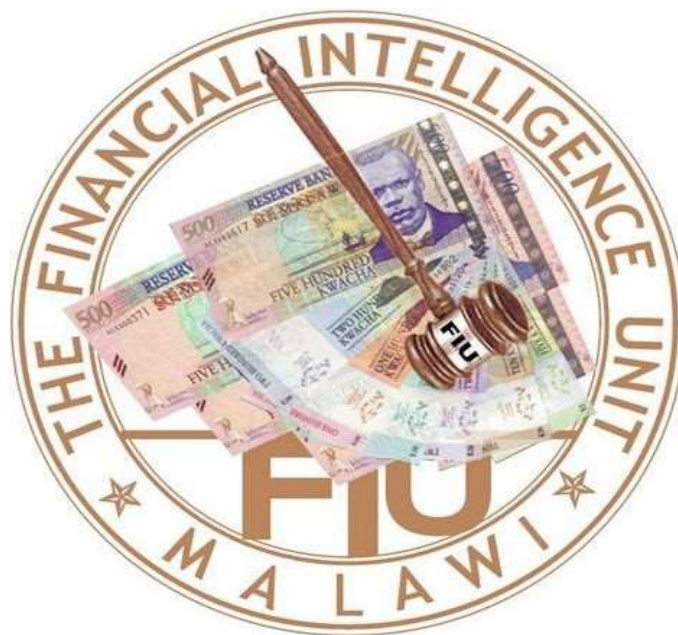

FINANCIAL INTELLIGENCE UNIT



**Annual
Report**

Year 2008 / 2009

Fighting Money Laundering And Terrorist Financing

31st December 2009

Honourable Ken Kandodo, M.P.

Ministry of Finance

P. O. Box 30049

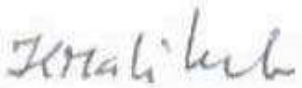
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Dear Minister,

2ND ANNUAL REPORT FOR THE FINANCIAL INTELLIGENCE UNIT

In accordance with section 21 (b) of the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act Cap 8:07 of the Laws of Malawi (ML Act), I am pleased to submit the second Annual Report on the operations of the Financial Intelligence Unit (FIU) for the year ended 30th June 2009.

Yours faithfully,



Tom Malikebu

DEPUTY DIRECTOR

BUILDING ON THE FOUNDATION

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MESSAGE FROM THE DEPUTY DIRECTOR

This second report of the Financial Intelligence Unit (FIU) covers the period from July 2008 to June 2009. The report outlines the various activities of the FIU as mandated by section 11 of the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act (2006), which include the receipt and analysis of reports, training financial institutions and law enforcement authorities, public awareness initiatives and compliance inspections, just to name a few.

During the year under review, the FIU received 7 Suspicious Transaction Reports (STRs) from Banks, 6 requests from Law Enforcement Agencies and 1 request from Financial Intelligence Centre of South Africa. A total of 13 reports were disseminated and of these, 4 were on STRs, 4 on Large Currency Transaction Reports (LCTRs) and 5 on the requests from Law Enforcement Agencies.

During this reporting period, most of the work of the FIU was guided by the recommendations made by the World Bank team which evaluated Malawi's AML/CFT regime in March 2008. The report highlighted a number of deficiencies and made recommendations for the FIU to implement in order to become more efficient and effective. In addition, the FIU also worked hard to meet the conditions which would allow it to join the Egmont Group of FIUs. On the basis of the remarkable progress made, the FIU was admitted as a member of Egmont in May 2009. The FIU's participation in the Egmont Group will enable it to have easy access to information from other FIUs which will facilitate speedy analysis of reports, and hopefully register significant impact on criminal investigations.

With support from the World Bank and Financial Services Volunteer Corps, the FIU conducted capacity building activities involving officers from Reserve Bank of Malawi,

Malawi Gaming Board, Director of Public Prosecution, Malawi Police Service, Anti-Corruption Bureau, and Registrar General's Office, among others. The aim of the training was for Malawi to develop a pool of experts who would become trainers and continue the training process within and outside their institutions. The World Bank Training Program was done in three phases, and future plans are for the local trainers to be carrying out training programs every year.

Another achievement made during the year was the preparation of a National AML/CFT Strategic Plan. This Plan, which has since been submitted to Government for adoption, was prepared through a collective effort of all members of the National AML/CFT Committee. In a nutshell, this strategic framework provides guidance and sets direction in the fight against money laundering during the next five years. It will help the country stay focused on core priorities while providing response to any new needs and circumstances.

Lastly, I want to register my profound gratitude to the Ministry of Finance, Reserve Bank of Malawi and all members of the National AML/CFT Committee for their continued support to the work of the FIU. I also recognize the role played by FIU staff for steering the activities of the FIU with commitment throughout the year.

Tom Malikebu
DEPUTY DIRECTOR

1. INTRODUCTION AND AML/CFT OVERVIEW

1.1. The FIU's Mandate

The FIU was established in August 2007 under Section 11 of the ML Act, to detect and deter money laundering and terrorist financing by providing critical information related to financial transactions to support the investigation and prosecution of money laundering and terrorist financing offences.

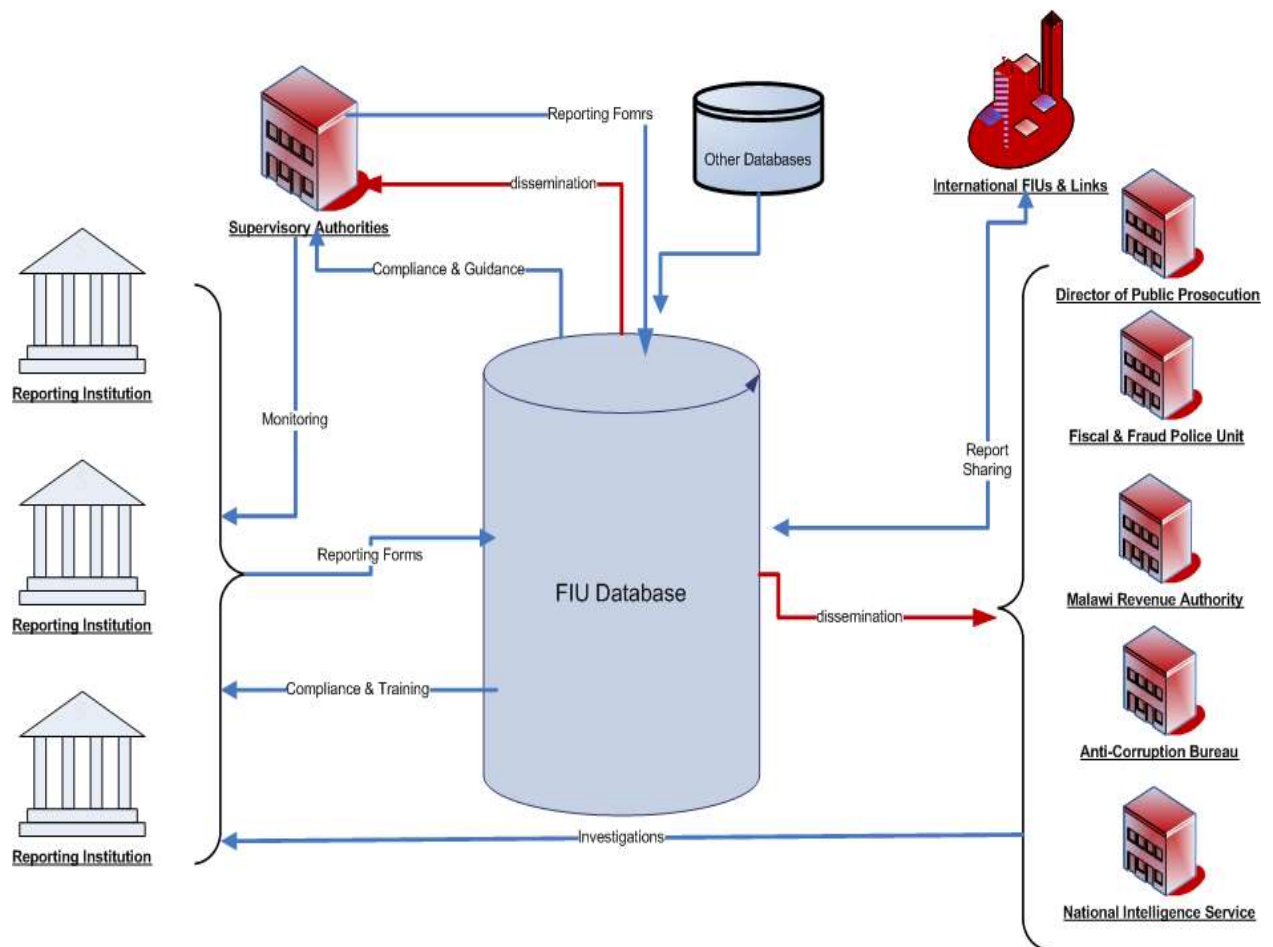
More specifically, the FIU's mandate is to:

- receive and request disclosure of financial information on transactions and other information relevant to suspected money laundering and terrorist financing activities;
- receive reports on the cross-border movement of large amounts of currency or monetary instruments;
- analyze and assess the information it receives to substantiate possible existence of money laundering or terrorist financing activities;
- provide appropriate law enforcement authorities with financial intelligence that it suspects would be relevant to the investigation or prosecution of money laundering and terrorist financing offences;
- monitor compliance by financial institutions and other reporting entities with their obligations under the ML Act and regulations;
- educate the public and create awareness on matters related to money laundering and terrorist financing;
- prepare and deliver training programs to financial institutions with a view to facilitate their compliance with the ML Act;
- conduct research into trends and developments in the area of money laundering and terrorist financing and improved ways of detecting, preventing and deterring money laundering and terrorist financing; and

- Extend assistance to foreign jurisdictions with respect to property tracking, monitoring and confiscation orders.

1.2. The FIU's Business Process

- The FIU receives information about financial transactions from different entities.
- The reports are analysed together with information sourced from databases of other institutions to develop financial intelligence in order to detect money laundering or terrorist financing activities.



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 metals and stones.

- Where appropriate, financial intelligence pertaining to suspected money laundering or terrorist activities is disseminated to law enforcement agencies for their further investigation.

Money laundering involves criminally turning “dirty” money or other proceeds of crime derived from either fraud, corruption, tax evasion, drug trafficking, robbery, and other crimes 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 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.

1.3. Who We Are

The FIU is an autonomous national agency, operating in collaboration with governmental departments and agencies to which it can provide financial intelligence. It is funded by the Malawi Government through the national budget and may receive financial assistance from other donors. The FIU reports to Parliament through the Minister of Finance.

The FIU is headed by a Director appointed by the President, subject to the approval of the Public Appointments Committee of Parliament. The Director is

the Chief Executive Officer of the FIU responsible for managing its affairs including employing staff and administering the FIU's budget. The Director is required to report to the Minister of Finance from time to time on the exercise of these powers and the performance of duties authorized under the ML Act. The Director may also advise the Minister on matters that may affect public policy.

1.4. The FIU's Vision

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

1.5. The FIU's Mission

To prevent and detect money laundering, terrorist financing and related financial crimes by providing quality intelligence to law enforcers and foreign FIUs.

The FIU's commitment extends to the provision of training, development and employment of an effective compliance framework to reduce ML and TF risks and implementation of public awareness on the effects of ML & TF on the economic and financial stability of Malawi. In this regard, the FIU shall engage suitably qualified professionals who will conduct themselves with integrity and professionalism.

1.6. The FIU's Values

These values represent core priorities in the FIU's culture. To this end, the FIU shall:

- Carry out its mandate with a sense of **INTEGRITY** by among other things demonstrating honesty, respect and discipline.
- Strive for **EXCELLENCE** and **PROFESSIONALISM** in conducting its 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 its stakeholders.
- In adherence to international standards, **OPTIMISE INTERDEPENDENCE** with local and international agencies.
- Be **ACCOUNTABLE** and **TRANSPARENT** in the use of its resources and information in adherence to good governance norms.
- Be encouraged to be **CREATIVE & INNOVATIVE, ADAPTABLE & FLEXIBLE** with an emphasis on effectiveness of the work and not necessarily adherence to tradition.

1.7. The FIU's Strategic Objectives

The FIU is in the process of finalizing its strategic plan which articulates key strategies, activities and resources necessary to combat money laundering and terrorist financing in the country in pursuant to FIU's mandate. The Plan covers the period 2010 to 2015.

Among the key strategic objectives that the FIU has set to achieve is to increase the number of reports analyzed and disseminated to law enforcement agencies and facilitate the prosecution process of offences of money laundering and terrorist financing. However, for the FIU to achieve these objectives, it requires to receive quality reports from reporting institutions. The FIU has therefore already initiated a comprehensive training programme for compliance officers on reporting requirements and identification of suspicious transactions.

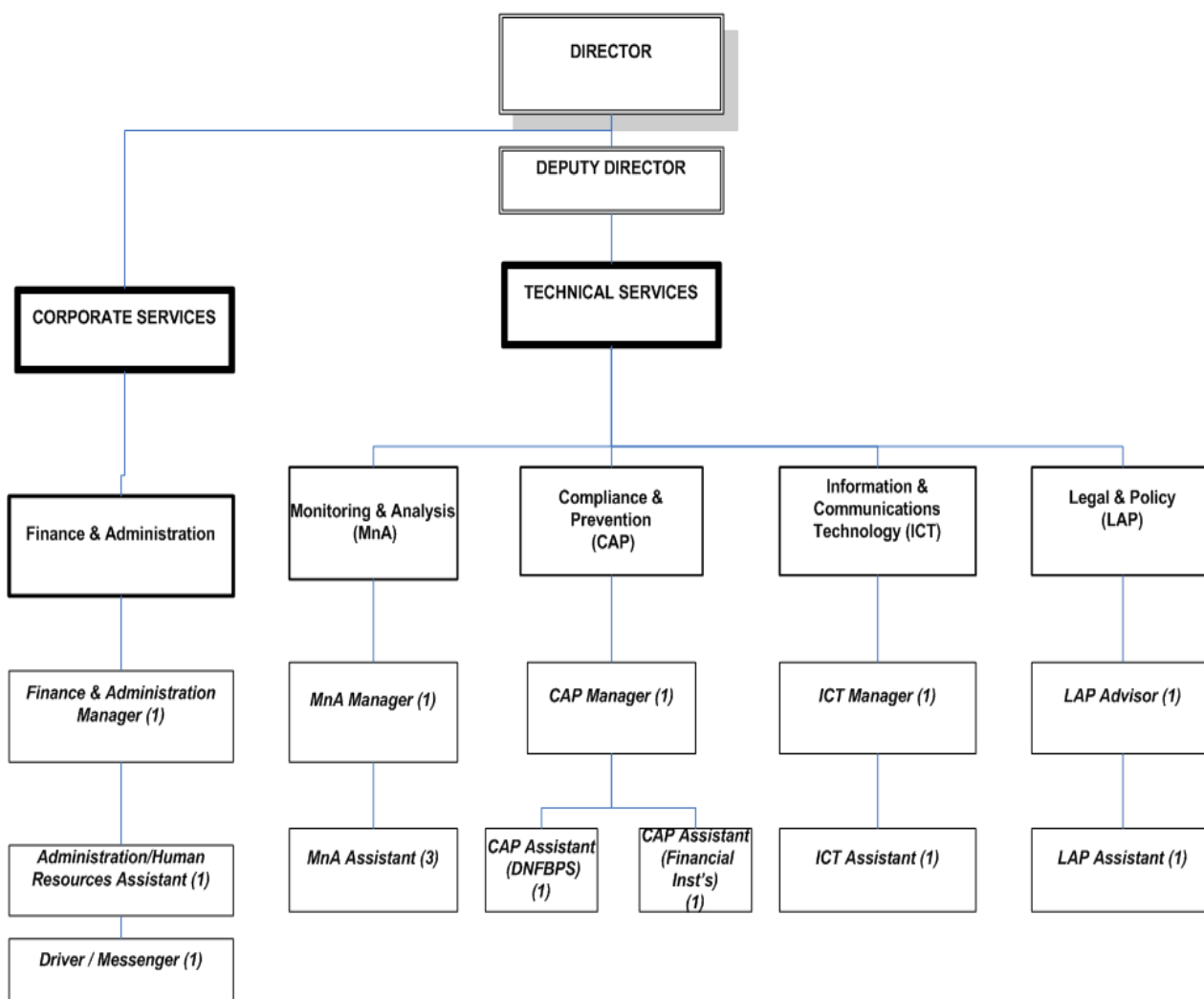
The FIU has also developed a public awareness plan to address the shortfall in this area. This initiative will ensure that key players such as the public, reporting

institutions, supervisory institutions and enforcement agencies are aware of their roles and responsibilities in the fight against money laundering and terrorist financing. The process of procuring public educational and informational materials such as billboards, leaflets and posters was already in progress as at the close of the year.

The attainment of a strengthened coordination among key AML/CFT service providers in the country is the third strategic objective. Improved coordination will reduce role conflicts and overlaps and improve access to relevant information by key players. The FIU will strive to put in place MOUs with key AML/CFT related institutions, facilitate the establishment of an inter-agency working group and effective data management system which will ease the sharing of information among institutions.

The FIU would like to see an improvement in its regulatory capacity on AML/CFT issues. At present, some professional and regulatory bodies have no clear AML/CFT related standards in place. Further to this, ambiguities exist in the interpretation and application of the ML Act and there is inadequate coordination and linkages among various regulating stakeholders. To achieve an enhanced regulatory framework, the FIU plans to review existing key national regulations for AML/CFT gaps; finalize and operationalize new regulations; establish coordination mechanisms among regulators; develop clear plans, systems and processes for compliance audits, and conduct regular compliance audits of financial institutions.

1.8. Structure of the Malawi FIU



As shown in the organisational structure, there are two main divisions: Corporate Services and Technical Services. The Finance and Administration Department is the only department under the Corporate Services Division, reporting directly to the Director. This department handles financial and budgetary matters, ensuring the FIU has adequate funding and operates within its allocated budget. Further to this, the Department carries out all the administrative and human resource functions to ensure that the FIU runs its operations smoothly.

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

Monitoring and Analysis Department

The Monitoring and Analysis (M&A) Department is responsible for the core functions of the FIU which are receiving and analyzing reports that are submitted by institutions as defined in the ML Act. In terms of the ML Act, the FIU is mandated to receive large currency transaction reports (LCTRs – which are all transactions above K1 million) and suspicious transaction reports (STRs) and cross-border currency reports (XCRs). Currently, only STRs and LCTRs are being received.

Upon receipt of these reports, the department analyses the information 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 LEAs such as the Malawi Revenue Authority, the Anti-Corruption Bureau and the Malawi Police Service to carry out appropriate investigation for possible prosecution.

Further to this, the M&A Department handles requests for information from local and international agencies.

Compliance and Prevention Department

The objective of the Compliance and Prevention (CAP) Department is to ensure that all relevant stakeholders are aware of their obligations and comply with the provisions of the ML Act and its relevant regulations.

In carrying out its functions, the Department conducts several activities which include:

- The actual monitoring of compliance by financial institutions through onsite inspections and offsite surveillance,
- Provision of guidance in the areas where the ML Act or regulations are ambiguous or in conflict with other obligations that relevant stakeholders have under other Acts of Parliament, and
- Drawing and implementing a public awareness strategy to ensure that Malawians are aware of money laundering issues, and conducting training programs for reporting institutions.

Information & Communications Technology Department

The Information and Communications Technology (ICT) department is central in ensuring that the Financial Intelligence Unit (FIU) has the required infrastructure and systems to perform its functions. The department ensures that the FIU has adequate ICT infrastructure, analysis software and other business applications, a functioning database and established ICT processes, among others. This department also ensures that the FIU's information is well secured to maintain its integrity. The nature of the work of the FIU makes it highly reliant on ICT to support its business processes, as such the ICT facilities used to input, process, store, transmit and disseminate the FIU's information are very vital. The motto of the Department is '**Confidentiality**', '**Integrity**' and '**Availability**' (**CIA**) of all the FIU's ICT facilities.

Legal and Policy Department

The Legal and Policy (LAP) Department ensures that the FIU is operating within its mandate, as stated in the ML Act and that at all times the FIU has excellent relations with various stakeholders who 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 point of liaison between the FIU and relevant stakeholders. Its liaison functions are exercised within and outside Malawi.

2. ACHIEVEMENTS AND HIGHLIGHTS IN THE REPORTING YEAR

2.1 Reinforcing Physical & Logical Security

The FIU is housed within the Reserve Bank of Malawi (RBM) Headquarters in Lilongwe following an agreement between the Ministry of Finance and the RBM. 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 by FIU staff only. In order to track everyone who accesses the FIU offices, cameras have been installed in all strategic places and a computer has been set to keep copies of the events from these places. We have developed an ICT Security Policy which ensures, among other things, that the FIU has:

- Adequate and relevant ICT facilities;
- Appropriate security measures against physical and logical malicious attacks;
- Appropriate business continuity processes;
- Relevant skills by personnel for the operating systems; and
- Appropriate processes and procedures for enforcing the ICT Security 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 are being used and updated to meet international standards.

Further, the Security Policy looks at issues of 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 FIU's 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 website is accessible by 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 the office. Any attempt to bypass these security measures will set off an alarm on the mobile phones of 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 (LAN) from being attacked by internet hackers.

In addition to this, when signing Memorandums of Understanding (MoUs) with other institutions, the FIU ensures that the MoU states that all information should only be used for the purpose it is intended, and further to that the concerned institution should ask for permission from the FIU should they want to give the information to a third party.

2.2 Investing in Information, Communications and Technology (ICT)

The FIU acquired an external hard drive to ensure back up is done regularly and securely. This is in line with the current version of the FIU's ICT Policy. As a best practice, the external hard drive is safely and securely kept away from the FIU premises. Routinely, all FIU data is backed up and the device is taken back to its secure location. All back up data stored on this hard drive is encrypted with state of the art software. In the unlikely event that it is intercepted by third parties, the contents of the hard drive are irretrievable. Only ICT staffs of the FIU have access to this data. In case of a natural disaster affecting the FIU premises, continuity of our operations is guaranteed.

During this financial year, the FIU also procured a customized database system called FIMTRAC. The database is currently being populated. The FIU already has i2 Analyst's Notebook Software and within the next six months, an expert from Investigative Software Solutions (Providers of Analyst Notebook Software) will connect the database to i2 Analyst's Notebook software. This will ensure quality and more accurate analysis of reports by the FIU.

The FIU in conjunction with NetLink Solution, developers of FIMTRAC, introduced a spreadsheet format which the financial institutions have adopted. Weekly LCTRs are usually bulky and the format has helped to automate data upload to the database.

The FIU achieved another milestone in the year under review through implementation of electronic exchange of files system with financial institutions. The FIU receives confidential information, as such encryption software, TrueCrypt, was installed in all concerned financial institutions that currently submit reports. Compliance Officers from those institutions were trained in the use of this software. In brief, the files are encrypted before being sent and then decrypted upon receipt at the other end. This helps in terms of providing protection against unauthorized access by third parties as only those with the passwords can decrypt the files. The installation of this software has also significantly reduced costs of sending the reports by courier.

One of the challenges that the institution has been facing is remote access to its e-mails and other information while working offsite or attending workshops. Delivering a messaging system that addresses these needs must be balanced against other requirements such as security and cost. While security is clearly a priority, ICT is ever cognizant of the need to manage cost. Having unlimited access to e-mail and voice mail is going to be a huge benefit as FIU staff can access information and interact with others using a variety of devices when at work and away from the work station. The FIU is, therefore, in the process of acquiring Microsoft Exchange 2007 in order to solve this problem. This will result into increase in productivity.

2.3 Ensuring Compliance by Reporting Institutions

In the past year, the FIU has conducted sensitization workshops with the following stakeholders.

- **Forex Bureaus**

Forex Bureaus in the country were trained on the various aspects of anti-money laundering and combating the financing of terrorism (AML/CFT), the anti-money laundering law in Malawi, and the sector's obligations with regard to submitting reports to the FIU.

However, the Forex Bureaus were concerned that the application of the law will necessitate them to make heavy financial investments like buying computer equipment for electronic storage and having a big space for storage purposes. A further complaint was that they were not sure if they would remain in business after the court case with the Reserve Bank on their operating licences.

Nevertheless, this sector demonstrated willingness to start implementing the ML Act by reporting to the FIU with effect from 1st June 2009. By 30th June 2009, the FIU had received 3 reports from some forex bureaus.

- **Insurance companies and Capital Market Players**

Insurance Companies and Capital Market Players, which include stock brokering and stock exchange firms, participated in a training program on AML/CFT in their industry and their obligations to report to the FIU on suspicious financial transactions.

Insurance Companies were trained despite the fact that they are not included as financial institutions in the ML Act. They have agreed to be submitting reports to

the FIU realizing that this will curb fraud that has hit the industry. However, the FIU can only receive the reports and not conduct compliance audits as it is not stipulated for this industry in the ML Act.

The trainings were co-sponsored by the Financial Services Volunteer Corps (FSVC) and the FIU.

- ***Banks and other Lending Financial Institutions.***

This was a follow up on the training conducted in 2007. The aim was to assess how financial institutions were doing with regard to making reports to the FIU, what challenges they were facing and how they could be improved upon.

The sessions helped bankers to take an initiative on leveling the playing field among all banks when conducting Customer Due Diligence. It had previously been reported that some banks were compromising on the application of the requirement and attracted more customers than those who applied it to its appropriate standard.

This training was also co-sponsored by FSVC and FIU.

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

The National AML/CFT Committee, of which the FIU is secretariat, had been working together on a number of aspects in the past year. There have been a number of developments in the Committee. Firstly, membership of the committee has increased, and it now includes the Immigration Department and the Malawi Gaming Board. These institutions were included due to their strategic nature as institutions in that are likely to note money laundering activities.

The mandate of the committee is to lead in coordinating AML/CFT activities, and in furtherance of this mandate, the Committee has drawn up a National AML/CFT Strategy which will guide institutions in the Committee to systematically fight against money laundering and terrorist financing. In drawing up the National Strategy, the Committee also co-opted the Council for Non-Governmental Organisations (CONGOMA), in order to benefit from their knowledge on regulating Non-Governmental Organizations (NGOs).

The Committee has made great strides, although it does not have legal mandate to operate. However, the cabinet paper that was filed in 2008 has since been re-filed. The paper requests cabinet to give the National AML/CFT Committee more policy guidance powers. Should this proposal be accepted, the composition of the committee will change to include top officials of the various agencies already represented in the Committee.

Apart from its participation in the Committee, the FIU has in line with Section 11 (2) (q) concluded MoUs on regulating the exchange of information with the Immigration Department. Plans are underway to conclude MoUs with the Reserve Bank of Malawi and the Malawi Police Service, among others. The FIU has also been working closely with the Immigration Department, the Malawi Revenue Authority (MRA), RBM and Malawi Police Service to finalize an MOU that will facilitate the implementation of a cross-border currency reporting regime.

The FIU acts as a point of contact on behalf of the Committee with regard to communications from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

Regional Cooperation

At the regional level, Malawi continues to be an active member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). This, currently, is a grouping of 14 countries in the eastern and southern region Africa, namely: Botswana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. The group encourages cooperation between different countries such as conducting research on typologies on ML/FT issues.

Officials from the FIU and other agencies have been attending meetings of the ESAAMLG. During the 2008/09, the country's representatives attended the meetings of 18th Task Force of Senior Officials and 9th Council of Ministers of ESAAMLG as well as the 10th Anniversary celebrations of ESAAMLG in Maseru, Lesotho. The country's Minister of Finance attended the Council of Ministers meeting.

As part of its commitment to the work of ESAAMLG, the FIU participated in the AML/CFT evaluation of Tanzania in January 2009. Further to this, Malawi was tasked with hosting the 2010 Council of Ministers meeting to be held in August.

The FIU has also concluded MoUs on exchange of information with the Financial Intelligence Center (FIC) of the Republic of South Africa. Concluding an MOU with FIC is particularly important for Malawi considering the amount of trade and other relations that take place between the two countries. Other FIUs that have been approached for possible completion of MoUs are the Republic of Mozambique, the Republic of Zimbabwe, and the Republic of Namibia.

International Cooperation

The most significant development on the international front is that the FIU was admitted to the Egmont Group of FIUs. This happened following an evaluation of the Malawi FIU by the FIUs of the Republic of South Africa and the Republic of Mauritius, who also acted as mentors during this process. The purpose of the evaluation was to determine if the FIU was indeed operational and if it met the Egmont definition of an FIU. Having met the requirements, Malawi was admitted at the Egmont Head of FIUs Meeting held in Doha, Qatar, in May 2009.

The FIU has also taken an initiative to conclude MoUs on exchange of information with FIUs from the United Arab Emirates. The MoU will help the two FIUs to exchange information on money laundering, terrorist financing and other financial crimes in a safe and controlled environment.

2.5 Ensuring Compliance with the ML Act

The FIU continues to train relevant reporting entities to ensure compliance with the ML Act. The FIU adopted a phased approach whereby implementation of the ML Act is done sector by sector, considering the unique differences across the financial institutions. In order to facilitate the implementation, the FIU organizes training for a particular sector after which that sector starts complying with the ML Act. Issues discussed at the trainings included reporting obligations and procedures, record keeping, protection of reporting officers and institutions as well as applicable penalties for non-compliance.

- **Forex Bureaus**

The FIU conducted trainings for all forex bureaus in the central and southern regions from 19-20th February 2009 in Lilongwe and from 2-6th March 2009 in Blantyre.

The trainings also provided a forum for exchange of views and concerns. Among others, the forex bureaus expressed a concern that application of customer identification requirements would cause some customers to be uncooperative and opt to do foreign exchange transactions on the black market.

- ***Insurance companies and Capital Market Players***

Institutions under these industries underwent training by the FIU with technical assistance from the FSVC.

- ***Banks and other Lending Financial Institutions.***

After training these institutions, the FIU and the RBM, with technical assistance from FSVC, commenced conducting onsite and offsite compliance audits of the institutions. In June 2009, examiners of FIU and Reserve Bank conducted compliance audits on two commercial banks; namely, First Merchant Bank and NBS Bank (Capital City and Lilongwe branches). The examiners drew a scope for conducting examinations on financial institutions in future. As the FIU is still building its capacity to undertake examinations, plans are underway to develop a comprehensive programme for monitoring and enforcing compliance through such audits.

2.6 Strengthening the Compliance Regime

In accordance with section 105 of the ML Act, the FIU has drafted AML regulations for the efficient carrying out of provisions of the ML Act by all relevant stakeholders. The Regulations simplify and add detail to provisions of the ML Act. A stakeholders meeting was organized to get input on the draft Regulations. The process of finalizing the Regulations is still underway, as FIU has had to struggle with deciding whether to have separate regulations for each sector, or to have regulations that

cover all financial institutions. In a bid to resolve this, the FIU has had consultations with other FIUs, and will have the draft regulations checked by drafting and money laundering experts. The service cost of these experts will be provided under the auspices of FSVC. The FIU plans to have the regulations finalized in the next financial year.

The implementation of Section 38 of the ML Act, which requires that travelers leaving or entering Malawi should make declaration of currency in their possession in line with FATF Special Recommendation IX, is yet to be finalized. The finalization has taken some time because this is an issue that involves several institutions, and therefore coordination is not always easy.

In a bid to speed up the process, the FIU has directly engaged the MRA, which is the key institution with regard to cross-border transportation of currency. It is hoped that this new approach will result in the FIU and the MRA signing an MoU with a comprehensive plan on how to implement the provisions of Section 38 (1) of the ML Act.

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

The FIU is committed to enhancing the skills of its staff for them to carry out their duties effectively and efficiently.

Members of staff in the Monitoring and Analysis Section have undergone training in South Africa on Analyst's Notebook. With the knowledge gained, the analysts will be able to produce and disseminate reports that are well analyzed and rich in information to assist law enforcers and other users of the information to make relevant decisions.

ICT staff members were also trained to enable them design better IT systems to cater for the needs of the FIU as it develops.

The Monitoring and Analysis Specialist was attached to South African FIC for a week in the year under review. The attachment proved vital as the practicalities of differentiating analysis and investigation were learnt. The attachment also led to the drawing up of business flow for the Monitoring and Analysis department.

The Deputy Director attended a workshop on Leadership in Financial Market Integrity in the United States of America.

In order to enhance the skills and capacity of law enforcers, supervisory bodies and other stakeholders in the AML/CFT initiatives, the World Bank funded a 3 phase training programme. The participants were investigators, prosecutors and other officers from the Director of Public Prosecutions (DPP) chambers, Fiscal and Fraud Unit of the Malawi Police Service, Immigration Department, MRA, the Anti-Corruption Bureau, the Registrar General, RBM, the Malawi Gaming Board and the FIU. The trainings were conducted by 9 local trainers and were mentored by World Bank experts in money laundering, terrorist financing and related financial crimes.

The areas that participants were trained in were wide and varied. This included gathering intelligence, prosecuting ML/FT cases, supervision of financial institutions and casinos, trends and typologies of money laundering and how they can apply the skills in identifying money laundering and terrorist financing.

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 transaction 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 the finalization of an MoU between relevant institutions.

During the period under review, the FIU received 7 STRs from banks, 6 requests from LEAs and one request from Financial Intelligence Centre of South Africa.

Thirteen (13) reports were disseminated to the LEAs. Of the disseminated reports, 4 were based on the STRs; 4 based on the LCTRs and 5 based on the request from the LEAs.

Customer Due Diligence (CDD) on customers of banks remains a challenge as most of the banks have not completed the CDD requirements for their existing customers. This is a crucial part for banks to be able to identify suspicious transactions.

The FIU has taken an initiative to ask banks to complete the CDD requirements as soon as possible and that all customers not complying with this should have their accounts closed.

3. MAIN CHALLENGES ENCOUNTERED IN THE PAST YEAR

- To date, financial institutions are still reporting LCTRs which really would have been reported as STRs. The FIU plans to engage the financial institutions, including their branches, in a series of trainings that will enhance their ability to notice suspicious transactions.
- Due to the continued phased approach to sensitizing stakeholders and capacity building of law enforcement agencies and supervisory authorities, the FIU has not been able to sensitize some DNFBPs like real estate agents, casinos and dealers in precious stones. It is expected that they will be sensitized by the first half of the coming financial year.
- Despite acquiring Analysis Software, the FIU has not yet used the automated analysis to a great extent because the initial populating of the database has not been finalized as the Analyst's software relies heavily on a database. A consultant from Investigative Software Solutions in South Africa is expected to link the Analyst Software with the database in the second quarter of 2009/2010 financial year.
- Absence of a risk assessment of the financial system on ML/TF to facilitate efficient allocation of FIU's resources and attention remain a problem.
- Banks have not completed Customer Due Diligence procedures and this is affecting the work of FIU. Without CDD, it is difficult for the banks to identify and report suspicious transactions. It is through CDD that banks are able to note any unusual deposits or transactions that are not related to the economic activities of the individual or company.

4. PRIORITIES FOR THE COMING FINANCIAL YEAR

The FIU intends to conduct workshops covering dealers in precious stones, real estate agents, money transmitters and casinos. The intended 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.

The FIU floated tenders for public awareness materials. It is critical for the FIU to conduct public awareness so that members of the general public are aware of the evils of money laundering. Initially, the public awareness campaign will involve the use of posters, billboards and newspaper inserts. In the long run public debates, radio programs and press conferences will also be used.

Apart from sensitizing the public, the FIU intends to be on the forefront in enhancing capacity of staff in law enforcement agencies, supervisory authorities and other relevant stakeholders. In this regard, the 8 local trainers (trained by the World Bank) will be responsible for conducting workshops and trainings locally. We plan to hold at least two training programs annually, with at least 22 participants per training drawn from various law enforcement agencies and supervisory authorities.

New staff in Monitoring and Analysis will in September 2009 attend training on Analyst's Software in South Africa. The training will come at a crucial time as the FIU will be relying heavily on automated analysis.

Staff in the Compliance and Prevention Department will go on a study tour to the Financial Intelligence Centre of Namibia to learn best practices and how they have operationalized their compliance regime, structure and workflow processes. The lessons learnt from this study tour will assist the FIU develop better programmes and mechanisms for monitoring and enforcing compliance and other processes, thereby balance the issues of security of information, development of staff and good practices.

The FIU needs to put in place an effective compliance monitoring program to ensure that reporting institutions are in full compliance with the law. Members of staff of FIU

have been trained in conducting compliance audits. Related to this, the FIU will make recommendations for the introduction of an administrative monetary penalty regime in order to enforce compliance. This regime will permit the FIU to impose effective and proportional penalties against non-complying institutions.

On ICT, the FIU plans to develop and implement an effective disaster recovery plan. However, this plan 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.

The FIU has started working on the loopholes that are in the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act for possible amendments aimed at ensuring that all the required financial institutions have been included as reporting institutions.

5. 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 K83.5 million from the national budget of Malawi although the actual amount remitted by Treasury to FIU amounted to K80.5 million.

The FIU also received K6.7 million from the United States of America Department of Treasury's Office of Technical Assistance. This money was used to pay consultants for Database Development and allowances for various trainings in Analyst Software and ICT (SQL). The USA Treasury made direct payments to the concerned parties towards meeting these expenses.

The office of Technical Assistance of US Treasury also acquired the following items for the FIU:

- Analyst Notebook Software \$ 9,000.00
- iBase Designer with SSE Licence \$10,700.00
- iBase User with SSE License \$ 5,225.00
- iBridge User Licence \$ 4,675.00
- Microsoft SQL Server 2005
- Microsoft Visual Studio 2005

The FIU wishes to commend Government, in particular the Treasury, for improvements in the remittance of monthly funding. FIU is now able to do its planned activities in time.

The FIU also acknowledges the support it has received from the US Department of Treasury through the Office of Technical Assistance (OTA).

The FIU is also grateful to USAID who also purchased the following equipment for FIU in the period under review:

- HP Color LaserJet 3000 Printer,
- Cross cut Shredder,
- Servers,
- Server Rack,
- Computers,
- Safe 280 liters,
- CCTV Cameras,
- Phone switchboard

The FIU is in the process of acquiring an accounting package which will reduce the workload in the Finance Section and thereby help in the production of management reports and financial statements in a timely manner.

FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2009

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 controls 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 2009

Income and Expenditure for the Period Ending 30 June 2009

	Notes	MWK 2009	MWK 2008 Restated
Income			
Revenue	4	97,787,192	71,875,341
Total Income		97,787,192	71,875,341
Expenditure			
Operating expenses	5	23,203,247	8,765,156
Administrative expenses	6	63,988,265	28,644,369
Total Expenditure		87,191,512	37,409,525
Surplus/ (Deficit)		10,595,680	34,465,816

BALANCE SHEET**Balance Sheet as at 30 June 2009**

	Notes	30 June 09 MWK	30 June 08 MWK Restated
Noncurrent Assets			
Intangible Assets	9	6,297,600	-
Property, Plant & Equipment	8	21,945,935	11,983,642
Total Non Current Assets		28,243,535	11,983,642
Current Assets			
Debtors	10	3,174,901	2,870,167
Prepayments		216,615	-
Loan Revolving Account		2,173,528	-
Cash at Bank and in Hand		12,608,566	24,349,092
		18,173,610	27,219,259
Total Assets		46,417,145	39,202,901
Reserves and Liabilities			
Reserves		45,061,495	34,465,816
Current Liabilities			
Trade and other payables	11	974,675	3,739,336
Accruals		380,975	997,749
Total Current Liabilities		1,355,650	4,737,085
Total Reserves and Liabilities		46,417,145	39,202,901

CASH FLOW STATEMENTS

	30 June 09	30 June 08
	MWK	MWK
Cash flows from operating activities		
Cash receipts	97,402,135	71,639,729
Cash Paid to suppliers and employees	(79,324,361)	(35,223,098)
Cash Utilised in operations	18,077,774	36,416,631
Interest received	86,122	82,064
<i>Net cash flow from operating activities</i>	18,163,896	36,498,695
Cash Utilised in Investing Activities		
Purchase of Property, plant & Equipment	(27,730,894)	(12,149,603)
<i>Net Cash flow from investing activities</i>	(27,730,894)	(12,149,603)
Increase in cash and cash equivalent	(9,566,998)	24,349,092
<i>Cash and cash equivalents at beginning of yr</i>	24,349,092	-
<i>Cash and Cash equivalents at end of yr (note7)</i>	14,782,094	24,349,092

NOTES TO THE FINANCIAL STATEMENTS

Accounting Policies to the Annual Financial Statements for the year ended 30 June 2009

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 the 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 Intangible Assets

Intangible assets are initially measured at Cost. After initial recognition, the assets are carried at cost, less any amortization and impairment losses. The amortization periods for the FIU's intangible assets are:

- Database 4 years
- Analyst Notebook 4 Years
- Microsoft SQL Server 4 Years
- Microsoft Visual Studio 4 Years

2.6 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 4 years
- Office Equipment 4 years
- Motor Vehicles 4 years
- Office Furniture 3 years

2.7 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.

2.8 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.

	30 June 09	30 June 08
	MWK	MWK
4. Revenue		
Government Funding	97,373,406.76	71,312,552.00
Other Income	126,049.26	407,241.00
Interest on Staff Loans	287,735.73	153,548.10
Total Revenue	97,787,191.75	71,875,341.10
US Treasury (IT Equipment & Software (Included in Govt Funding figure above)	13,128,300.00	2,815,120.00
5. Operating Costs		
Travel expenses	20,183,981.54	6,847,889.07
ICT	2,082,602.84	1,859,318.50
Other operating expenses	936,662.82	57,948.38
Total operating Costs	23,203,247.20	8,765,155.95
	MWK	MWK

6. Administrative and other Expenses

General expenses	10,272,419.23	3,824,252.42
Staff Costs	35,560,850.00	18,299,436.72
Gratuity	2,219,458.07	1,163,158.07
Office expenses	4,308,943.90	2,382,765.00
Depreciation	7,273,833.14	2,263,928.19
Amortization Expense	2,099,200.00	
Medical Insurance	598,000.00	223,000.00
Other expenses (AML/CFT)	1,655,560.45	487,828.75
	63,988,264.79	28,644,369.15

7. Cash and Cash Equivalents

Cash comprises cash at bank and in hand.

	MWK	MWK
Deposits and Bank balances	12,592,366	24,349,082
Cash on Hand	16,200	10
Loan account	2,173,528	
Total cash and cash equivalents	14,782,094	24,349,092

8. Property, Plant and Equipment

	Computer Equipment MWK	Office Equipment MWK	Motor Vehicles MWK	Office Furniture MWK	Total MWK
Cost					
At 1 July 2008	2,815,120	2,818,967	8,553,583	59,900	14,247,570
Additions	4,781,875	3,860,947	8,593,304		17,236,126
At 30 June 2009	3,431,995	3,263,414	17,146,887	59,900	31,483,696
Depreciation					
At 1 July 2008	439,621	43,303	1,763,444	17,560	2,263,928
Disposals	-	-	-	-	-
Charge for the yr	1,621,099	1,555,350	4,076,214	21,170	7,273,833
Accumulated Dpn At 30 June 2009	2,060,720	1,598,653	5,839,658	38,730	9,537,761
Net Book Value					
At 30 June 2009	5,536,275	5,081,261	11,307,229	21,170	21,945,935

9. Intangible Assets

	Analyst Notebook MWK	Database- FIMTRAC MWK	Micro SQL Server 05 MWK	M Visual Studio MWK	Total MWK
Cost					
At 1 July 2008	4,144,000	2,850,000	1,062,600	340,200	8,396,800
Amortization Charge for the yr	1,036,000	712,500	265,650	85,050	2,099,200
At 30 June 2009	3,108,000	2,137,500	796,950	255,150	6,297,600

	30 June 09	30 June 08
	MWK	MWK
10. Debtors		
Staff Debtors	2,644,811	2,340,077
Other Debtors	530,090	530,090
	3,174,901	2,870,167
	30 June 09	30 June 08
	MWK	MWK
11. Trade and other Payables		
Trade Creditors	728,075	2,576,178
Provision for gratuity	246,600	1,163,158
	974,675	3,739,336

12. Other Disclosures and Notes

The United States Treasury, through Office of Technical Assistance, also funded trips for members of staff for training on Analyst Notebook in South Africa. They also funded various IT trainings in South Africa. The cost of the trips are not reflected anywhere in the accounts as the US treasury paid directly for the cost of air tickets, accommodation and allowances