards or cheques, as records of these are usually kept for future reference. As such the enactment of the ML Act and the establishment of the FIU, provide an avenue to curb money laundering activities even in the most difficult areas.
- The advent of the ML Act will facilitate seizure and confiscation of proceeds of crime. In the recent past, a number of cases have been prosecuted involving fraud or corruption, and in most cases the perpetrators had also laundered the proceeds of their crimes. These proceeds could not be recovered as there was no enabling act. The ML Act now makes this possible.
- Though Malawi has not been subject to terror attacks, countries neighbouring Malawi have suffered this misfortune. Without an Act that criminalises financing of terrorism, Malawi could be used a conduit for terrorist financing and eventually could even be a victim to terror attacks.
- Malawi operates in a global village, where anti-money laundering laws are part of the global standards. Countries that do not have this law, are considered high risk, and are subject to severe conditions (eg high charges) when dealing with financial institutions of other countries.

- Recommendation 26 of the Financial Action Task Force (FATF)<sup>1</sup> requires countries to have FIUs. In addition, the most recent UN Conventions such as the UN Convention for the Suppression of the Financing of Terrorism, the UN Convention against Transnational Organised Crime (Palermo 2001) and the UN Convention against Corruption (Merida 2003) make reference to FIUs. The Palermo Convention which Malawi has signed and ratified requires state parties to establish an FIU.

Taking these and other issues into consideration, Parliament passed into law the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act (ML Act) in August 2006 and this in turn led to the establishment of the Financial Intelligence Unit (FIU) in August 2007. The FIU's mandate is to receive, analyse and disseminate substantiated suspicious transaction reports to law enforcement agencies for further investigation and possible prosecution<sup>2</sup>. The substantiated suspicious transaction reports are expected to reveal the possibility of the commission of offences such as tax evasion, corruption, fraud and theft by public servants to name a few. Apart from these, the substantiated reports are also expected to reveal the possible commission of the offences of money laundering or terrorist financing.

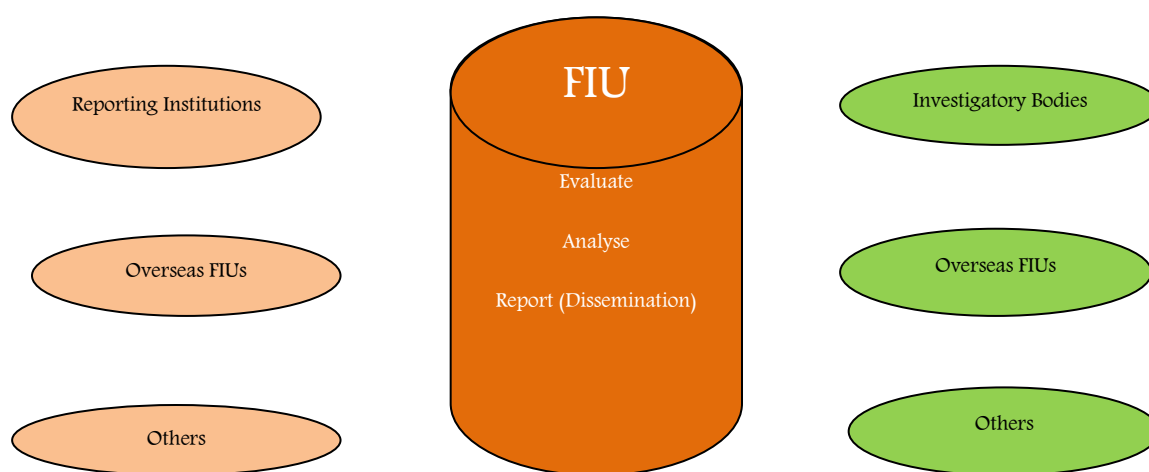
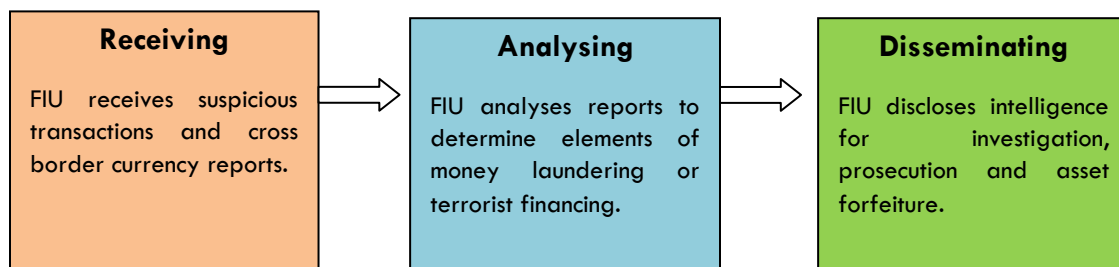
Below is the diagrammatic representation of the FIU reporting process.

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<sup>1</sup> An international body that sets standards for countries to apply in their AML/CFT regimes

<sup>2</sup> Section 11(1) ML Act

## SCHEMATIC VIEW OF THE REPORTING MECHANISM



Note: (1) Reporting institutions include the deposit taking institutions, discount houses, stockbrokers, underwriters, asset management companies, money lenders, foreign exchange bureaus, money transmission service providers, lawyers and accountants (when performing activities specified in the ML Act), real estate agents, casinos, safe custody service providers and dealers in precious

## 1.2. Money Laundering and Terrorist Financing Process

Money laundering involves criminally turning “dirty” money or other proceeds of crime derived from either fraud, corruption, tax evasion, or drug trafficking, robbery, etc into what appears to be clean or legitimate money. The money laundering process is usually carried out by using false identities or using the names of innocent people referred to as nominees, such as one’s children, spouse or close and trusted relations and who appear to be carrying out legitimate transactions.

Terrorist financing on the other hand encompasses the act of directly or indirectly providing or accumulating funds or other goods or attempts to do so, with the intent that the funds be used in whole or in part to commit acts that contravene the International Convention for the Suppression of Financing of Terrorism, or financing the commission of an activity that will result in the death or serious bodily harm of a civilian population.<sup>3</sup>

## 1.3. Other functions of FIU <sup>4</sup>

Apart from the duty to receive, store and analyse suspicious transaction information received from financial institutions, and determining the possibility of money laundering and/or terrorist financing, the FIU also has the following main functions and powers:

- to conduct research into trends and developments in the area of money laundering and financing of terrorism,
- to determine money laundering and terrorist financing prevalent in Malawi from the information collected and improved ways of detecting, preventing and deterring money laundering,

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<sup>3</sup> Section 2 ML Act.

<sup>4</sup> Section 11 (2) ML Act

- to share and request relevant information with other agencies, both international and local,
- to issue guidelines on obligations to financial institutions as per the legislation,
- to ensure compliance amongst supervisory bodies and unsupervised financial institutions.
- to provide periodic feedback to financial institutions and relevant agencies.

#### 1.4. FIU Mission

The FIU is determined to prevent and detect money laundering, terrorist financing and financial related crimes by providing quality intelligence to law enforcers and foreign FIUs. Our commitment extends to the provision of: training; an effective compliance framework to reduce ML and TF risks; and public awareness on the trends of ML & TF and the impact these have on the economic and financial stability of Malawi. To accomplish its mission the FIU shall engage suitably qualified professionals who will conduct themselves with integrity.

#### 1.5. FIU Vision

To be leaders in the fight against money laundering, terrorist financing and related financial crimes thereby contributing towards the economic and financial stability of Malawi.

#### 1.6. FIU Values

These values represent core priorities in the Unit's culture. To this end all its members of staff will:

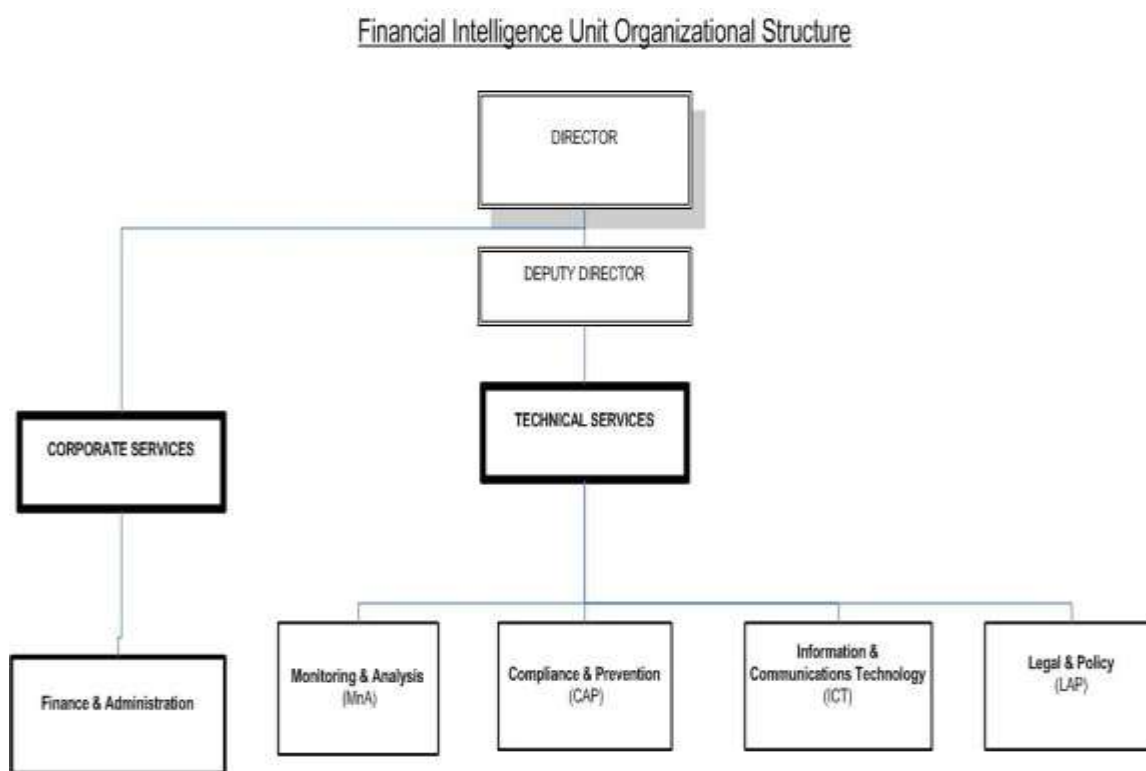
- Carry out our mandate with a sense of **INTEGRITY** by among other things demonstrating honesty, respect and discipline.
- Strive for **EXCELLENCE** and **PROFESSIONALISM** in conducting our operations and working relationships with stakeholders.

- In realising the value of information, adhere to a high level of **SECURITY** and **CONFIDENTIALITY** to inspire and maintain the trust of our stakeholders.
- In adherence to international standards, **OPTIMISE INTERDEPENDENCE** with local and international agencies.
- Be **ACCOUNTABLE** and **TRANSPARENT** in the use of our resources and information in adherence to good governance norms.
- Be encouraged to be **CREATIVE & INNOVATIVE, ADAPTABLE & FLEXIBLE**; our concern being the effectiveness of our work than adherence to tradition.

### 1.7. FIU Strategic Objectives

As the FIU has been operational for only a year, it has not yet had strategic objectives; however the FIU is currently coming up with a strategic plan which will indicate specific strategic objectives. The hope of the FIU is to have the strategic plan in place by July 2009. The plan will set goals for the FIU, and will also act as a guide upon which the FIUs efforts can be measured against.

## 1.8. Structure of the FIU Malawi



As indicated above, the FIU structure has two main divisions namely Corporate Services and Technical Services. The Finance and Administration Department is the only department under the Corporate Services Division, and it reports directly to the Director. This department handles financial and budgetary matters, thereby ensuring the FIU has adequate funding to operate and that it operates within its allocated budget. Further to this, the Department carries out all the administrative and human resource functions to ensure the operations of the FIU run smoothly.

The Technical Services Division is headed by the Deputy Director, and comprises of the Monitoring and Analysis (M&A) Department, Compliance and Prevention (CAP), Information & Communication Technology (ICT) and Legal & Policy Department (LAP).

The Monitoring and Analysis Department of the FIU is responsible for the core functions of the FIU which are receiving, storing and analyzing reports that are submitted by institutions as defined in the ML Act. In terms of the ML Act, the FIU currently receives three types of reports: large currency transaction reports (all transactions above K1 million), suspicious transaction reports (STRs) and cross-border currency reports (XCRs).

Upon receipt of these reports, the department analyses the information provided to determine if the information submitted meets relevant criteria to form suspicion of the commission of any crime in particular the commission of money laundering or terrorist financing offences. Once the suspicion has been substantiated, it is then disseminated as *intelligence* and not *evidence* to relevant law enforcement authorities, such as the Malawi Revenue Authority, Anti Corruption Bureau, Director of Public Prosecutions, etc who then have the duty to carry out further investigation for possible prosecution.

Further to this, the M&A Department also handle requests for information from local or international agencies.

The objective of the Compliance and Prevention Department is to ensure that all relevant stake holders comply with the provisions of the ML Act and its relevant regulations.

In carrying out its functions the Department will carry out several activities which will include;

- The actual monitoring of compliance by financial institutions and their supervisory authorities through onsite analysis and offsite surveillance,
- Provision of guidance in the areas where the ML Act or regulations are ambiguous or conflict with other obligations relevant stake holders have under other acts of parliament,



- Draw a public awareness strategy to ensure that Malawians are aware of money laundering issues and conduct training programs for reporting institutions,

The Information & Communication Technology (ICT) Department is responsible for all information and communication facilities in the FIU.

The nature of the work of the FIU makes it highly reliant on Information and Communication Technology (ICT) to support its business processes, and as such, the ICT facilities used to input, process, store, transmit and disseminate the FIUs information are viewed as vital. The Motto of the Department is '**Confidentiality**', '**Integrity**' and '**Availability**' (**CIA**) of all the FIU's ICT facilities.

The Legal and Policy Department ensures that the FIU is operating within its mandate, as stated in the Act and ensuring that at all times the FIU has excellent relations with various stakeholders which include law enforcement agencies and financial institutions. The Department also performs the functions of General Counsel for the FIU, by drafting and reviewing any documentation that the FIU needs to use to achieve its mandate, as well as acting as a liaison between the FIU and relevant stakeholders. Its liaison functions are exercised within and outside Malawi.

## 2. ACHIEVEMENTS AND HIGHLIGHTS IN THE PAST YEAR

### 2.1. Reinforcing Physical & Logical Security

The FIU is housed within the Reserve Bank of Malawi Headquarters following an agreement between the Ministry of Finance and Reserve Bank. In order to comply with best practices, office partitioning and physical demarcations have been erected to separate the FIU offices from RBM offices. Further to this, access controls have been placed on doors leading to the FIU offices to restrict access to FIU staff only. In order to track everyone who accesses the offices within the FIU offices, we have started the process of procuring cameras for installation in all strategic places. The installation is expected to begin within the first two months of the new financial year.

We have developed an ICT Security Policy, which ensures among other things that the FIU has;

- Adequate and relevant ICT facilities
- Appropriate security measures from physical and logical malicious attacks
- Appropriate business continuity processes in place
- Relevant skills by personnel for the operating systems
- Appropriate processes and procedures for enforcing the ICT policy

The ICT Security Policy also incorporates a strategy which encompasses all of the FIU's ICT requirements as per the Requirements Analysis drawn by each Department, whilst ensuring that relevant technology and infrastructure is being used and updated to meet international standards.

The security strategy also looks at issues on how information can be readily available to relevant personnel without compromising on integrity. This requirement is being met by the following restrictions:

- Electronic folders on the FIUs network are limited to departmental access. This ensures that officers of the FIU only have information on a need to know basis.
- Though the FIU web site is available to the general public, only Compliance Officers of financial institutions have access to online reporting forms upon registering with the FIU. The website provides up to date information on the FIU and on issues of money laundering and terrorist financing.

Further to this, the Monitoring and Analysis Office and the Server Room have biometric access control systems installed at the doors, such that only those whose finger prints were captured by the administrator are able to access these rooms. Any attempt to bypass these security measures will set off an alarm on the mobile phones of the three officers within the FIU. In terms of logical security, the FIU has installed a Cisco firewall, which protects the FIU's Local Area Network from being attacked by hackers through the connection to the Internet.

The FIU embarked on a project of developing business processes which is to ensure the integrity and confidentiality of the information in the possession of the FIU, by putting in place strict rules on who receives reports, how to maintain confidentiality throughout the analysis process, including during the referral process to law enforcement agencies.

## **2.2 Investing in Information & Communications Technology (ICT)**

A robust IT infrastructure is a core component of a modern FIU. FIUs require sophisticated data storage, retrieval and analysis technologies anchored by appropriate computer infrastructure. In order to keep pace with trends, the FIU acquired computers, laptops, projector and servers which possess the latest specifications on the market. These machines have enabled the FIU to implement some of its start up systems as it strives to get fully functional.

The FIU has managed to have its LAN and internet network installed and is currently hosting its website on its servers with the following address [www.fiumalawi.gov.mw](http://www.fiumalawi.gov.mw).

Furthermore, the FIU has acquired Microsoft Office and other software products to facilitate analysis of reports and storage of data. In order to ensure protection of data entrusted to the FIU, we also set up a separate computer network which stores the FIU database. This separation was necessary, upon realizing that the database contains sensitive and confidential information, which if linked to the internet network, may compromise the security of the data base and the FIU by internet hackers.

Procurement of the hardware and software packages has been made possible with assistance from the US Department of Treasury through the Millennium Challenge Corporation.

### 2.3 Sensitizing Stakeholders

As a new institution, the FIU noted that it was necessary to meet all key stakeholders such as reporting institutions, supervisory bodies and law enforcement agencies. In these meetings, the role of the FIU was explained, responsibilities of the respective stakeholders and the working relationship with the FIU was discussed in broad terms. One area that was emphasised during those meetings was the fact that the fight against money laundering is not an exclusive responsibility of the FIU but rather that each of the respective stakeholders have significant roles to play. Hitherto, the general mentality was that issues of money laundering belong to the FIU alone.

In addition to one-to-one interactions with stakeholders, the FIU made presentations at Quarterly Meetings of the Governor of the Reserve Bank and Members of Bankers' Association, Annual General Meeting of Society of Accountants and Institute of Internal Auditors.

## 2.4 Developing Domestic and International Cooperation

Domestic, regional and international cooperation are some of the key pillars of a successful AML/CFT strategy in view of the fact that the problems of money laundering and terrorist financing are complex, multi-faceted and global in nature. In recognition of this, the FIU has taken some steps to facilitate domestic and international cooperation.

### Domestic Cooperation

On the national level, the FIU in collaboration with the Ministry of Finance set up a National AML/CFT Committee. The committee comprises of the following organizations, Reserve Bank of Malawi, Ministry of Finance, Malawi Police Services, Malawi Revenue Authority, Anti Corruption Bureau, National Intelligence Service, Ministry of Foreign Affairs and the Financial Intelligence Unit. The mandate of this committee is to take a lead in coordinating AML/CFT activities. In this regard, the committee was central in coordinating the Malawi's AML/CFT evaluation by the World Bank. The committee has also ensured that Malawi is well represented at international meetings such as those of the Eastern and Southern Africa Anti-money Laundering Group (ESAAMLG).

The establishment of the Committee is not provided for in the ML Act. In this regard, following recommendations from the World Bank evaluation team, a cabinet paper has been written requesting the cabinet to give the National AML/CFT Committee more policy directing powers. Should this proposal be accepted, the composition of the committee will change to include top officials of the various agencies already represented on the committee.

### Regional Cooperation

On the regional level, Malawi as a country belongs to the Eastern and Southern Africa Anti-money Laundering Group (ESAAMLG). This is a grouping consisting of 14 countries in the eastern and southern region namely Botswana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. The group encourages

corporation between different countries, on AML/CFT issues, it also conducts research on typologies on AML/CFT issues, within the region such as typologies on drug trafficking and money laundering, or human trafficking and money laundering to name a few.

The FIU, together with officials from other agencies, has been attending meetings of the ESAAMLG. During the 2007/08, the country's representatives attended the meetings of Task Force of Senior Officials and Council of Ministers of ESAAMLG. In addition, as part of its commitment to the work of ESAAMLG, the FIU has participated in the AML/CFT evaluation of Zambia in November 2007.

### **International Cooperation**

As a new FIU, we are not yet members of Egmont Group of FIUs. However, in recognition of the fact that the work of the FIU requires, from time to time, exchanging information with other FIUs and law enforcement bodies, the FIU has introduced itself to FIU's around the world. Depending on what their respective legislation and policies permit, the FIU intends to enter into bi-lateral arrangements with some FIUs to facilitate the exchange of information.

Steps to prepare the FIU for Egmont membership will be taken in the coming year.

## **2.5 Ensuring Compliance with the ML Act**

Since the ML law is new and the FIU had just been set up, the FIU noted that it would be necessary to organise workshops before the reporting institutions start complying with the ML Act. The main purpose of adopting this approach was to share with the institutions highlights of the legislation, their reporting obligations and the contents of the reporting forms, amongst other things. Recognising the sectoral differences, the FIU thought it logical to hold the workshops sector by sector. After the workshops, reporting institutions then started submitting reports.

This virtually means that ensuring compliance with the ML Act was structured in phases.

The first workshop was organised for the Compliance Officers for banks, discount houses and other lending institutions. This was organised in conjunction with the Reserve Bank of Malawi. Among other issues tackled during this sessions were: their reporting obligations and procedures, protection of reporting officers and institutions as well as applicable penalties for non-compliance. Following this workshop, the institutions started submitting reports to the FIU.

Towards the end of the year, another workshop was held for lawyers in private practice. The ML Act designates lawyers as reporting institutions whenever they conduct financial transactions on behalf of their clients. The FIU shared with the lawyers that studies on the world scene have revealed that criminals are turning to lawyers to use them as vehicles for laundering their illicit proceeds. For this purpose, it has been deemed necessary to preserve the integrity and reputation of the legal fraternity by implementing mechanisms and systems that will protect them from being abused by the criminals.

The participants exchanged views on issues surrounding the reporting regime and demonstrated enthusiasm to comply with the ML law. At the end of the session, it was agreed that the FIU should fine tune the reporting form taking into account issues that emerged out of the discussions and prepare a client identification form for use by the lawyers. It is expected that these two forms will be finalised in the forthcoming year.

Besides the above workshop, another one was also held which targeted Auditors. The Audit Profession was quite receptive and was ready to incorporate standards and audit tests which check compliance with ML by their clients.

Such workshops proved to be very fruitful since each profession's approach to Money Laundering obligations is different hence the need to be handled differently.

## 2.6 Strengthening the Compliance Regime

Section 105 of the ML Act, states that the Minister may introduce ML Regulations, for the efficient carrying out provisions of the ML Act by all relevant stakeholders. The regulations basically simplify and in certain instances add detail to provisions of the ML Act. It would have been ideal for the regulations to have been passed immediately after the passing of the ML Act, but the unique circumstances in which the FIU had found itself during its establishment made this difficult. Despite these difficulties, the FIU has drafted and circulated the regulations to various stakeholders for their comments. Upon compiling the comments, a stakeholders' meeting at which those comments will be discussed, will be organised. The resolutions coming from the meeting will be used to revise the draft regulations.

In terms of Section 38 of the ML Act, there is need to introduce a reporting form that should facilitate declaration of currency whenever a person is leaving or entering Malawi. This is consistent with FATF Special Recommendation IX. For this reason, the FIU engaged the Malawi Police Service (Fiscal & Fraud Unit), Malawi Revenue Authority, Immigration Department and the Reserve Bank of Malawi and formed a committee to work on this project.

The Committee's main responsibilities are to:

- Propose a declaration threshold for cross border currency movement,
- Come up with a reporting form to be used by travelers,
- Draft a memorandum of understanding that will guide respective agencies in the implementation of the declaration requirements,
- Draw and implement a sensitization program for officers in all border posts and members of the general public.



The Committee has finalized all the documents which will then be presented to Ministry of Justice for legal guidance and preparing a notice in the Government Gazette. This will be followed by the sensitization program and implementation.

## **2.7 Building Capacity of the FIU, Financial Sector Supervisors and Agencies**

Considering that money laundering is a new and complex issue, it is necessary for all parties to develop skills and capacity in this area.

During the year, the FIU staff attended various courses organised by the IMF, World Bank, MEFFMI, ADB and ESAAMLG. One of the key training programs was the AML/CFT workshop on measures for FIU officials. This was quite relevant since the FIU was just being set up. The programs were also attended by officers from the Reserve Bank, Malawi Police Services, Anti-Corruption Bureau, Malawi Revenue Authority and Directorate of Public Prosecutions.

The FIU has benefited from assistance offered by other FIUs. The Financial Intelligence Centre in South Africa and the FIU in Mauritius agreed for members of staff of the FIU to undertake a study tour at their facilities. These tours helped the FIU get a picture of how FIUs are generally structured and to appreciate the workflow systems in place. From these visits, the FIU was able to determine how many employees will be needed at the FIU, the nature of software the FIU will need, among other issues.

In addition, with technical and monetary assistance from the United States of America Treasury Department's Office of Technical Assistance, the FIU organised training for investigators and prosecutors from the DPPs Chambers, Fiscal and Fraud Unit of the Malawi Police Service, Immigration Department, Malawi Revenue Authority and the Anti Corruption Bureau. This culminated into a Moot Court session which was presided over by a High Court Judge.

## 2.8 Delivering Rich Financial Intelligence

In terms of the ML Act, there are three types of reports that are supposed to be submitted to the FIU: suspicious transaction reports (STRs), large currency reports (transactions above K1 million) and cross-border currency reports (XCRs). Currently, the FIU receives STRs and LCTRs. Implementation of cross border reporting requirements awaits Government notice in the Gazette.

During the year under review, the FIU received 10 STRs one of which (having an aggregate value of MK654 million) was disseminated to law enforcement agencies; 3 Cross Border Currency reports with an aggregate value of US\$117,995 & UK£ 17,500; and 483,456 LCTRs. The Cross-Border reports were prosecuted by the Malawi Police Service and Directorate of Public Prosecutions and the rest of the STRs were still undergoing analysis as at the close of the year.

It is expected that in the coming year, the number of reports will increase following the growing number of reporting institutions and increased expertise of the compliance officers in detecting suspicious transaction reports.

## 3 OTHER ACTIVITIES

### 3.1 Developing a Strategic Plan

The FIU initiated the process of developing a strategic plan with assistance from an external consultant. A series of internal and external consultative meetings to achieve this objective, were held. The consultative meetings were intended to solicit views from all key stakeholders in terms of their expectations from the FIU. The strategic plan is expected to be finalised in the coming year.

### 3.2 World Bank AML/CFT Evaluation

Malawi underwent an AML/CFT assessment by the World Bank in the context of a Financial Sector Assessment Program (FSAP). This evaluation came at an opportune time because the report acted as a diagnostic tool by identifying the weak spots in the AML/CFT regime and offering recommendations to address the deficiencies. The report will guide us, illuminate the path and keep us focused in various activities such as the development and implementation of our strategic plan.

## 4 MAIN CHALLENGES ENCOUNTERED IN THE PAST YEAR

- Being the first year of operations, there were a lot of things that needed to be done such as setting up the office, develop policies and procedures, develop capacity of staff through training and study tours, engage reporting institutions and other domestic stakeholders, and analyse reports. The situation is expected to improve in the coming year.
- In the early part of the year, analysis of STRs has been slow due to the fact that the FIU has not yet populated its database with information that would help the analysis process; inadequate provision of information by banks and other sources and the lack of analysis software.
- Lack of understanding by financial institutions as to what constitutes a suspicious transaction. Most of the LCTRs which reporting institutions submitted should have been sent as STRs. However, we expect this to change as the institutions get experience and guidance from the FIU.
- Absence of a risk assessment to facilitate efficient allocation of FIU's resources and attention.
- The National AML/CFT Committee has not been able to meet regularly because of budgetary constraints experience by some member institutions.

## 5 PRIORITIES FOR COMING FINANCIAL YEAR

Since the FIU has been set up, it is now critical to recruit additional staff to fill a number of vacancies. This will enable the institution carry out activities lined up in the coming year. The new staff will undergo an induction program so that they are aware of the FIU working environment and ethics.

The FIU intends to conduct workshops covering foreign exchange bureaus, insurance companies, capital market players, real estate agents and casinos. The outcome of the workshops is that these sectors will start complying with the ML Act. In line with money laundering typologies, these sectors are vulnerable to abuse by criminals.

It is also critical for the FIU to conduct public awareness so that members of the general public are aware of the evils of money laundering. This will be carried out through the use of posters, billboards, flyers, public debates, phone-in programs, and press conferences.

Apart from sensitizing the public, the FIU will also enhance its relations with law enforcement agencies and other relevant stakeholders.

We need to put in place an effective compliance monitoring program to ensure that reporting institutions are in full compliance with the law. Related to this, we will make recommendations for the introduction of administrative monetary penalty regime. This regime will permit the FIU to impose effective and proportional penalties against non-complying institutions.

In the ICT area, the FIU plans to develop and implement an effective disaster recovery plan. These plans could be limited by lack of financial resources. The other limiting factor is the necessary up-to-date expertise which ICT staff might require to possess in order to maintain the latest technology in line with international standards.

Further to this the ML Act has a number of anomalies; plans in this regard include ensuring that most of the anomalies are ironed out. This includes ensuring that all the required financial institutions have been included as reporting institutions.

## 6 FINANCE AND ADMINISTRATION

The Finance and Administration department provides services of financial, human resource and administration. During the year under review the FIU received an allocation of K70 million from the national budget of Malawi. The Unit also received computer equipment worth K7.8 million from the United States of America Department of Treasury's Office of Technical Assistance.

Most of the activities were done within the allocated budget. However the Unit could not carry out all its intended activities as its allocated budget was K55 million less than the requested (K125 million). Due to lack of funds other institutions that are required to report under the Act were not sensitised. These include Bureaus, Casinos and Estate agents, among others. We were also not able to do a publicity program. However, as explained in Part 5.1 above, this is a core priority area in the coming financial year.

The FIU will in the coming year acquire an accounting package. It is hoped that the accounting package will reduce the work load in the Finance Department and thereby help in the production of management reports and financial statements in a timely manner.

## 7 FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

### **MANAGEMENT RESPONSIBILITY**

Management is responsible for preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

The financial statements have not been audited.

**INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED 30 JUNE 2008****Income and Expenditure for the Period Ending 30 June 2008**

	<b>Notes</b>	<b>MWK</b>	<b>MWK</b>
<b>Income</b>			
Revenue	4		71,719,793.00
Total Income			<b>71,719,793.00</b>
<b>Expenditure</b>			
Operating expenses	5		9,126,142.83
Administrative expenses	6		28,211,436.05
Total Expenditure			<b>37,337,578.88</b>
Surplus/ (Deficit)			<b>34,382,214.12</b>

**BALANCE SHEET****Balance Sheet as at 30 June 2008**

	Notes	30 June 08 MWK	30 June 07 MWK
<b>Noncurrent Assets</b>			
Property, Plant & Equipment	8	11,837,101	-
Total Non Current Assets		<b>11,837,101</b>	-
<b>Current Assets</b>			
Debtors	9	2,987,369	-
Cash at Bank and in Hand		24,349,592	-
		<b>27,336,961</b>	-
<b>Total Assets</b>		<b>39,174,062</b>	-
<b>Reserves and Liabilities</b>			
Reserves		34,382,214	-
<b>Current Liabilities</b>			
Trade and other payables	10	3,880,407	-
Accruals		911,441	-
Total Current Liabilities		<b>4,791,848</b>	-
<b>Total Reserves and Liabilities</b>		<b>39,174,062</b>	-

**CASH FLOW STATEMENTS**



	<b>30 June 08</b>	<b>30 June 07</b>
	<b>MWK</b>	<b>MWK</b>
<b>Cash flows from operating activities</b>		
Cash receipts	71,639,729	-
Cash Paid to suppliers and employees	<u>(35,341,598)</u>	-
Cash Utilised in operations	<b>36,298,131</b>	-
Interest received	80,064	-
<b><i>Net cash flow from operating activities</i></b>	<b>36,378,195</b>	-
<b>Cash Utilised in Investing Activities</b>		
Purchase of Property, plant & Equipment	(12,028,603)	-
<b><i>Net Cash flow from investing activities</i></b>	<b><u>(12,028,603)</u></b>	-
<b>Increase in cash and cash equivalent</b>	<b>24,349,592</b>	-
<b><i>Cash and cash equivalents at beginning of yr</i></b>	-	-
<b><i>Cash and Cash equivalents at end of yr (note7)</i></b>	<b><u>24,349,592</u></b>	

## NOTES TO THE FINANCIAL STATEMENTS

### Accounting Policies to the Annual Financial Statements for the year ended 30 June 2008

#### 1. Compliance with International reporting Standards

The financial statements have been prepared in accordance with the International Financial Reporting Standards (IFRS). The presentation of financial statements in accordance with International Accounting Standards requires management to make estimates and assumptions that reflect the reported amount and disclosures in the financial statements.

Actual results could differ from those estimates.

#### 2. Principal Accounting Policies

The following is the summary of the principal accounting policies used by the institution.

##### 2.1 Accounting Convention

The financial statements are prepared in terms of the historical cost convention.

##### 2.2 Revenue Recognition

In terms of section 18 of the Money laundering, Proceeds of Serious Crime and Terrorist Financing Act the expenses of FIU shall be met out of

- a) money appropriated annually by Parliament for the purpose of the Financial Intelligence Unit
- b) any government grants made to it; and
- c) any other money legally acquired by it, provided that the Financial Intelligence Unit may accept donations only with prior approval of the Director

##### 2.3 Income

The FIU was appropriated money by parliament and was given donations, in form of computer equipment from the Office of Technical Assistance of the US Treasury. Income has been accounted on accrual basis.

## **2.4 Expenditure**

All expenses have been accounted on an accrual basis.

## **2.5 Property, Plant and Equipment**

Property, plant and equipment are stated at cost less accumulated depreciation. Depreciation is calculated on a straight-line basis to write off the cost of each asset to its residual value over the estimated useful life. The review of the estimated useful life is performed annually both internally and externally. The estimated useful lives are as follows:

- Computer equipment                      3 years
- Office Equipment                            4 years
- Motor Vehicles                              4 years
- Office Furniture                              3 years

## **2.6 FIU Gratuity Fund**

Members of staff at FIU are on contract and are entitled to gratuity at the end of their contract. The FIU accrues the Gratuity funds and they are deposited in a separate account on a monthly basis.

## **2.7 Impairment**

At each balance sheet date, the FIU reviews the carrying amounts of its tangible assets to determine whether there is an indication that those assets have suffered

an impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss (if any).

If the recoverable amount of an asset is estimated to be less than its carrying amount, the carrying amount of the asset is reduced to its recoverable amount. Impairment losses are recognised as an expense immediately.

When an impairment loss subsequently reverses, the carrying amount of the asset is increased to the revised estimate of its recoverable amount, so that the increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognised for the asset in prior years. A reversal of an impairment loss is recognised as income immediately.

### **3. Critical accounting judgements made by management and key sources of estimation uncertainty**

#### **3.1 Critical accounting judgements made by management**

In the process of applying the FIU's accounting policies, management has made the following judgements that affect the amounts recognised in the financial statements and related disclosure.

##### **3.1.1 Impairment of noncurrent assets**

In making its judgements, management has assessed at each balance sheet date whether there is an indication that items of property, plant and equipment and other assets may be impaired. If any such indication exists, the recoverable amount of the asset is assessed in order to determine the extent of the impairment loss, if any. The recoverable amount is the higher of fair value less costs to sell and value in use.

## 3.2 Key Sources of estimation uncertainty

### 3.2.1 Property, plant and equipment residual values and useful lives

These assets are written down to their estimated residual values over their anticipated lives using straight line basis. Management reviews the residual values annually considering market conditions and projected disposal values. In assessing useful lives and residual values, maintenance programmes and technological innovations are considered. The carrying value of property, plant and equipment is disclosed in note 8 to the financial statements.

	<b>30 June 08</b>	<b>30 June 07</b>
	<b>MWK</b>	<b>MWK</b>
<b>4. Revenue</b>		
Government Funding	68,497,432.00	-
US Treasury Funding (IT Equipment)	2,815,120.00	-
Interest from bank	71,064.31	-
Miscellaneous	336,176.69	-
Total Revenue	<b><u>71,719,793.00</u></b>	<b><u>-</u></b>
<b>5. Operating Costs</b>		
Travel expenses	7,064,967.82	-
ICT	2,003,226.63	-
Other operating expenses	57,948.38	-
Total operating Costs	<b><u>9,126,142.83</u></b>	<b><u>-</u></b>

	<b>MWK</b>	<b>MWK</b>
<b>6. Administrative and other Expenses</b>		
General expenses	3,654,526.09	-
Staff Costs	17,734,918.05	-
Gratuity	1,163,158.07	-
Office expenses	2,462,691.77	-
Depreciation	2,410,468.69	-
Medical Insurance	223,000.00	-
Other expenses	562,673.38	-
	<b><u>28,211,436.05</u></b>	-

<b>7. Cash and Cash Equivalents</b>	<b>MWK</b>	<b>MWK</b>
Cash comprises cash at bank and in hand.		
Deposits and Bank balances	24,349,082	-
Cash on Hand	510	-
Total cash and cash equivalents	<b>24,349,592</b>	-

## 8. Property, Plant and Equipment

	<b>Computer Equipme nt MWK</b>	<b>Office Equipment MWK</b>	<b>Motor Vehicles MWK</b>	<b>Office Furniture MWK</b>	<b>Total MWK</b>
<b>Cost</b>					
At 1 July 2007	-	-	-	-	-
Additions	2,815,120	2,818,967	8,553,583	59,900	14,247,570
At 30 June 2008	2,815,120	2,818,967	8,553,583	59,900	14,247,570
<b>Depreciation</b>					
At 1 July 2007	-	-	-	-	-
Disposals	-	-	-	-	-
Charge for the yr	586,162	43,303	1,763,444	17,560	2,410,469
At 30 June 2008	586,162	43,303	1,763,444	17,560	2,410,469
<b>Net Book Value</b>					
At 30 June 2008	<b>2,228,958</b>	<b>2,775,664</b>	<b>6,790,139</b>	<b>42,340</b>	<b>11,837,101</b>
At 30 June 2007	-	-	-	-	-

	<b>MWK</b>	<b>MWK</b>
<b>9. Debtors</b>		
Staff Debtors	2,186,529	-
Other Debtors	800,840	-
	<b><u>2,987,369</u></b>	<b><u>-</u></b>

	<b>MWK</b>	<b>MWK</b>
<b>10. Trade and other Payables</b>		
Trade Creditors	2,717,249	-
Provision for gratuity	1,163,158	-
	<b><u>3,880,407</u></b>	-

## 11. Other Disclosures and Notes

There were two items that were not yet delivered as at year end and not invoiced. These items were Property Plant and Equipment and were worth K9,210,179.

The procurement process was in the final stages and Financial Intelligence Unit was committed to procuring these items.

The United States Treasury, through Office of Technical Assistance, also funded a trip for a colleague to a study tour of the Financial Intelligence Centre of South Africa. The cost of the trip is not reflected anywhere in the accounts as the US treasury paid directly for the cost of air ticket, accommodation and allowances.