



## **Law no. 92 of 17 June 2008**

**as amended by Law no. 73 of 19 June 2009, Decree-Law no. 134 of 26 July 2010 and Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)**

### **PROVISIONS ON THE PREVENTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING**

#### **UNOFFICIAL TEXT**

#### **NOTICE**

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### **PROVISIONS ON THE PREVENTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING**

#### TITLE I GENERAL PROVISIONS

##### Art. 1

(Definitions and scope of application)

1. For the purposes of this Law, the following definitions shall apply:
  - a) “Agency”: the Financial Intelligence Unit referred to in Article 2;
  - b)<sup>1</sup> “Public administrations”: Secretariats of State (Ministries), the State [*l’Eccellentissima Camera*], Departments, public bodies, state corporations, public administration offices;
  - c) “Central Bank”: the Central Bank of the Republic of San Marino as defined in Law no. 96 of 29 June 2005 and subsequent amendments;
  - d) “shell bank”: an entity engaged in activities equivalent to those envisaged in Annex 1 to Law no. 165 of 17 November 2005, incorporated in a jurisdiction in which it has no physical presence, and which is unaffiliated with a regulated financial group;
  - e) “assets” or “funds”: property of every kind, whether tangible or intangible, movable or immovable, including means of payment and credit instruments, documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such property; economic resources of every kind, whether tangible or intangible, movable or immovable, including ancillary assets, appurtenances and interest that may be used to obtain funds, assets or services as well as any other benefit specified in the technical Annex to this Law;
  - f) “client” or “customers”: the natural person, legal person, or entity without legal personality with which the obliged parties, in the context of their activities, execute an occasional transaction or establish a business relationship, or the natural person, legal person, or entity without legal personality the obliged parties provide with a professional service, regardless whether or not payment is made;
  - g) “freezing of funds”: preventing any movement, transfer, alteration, disposition, use or management of and access to funds or economic resources in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds or economic resources, including, but not limited to, portfolio management, the selling, leasing, hiring or mortgaging of such funds or economic resources;

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<sup>1</sup> As amended by Art. 1 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

- h) “anonymous accounts or accounts in fictitious names”: accounts for which customer due diligence requirements have not been complied with to guarantee that the financial party knows the identity of the customer in every phase of the business relationship with the customer itself;
- i) “payable-through accounts”: cross-border correspondent accounts used directly by the customers to carry out transactions on their own behalf;
- j) “purpose of terrorism”: the intention to influence institutions or intimidate the population or part of it, to destabilize or destroy the political, constitutional, economic, or social structures of the Republic of San Marino, a foreign State or an International Organization, in opposition to the constitutional order, the rules of international law and the Statutes of International Organizations;
- k) “terrorist financing”: without prejudice to Article 337 *ter* of the criminal code, any activity aimed at, by any means, collecting, providing, intermediating, depositing, keeping or disbursing funds or economic resources, regardless of how they were obtained, intended to be used, in full or in part, in order to commit or promote one or more offences for the purpose of terrorism, regardless of the actual use of the funds or economic resources for the perpetration of said offences;
- l) “instructions”: the provisions issued by the Financial Intelligence Agency in exercising its functions of prevention and combating of money laundering and terrorist financing;
- m) “occasional transaction”: any transaction, professional service or action carried out on behalf of customers, other than as part of a business relationship, that involves the transfer or movement of cash or other means of payment also by electronic means;
- n)<sup>2</sup> “politically exposed persons”: individuals, residing in a foreign State, who are or have been entrusted, during the year preceding the establishment of the business relationship, the carrying out of the transaction or the provision of the professional service, with prominent public functions, as well as their immediate family members or persons known to be close associates of such persons, as provided for in the Technical Annex to this Law;
- o) “business relationship”: any kind of relationship or professional service between an obliged party and a customer, regardless of whether payment is required or not, which involves the execution of more than one transaction;
- p) “terrorism” or “terrorist act”: any conduct contrary to the constitutional order, the rules of international law and the Statutes of International Organizations, intended to seriously injure people or things, committed to compel the institutions of the Republic of San Marino, a foreign State or an International Organization to do or to abstain from doing any act, or to intimidate the population or part of it, or to destabilize or destroy the political, constitutional, economic or social structures of the Republic of San Marino, a foreign State or an International Organization;
- q) “terrorist”:
  - (I) any individual perpetrating or attempting to perpetrate an act as defined under letter p) of this paragraph;
  - (II) any group set up in the form of an association as defined under article 337 *bis* of the criminal code;
  - (III) any entity acting on behalf of, or directed by, said individuals or groups that has been funded, even partly, with proceeds obtained from, or generated by, assets directly or indirectly held or controlled by said individuals or groups;
- r) “beneficial owner”:

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<sup>2</sup> As modified by Art. 1 of Decree-Law n. 134 of 26 July 2010

- (I) the natural person(s) who ultimately owns or controls the customer, when the latter is a legal person or an entity without legal personality;
- (II) the natural person(s) on whose behalf the customer acts. In any case, the following are considered beneficial owners:
  - 1) the natural person(s) that, directly or indirectly, owns more than 25% of the voting rights in a company or, in any case, by virtue of agreements or otherwise, is in a position to control voting rights equal to said percentage or exercises control over the management of the company, provided that it is not a company listed on a regulated market and subject to disclosure requirements consistent with or equivalent to Community legislation;
  - 2) the natural person(s) who is beneficiary of more than 25% of the property of a foundation, trust or other arrangements with or without legal personality which administer funds; where the beneficiaries have yet to be determined, the natural person(s) in whose main interest the entity is set up or operates;
  - 3) the natural person(s) who exercises control over more than 25% of the property of an entity with or without a legal personality ;
- s) “financial intelligence unit”: the central national authority in charge of receiving, requesting, analysing and disseminating to the competent authorities all information relating to the prevention and combating of money laundering and terrorist financing.

2. For the purposes of the legislation on the prevention and combating of money laundering only, except as provided in articles 199 and 199 *bis* of the criminal code, the following conduct, when committed intentionally, may constitute money laundering:

- a) the conversion or transfer of property, knowing that such property came directly or indirectly from criminal activity or from an act of participation in said activity, for the purpose of concealing or disguising the illicit origin of the said property, or of assisting any person involved in such activity to evade the legal consequences of his action;
- b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property came directly or indirectly from criminal activity or from an act of participation in such activity;
- c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived, even indirectly, from criminal activity or from an act of participation in such activity.

3. Knowledge, intent or purpose as referred to in paragraph 2 may be inferred from objective factual circumstances.

## **TITLE II COMPETENT AUTHORITIES**

### **CHAPTER I**

## FINANCIAL INTELLIGENCE AGENCY

### Article 2 (Establishment and purpose)

1. The Financial Intelligence Agency for preventing and combating money laundering and terrorist financing shall be established at the Central Bank.
2. The Agency shall perform the functions assigned to it by this law in complete autonomy and independence.
3. The costs for the staff, structure, organization and functioning of the Agency shall be borne by the Central Bank. The Agency shall use the resources according to criteria of cost effectiveness and efficiency.
4. By the month of May of each year, the Agency shall draw up a report on the management of the resources received from the Central Bank during the previous year and a budget document outlining the expenses for the following year by the month of September of each year. The report and the budget document shall be sent to the Committee for Credit and Savings. The Committee for Credit and Savings shall assess whether the resources have been planned and managed according to criteria of cost effectiveness and efficiency and then it shall transmit the relevant documentation to the Central Bank for the fulfilment of its obligations.

### Article 3 (Director and Vice Director)

1. The Congress of State, upon proposal by the Committee for Credit and Savings and having heard the opinion of the Central Bank, shall appoint the Director and Vice Director of the Agency from among persons who satisfy the necessary professional requirements, as well as the requirements of independence and respectability. The mandate of the Director and Vice Director shall last five years and is renewable only once.
2. The Director and Vice Director can be removed from their offices with the same procedures required for their appointment, only if they no longer satisfy the conditions required for the fulfilment of their functions or they are guilty of serious misconduct.
3. The staff of the Agency, while performing the functions set forth in this law, are public officials and are bound by official secrecy.

### Article 4 (Functions of the Financial Intelligence Agency)

1. The following functions are assigned to the Agency:
  - a) receiving suspicious transaction reports from obliged parties;
  - b) carrying out financial investigations on received reports or, on its own initiative, on the data and information available;
  - c) reporting to the criminal judicial Authority any facts that might constitute money-laundering or terrorist financing;
  - d) issuing instructions regarding the prevention and combating of money-laundering and terrorist financing;

- e) supervising compliance with the obligations under this law and the instructions issued by the Agency;
- f) taking part in national and international bodies involved in the prevention of money-laundering and terrorist financing;
- g) promoting and taking part in the professional training of police officers on matters regarding the prevention of money-laundering and terrorist financing;
- h)<sup>3</sup> monitoring financial activities carried out on a limited basis, which are not required to fulfil the obligations laid down in this Law, under a specific legal provision.

2. The Agency shall analyze and study financial flows for the purposes of identifying and preventing money laundering and terrorist financing. It shall examine the indicators of anomalies with respect to certain activities or sectors of the economy and evaluate the effects within the scope set forth in this law.

#### Article 5 (Powers of the Financial Intelligence Agency)

1. In order to fulfil the functions assigned by this law, the Agency, by means of a written reasoned decision for the purposes of preventing and combating money laundering and terrorist financing, has the following powers:

- a) to order the obliged parties to exhibit or hand over documents, also in original copy, or to communicate data and information, according to the procedures and time limits laid down by the Agency;
- b) to ask the Central Bank or Public Administrations to communicate data or information, or to exhibit or hand over any formal papers or documents according to the procedures and time limits laid down by the Agency;
- c) to carry out on-site inspections at obliged parties' premises. If an obliged party relies on external parties for the fulfilment of the obligations set forth in this law, inspections may also be conducted in the premises of said parties;
- d) to order the block of assets, funds or other economic resources when there are reasonable grounds for suspecting that these assets, funds or economic resources are derived from money laundering or terrorist financing or may be used to commit such offences;
- e) to suspend, also upon request by the criminal judicial Authority, transactions suspected of money laundering or terrorist financing for a maximum of five working days, provided that this does not prejudice investigations;
- f) to collect summary information from persons who may report circumstances useful to investigations regarding offences of money laundering and terrorist financing as well as crimes and administrative violations set forth in this law.

2. In the exercise of the powers set forth in the previous paragraph, the Agency may rely on police officers.

3. The Agency shall take note of all activities conducted, also in summary form, in the way considered most suitable. Except as specifically provided in this law, the Agency shall draw up a report on the information acquired in accordance with paragraph 1, letter f).

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<sup>3</sup> As added by Art. 2 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

4. The Judicial Authority may delegate the Agency to carry out investigations in the context of proceedings relating to money laundering and terrorist financing as well as crimes and administrative violations set forth in this law. In this case, the Agency shall operate as judicial police. The acts carried out on behalf of the judicial Authority shall be recorded.

#### Article 6 (Procedures and effects of blocking)

1. The measure by which the Agency orders the blocking in accordance with letter d) of Article 5 shall be adopted in written form and shall be reasoned. Except for the time limits set forth in subsequent paragraph 5, in case of urgency the reasons for the measure may be submitted in writing subsequent to the blocking.

2. The Agency shall communicate the measure to the entity or person holding the assets, funds or economic resources in the way deemed most appropriate. The Agency shall also communicate the measure to the party concerned except where the communication may prejudice the results of the investigation. If the assets are registered movable or immovable property, the Agency shall order the Public Administrations in charge of keeping public registers to register the blocking measure.

3. Blocked assets cannot be transferred, disposed of or used.

4. Without prejudice to the formal confirmation referred to in the subsequent paragraph, the blocking measure shall be immediately effective.

5. Within 48 hours from the execution of the block, the measure shall be notified to the Judicial Authority, which shall formally confirm – if the conditions are fulfilled – the blocking measure within the following 96 hours. Failing such conditions, the Judicial Authority shall lift the blocking. The Judicial Authority shall also lift the blocking measure when the prudential reasons specified in the order issued by the Agency no longer exist.

6. The measure of the Judicial Authority shall be notified to the Agency and to the party at which the blocking was executed.

7. Such blocking shall not exceed 15 days starting from the date of issue of the order by the Agency. Such time limit shall be established by the Judicial Authority in the provision confirming the blocking measure and it shall be extendable up to 45 days, upon reasoned request of the Agency, when financial investigations are particularly complex or they require the cooperation of foreign financial intelligence units. The request for extension shall be deposited in the offices of the Judicial Authority prior to the expiration of the time limit. The Judicial Authority shall grant or deny the extension within 96 hours from receipt of the request and shall communicate its decision to the Agency and to the party having the assets, funds or economic resources at its disposal.

8. Prior to the expiration of the time limits laid down in the previous paragraph, the Agency, with a specific report based on the financial investigations conducted, shall provide the Judicial Authority with any data useful to seize the property or revoke the blocking measure. The Judicial Authority shall issue a reasoned decision on the matter within the following 96 hours.

9. In case of termination or revocation of the blocking measure, the Judicial Authority shall take the necessary measures in order to return the blocked assets to the party entitled or, in case of

registered movable or immovable property, to record the annulment of the blocking measure in the public registries.

10. The provisions of this article shall not prevent the Judicial Authority from ordering seizures under judicial rules in force. In this case, the blocking measure ordered by the Agency shall become null and void.

#### Article 7 (Communication to the Judicial Authority)

1. In case the Agency detects facts that might constitute an offence of money laundering or terrorist financing, it shall transmit without delay the documents and records, including the report on the financial investigation conducted, to the Judicial Authority. If, upon completion of the financial investigation, no facts of criminal relevance have been ascertained, the Agency shall close the case. The closure of the case does not prevent the carrying out of further investigations should new information be obtained.

2. The Agency shall communicate the transmission of the documents and records to the Judicial Authority, or the closure of the case ordered in compliance with the previous paragraph, directly to the reporting obliged party, except when the communication might prejudice the outcome of the investigation or confidentiality with respect to the identity of the reporting party.

#### Article 8 (Access to information)

1<sup>4</sup>. The Agency shall have access, also through electronic means, to the data and information available in registers, archives, professional registers kept by the Central Bank, Public administrations and Professional Associations.

2<sup>5</sup>. The data and information held by the Central Bank, Public administrations and Professional Associations shall be immediately made available to the Agency, upon simple reasoned request in relation to the purposes of preventing and combating money laundering and terrorist financing.

3. For these same purposes specified in the preceding paragraph, the Agency, upon simple request, shall have access to registers, archives, data or information kept by the Police Authority and the Single Court, including data regarding criminal records. The data and information regarding judicial activity shall be provided to the Agency, upon prior authorization by the judge only for the purposes of preventing and combating money laundering and terrorist financing.

4. The data and information acquired by the Agency may be used exclusively for the exercise of the functions set forth in this law.

#### Article 9 (Official secrecy)

1. All data and information acquired by the Agency shall be covered by official secrecy even vis-à-vis Public administrations, without prejudice to the cases of communication or exchange of

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<sup>4</sup> As modified by Art. 3 of Decree Law no. 134 of 26 July 2010

<sup>5</sup> As modified by Art. 3 of Decree-Law no. 134 of 26 July 2010

information set forth in this law. Official secrecy cannot be invoked against the criminal judicial Authority.

2. The Agency shall implement, also through the use of computer tools, measures ensuring that the data and information acquired cannot be accessed by third parties.

#### Article 10

(Statistical data collection and presentation of annual reports)

1. The Agency shall collect annually the data regarding the activity carried out for the prevention and combating of money laundering and terrorist financing.

2. Every year the Agency shall submit a report outlining the activities carried out for the prevention and combating of money laundering and terrorist financing to the Great and General Council [*Parliament*], through the Secretariat of State for Finance and the Budget.

3. The Agency shall propose to the Congress of State the adoption of measures intended to increase the effectiveness of the prevention and combating of money-laundering and terrorist financing.

## CHAPTER II

### NATIONAL COOPERATION

#### Article 11

(Cooperation with other Authorities and Professional Associations)

1. The Public administrations, the Police Authority, the Central Bank and Professional Associations shall cooperate with the Agency in the prevention and combating of money laundering and terrorist financing.

2. The Public Administration, the Police Authority, the Central Bank and Professional Associations shall provide, upon reasoned request by the Agency, the data and information held, useful for the prevention and combating of money laundering and terrorist financing.

3. The Public Administration, the Police Authority, the Central Bank and Professional Associations shall provide the Agency with updated data on obliged parties.

#### Article 12

(Cooperation with the Police Authority)

1<sup>6</sup>. The Agency shall also cooperate by exchanging information with the Police Authority and the National Central Bureau of INTERPOL, by signing ad-hoc memoranda of understanding.

2. The Police Authority, in exercising its powers and duties, shall also conduct, on its own initiative, activities aimed at preventing and combating money laundering and terrorist financing.

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<sup>6</sup> As amended by Art. 3 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

3. The information exchanged may be used exclusively for the purposes of preventing and combating money laundering and terrorist financing. The information cannot be disseminated to third parties without prior written consent of the Agency and it shall be covered by official secrecy also for those who received the information.

4<sup>7</sup>. Whenever, in the exercise of its functions, the Police Authority has reasonable grounds to believe that the funds are proceeds of crime, it may request the cooperation of the Financial Intelligence Agency with a view to carrying out financial investigations. This cooperation may be requested also with regard to investigations involving crimes that could be the predicate offences for money laundering or terrorist financing.

5. The investigations carried out by the Police Authority shall be focused on identifying the offender, detecting the crime and seeking the destination of the funds in order to establish whether they have been used to commit other crimes.

6. For the purposes of this Law, the Police Authority shall have unlimited access, also through electronic means, to data and information contained in registers, archives, professional registers, acts and documents kept by Public Administration offices.

7<sup>8</sup>. For the purposes of this Law, the Police Authority shall cooperate, also by exchanging information with foreign counterparts, on the basis of specific cooperation agreements. The Police Authority may also exchange information through the National Central Bureau of INTERPOL.

### Article 13 (Competence of Professional Associations)

1<sup>9</sup>. Professional Associations, in the exercise of their functions assigned by their respective memoranda of association, shall promote compliance of their members with the requirements prescribed by this Law.

2. Professional Associations shall promote training of their members, employees and collaborators to ensure proper compliance with the obligations prescribed by this Law.

### Article 14 (Competence of the Central Bank)

1<sup>10</sup>. Whenever the Central Bank, in performing its supervision tasks over the financial parties referred to in Article 18, paragraph 1, letters a), d) and e), or in performing its other statutory functions, detects violations of this Law, or facts or circumstances that might be related to money laundering or terrorist financing, it shall immediately inform the Agency thereof in written form.

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<sup>7</sup> Paragraphs 4-5-6-7 have been added by art. 2 of Decree-Law n. 134 of 26 July 2010

<sup>8</sup> As amended by Art. 4 of Decree law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>9</sup> As amended by Art. 5 of Decree law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>10</sup>As replaced by Art. 5 of Decree-Law no. 134 of 26 July 2010

2. The Central Bank shall provide the Agency with data regarding financial parties as well as information useful for carrying out financial investigations upon reports of suspicious transactions and for analyzing financial flows.

3<sup>11</sup>. The Agency shall cooperate with the Central Bank, also by exchanging information, on the basis of ad-hoc memoranda of understanding.

Article 15  
(Cooperation with the Judicial Authority)

1. Except as provided in article 5, paragraph 4, the Judicial Authority, having reasonable grounds to believe that offences of money laundering or terrorist financing have been committed through transactions executed with obliged parties, shall inform the Agency.

Article 15 – bis<sup>12</sup>  
(Technical Commission for National Coordination)

1. The Technical Commission for National Coordination shall be established. Such Commission shall be composed of:

- a) the Magistrate appointed by the Judicial Council, who shall preside over the meetings of the Commission;
- b) the Head Magistrate of the Single Court;
- c) the Director and the Vice Director of the Financial Intelligence Agency;
- d) a member of the Supervision Committee of the Central Bank;
- e) a representative of the On-Site Inspection Service of the Central Bank;
- f) the Commanders of the Police Forces;
- g) two members of the Police Forces responsible for combating money laundering and terrorist financing;
- h) a representative of the Secretariats of State for Foreign Affairs, Finance and Justice when the Commission meets to perform the tasks referred to in letter b) of paragraph 3 hereunder.

2. The Commission shall meet periodically, upon request of the President or of another member. A verbatim record of the meetings shall be duly taken.

3. The Commission shall perform the following tasks:

- a) coordinating the activity of combating money laundering and terrorist financing carried out by authorities;
- b) reporting to the Credit and Savings Committee referred to in Article 48, paragraph 4 of Law no. 96 of 29 June 2005 on the tasks performed;
- c) proposing to the Credit and Savings Committee any useful initiative aimed at effectively preventing and combating money laundering and terrorist financing;

4. According to the items on the agenda, the Commission may invite other representatives of Public Authorities or Offices to attend the meetings.

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<sup>11</sup> As replaced by Art. 6 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>12</sup> As introduced by Article 4 of Decree-Law no.134 of 26 July 2010 and subsequently replaced by Art. 7 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

## **CHAPTER III**

### **INTERNATIONAL COOPERATION**

#### Article 16

(Cooperation with foreign financial intelligence units)<sup>13</sup>

1. The Agency shall cooperate with foreign financial intelligence units on the basis of reciprocity also by exchanging information. The foreign financial intelligence units shall guarantee the same conditions of confidentiality of information, as ensured by the Agency.
2. The Agency, with the aim of regulating the cooperation activity referred to in paragraph 1, may stipulate appropriate protocols of agreement [*Memorandum of Understanding*] which shall be notified to the Committee for Credit and Savings.
3. The information exchanged may be used by the foreign financial intelligence units for investigations aimed exclusively at combating money laundering and terrorist financing. Furthermore, information shall not be sent to third parties without the prior written consent of the Agency and it shall be covered by official or professional secrecy.
4. The information exchanged cannot be used to initiate or continue administrative, police or judicial investigations without the prior written consent of the Agency.

### **TITLE III**

#### **PREVENTIVE MEASURES**

##### **CHAPTER I**

#### **PARTIES SUBJECT TO OBLIGATIONS**

##### Article 17

(Obligated parties)

1. For the purposes of this Law, the following are defined as obliged parties:
  - a) financial parties;
  - b) non-financial parties;
  - c) professionals.
2. Those belonging to the categories referred to in paragraph 1 above are specified in the subsequent articles of this chapter.

##### Article 18

(Financial parties)

1. Financial parties are defined as follows:
  - a) authorized parties pursuant to Law no. 165 of 17 November 2005 and subsequent amendments;

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<sup>13</sup> As amended by art. 6 of Law No. 73 of 19 June 2009

- b) the Central Bank, whenever in the context of its institutional functions, establishes business relationships or carries out occasional transactions that require the fulfilment of the obligations prescribed by this Law;
- c) post offices whenever they establish business relationships or carry out occasional transactions that require the fulfilment of the obligations prescribed by this Law;
- d) financial promoters pursuant to Articles 24 and 25 of Law no. 165 of 17 November 2005;
- e) insurance and reinsurance intermediaries as defined in Articles 26 and 27 of Law no. 165 of 17 November 2005;
- f) parties providing professional credit recovery on behalf of third parties.

Article 19<sup>14</sup>  
(Non-financial parties)

1. Non-financial parties shall mean parties professionally carrying out the following activities:
- a) professional office of the trustee in conformity with the trust legislation;
  - b) assistance and advice concerning investment services;
  - c) assistance and advice on administrative, tax, financial and commercial matters;
  - d) credit mediation services;
  - e) real estate mediation services;
  - f) running of gambling houses and games of chance as set forth in Law no. 67 of 25 July 2000 and subsequent amendments;
  - g) offer of games, betting or contests with prizes in money through the Internet and other electronic or telecommunication networks;
  - h) custody and transport of cash, securities or values;
  - i) management of auction houses or art galleries;
  - j) trade in antiques;
  - k) purchase of unrefined gold;
  - l) manufacturing, mediation and trade in precious stones and metals, including export and import thereof;
  - m) selling or rental of registered movable goods.

Article 20  
(Professionals)

1. Professionals are defined as follows:
- a) those enrolled in the Register of Accountants (*holding a university degree or holding a high school certificate*) of the Republic of San Marino;
  - b) those enrolled in the Register of External Auditors and Auditing companies and of the Register of Actuaries of the Republic of San Marino;
  - c)<sup>15</sup> those enrolled in the Register of Lawyers and Notaries of the Republic of San Marino, when they carry out, on behalf of or for their client, any financial or real estate transaction, or when they assist in the planning or carrying out of transactions for their client concerning the:
    - 1) transfer at any title of rights in rem in relation to real estate or companies;
    - 2) managing of client money, securities or other assets;
    - 3) opening or management of bank, savings and securities accounts;

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<sup>14</sup> As modified by Article 6 of the Decree-Law no.134 of 26 July 2010 and subsequently modified by Art. 8 of Decree-Law n. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>15</sup> As replaced by Art. 7 of Decree-Law no. 134 of 26 July 2010.

- 4) creation, operation or management of companies, trusts or similar arrangements, with or without legal personality;
- 5) organisation of contributions necessary for the creation, operation or management of companies;
- 6) transfer at any title of shares in a company.

## CHAPTER II

### CUSTOMER DUE DILIGENCE

#### Article 21

(Scope of application of customer due diligence)

1. Obligated parties shall apply customer due diligence measures in the following cases:
  - a) when establishing a business relationship;
  - b) when carrying out occasional transactions or providing professional services for an amount exceeding EUR 15,000, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
  - c) when there is a suspicion of money laundering or terrorist financing;
  - d) when there are doubts about the veracity or adequacy of previously obtained customer identification data and information.

2. The financial parties referred to in Article 18 shall also apply customer due diligence measures when they act as intermediaries or, in any event, they are party to the transfer of cash or bearer securities, in Euro or foreign currency, carried out, on whatever basis, between different parties for a total amount exceeding EUR 15,000.

3. The professionals referred to in article 20 and non-financial parties referred to in article 19 shall also perform customer due diligence when the transaction is of an undetermined or non-determinable amount. The creation, operation or management of companies, trusts or other arrangements with or without legal personality constitutes in any case a transaction of a non-determinable value.

<sup>4</sup><sup>16</sup>. Those enrolled in the Register of Accountants (*holding a university degree or a high school certificate*), as well as the parties referred to in Article 19, paragraph 1, letter c), shall not be required to fulfil customer due diligence and record-keeping requirements in relation to the execution of the mere activity of drafting and/or transmitting income tax returns or the tasks relating to personnel administration.

#### Article 22

(Customer due diligence measures)

1. Customer due diligence measures shall comprise the following activities that might also be performed by employees or collaborators:

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<sup>16</sup> As amended by Art. 9 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

- a) identifying the customer and verifying the customer's identity on the basis of a valid identification document or, where this is not possible, on the basis of documents, data or information obtained from a reliable and independent source;
- b)<sup>17</sup> identifying the beneficial owner and adopting adequate and risk-based measures to verify his/her identity;
- c) obtaining information on the purpose and intended nature of the business relationship or occasional transaction;
- d) conducting ongoing monitoring of the relationship with the customer, including scrutiny of transactions undertaken throughout the course of that relationship to ensure that such transactions are consistent with the data and information that the obliged party has regarding the customer, his business activities and risk profile, taking into consideration the source of funds where necessary;
- e) updating documents, data and information acquired during the fulfilment of customer due diligence requirements.

2. Customers shall be required to provide, under their own responsibility, in writing, all data and information required and updated to allow the obliged parties to comply with the requirements set forth in this law.

#### Article 23

##### (Identifying and verifying the identity of customers and beneficial owners)

**1<sup>18</sup>**.The obliged parties shall identify and verify, also through their employees or collaborators, the identity of customers and beneficial owners before establishing a business relationship or carrying out a transaction.

2. If the customer is not a natural person, the obliged parties shall verify the actual existence of the power of representation and acquire the data and information necessary to identify and verify the identity of the representatives who are authorized to sign for the transaction to be carried out.

3. The identification and verification of the identity of the beneficial owner is carried out at the same time as the identification of the customer and requires, for customers that are not natural persons, the adoption of risk-based and adequate measures to understand the ownership and control structure of the customer. In order to identify and verify the identity of the beneficial owner, the obliged parties may make use of public registers, lists, acts or documents to be known by anyone, containing information on the beneficial owners, and request from their customers the pertinent data and information, or obtain information in other ways.

4. The verification of the identity of the customer and beneficial owner may be completed in the shortest time possible following the establishment of a business relationship if it is necessary not to interrupt the normal conduct of the business and when the risk of money laundering or terrorist financing is low.

5. Non-financial parties that carry out the activities set forth in article 19, paragraph 1, letter f) shall identify and verify the identity of their customers immediately on entry [*into gambling houses*], regardless of the amount of gambling chips purchased, sold or exchanged. They shall also

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<sup>17</sup> As amended by Article 8 of Decree-Law no. 134 of 26 July 2010.

<sup>18</sup> As amended by Art. 9 of Decree-Law no. 134 of 26 July 2010.

register, according to the provisions of article 34, the transactions of purchase or exchange of gambling chips or other means of gambling with a value of EUR 2,000 or more.

Article 24<sup>19</sup>  
(Abstention requirements)

1. If the obliged parties are not able to meet the customer due diligence requirements provided for in Articles 22, 23 and 25, they shall abstain from establishing new business relationships or carrying out occasional transactions, and they shall interrupt already established relationships at the earliest convenience. In any case, the obliged parties shall decide whether to send a report to the Agency.

2. Those enrolled in the registers of Lawyers and Notaries and of Accountants shall not be required to comply with the provision contained in the previous paragraph in the course of ascertaining the legal position of their client or in performing their task of defending or representing that client in, or concerning judicial or administrative proceedings, including advice on instituting or avoiding proceedings.

3. The obliged parties shall abstain from carrying out transactions when there are reasonable grounds to believe that these transactions could be related to money laundering or terrorist financing. Abstention shall not give rise to any civil and contractual liability towards clients or third parties. In these cases, a report shall be promptly sent to the Agency. Where abstention is not possible because there is a legal requirement to receive the document, or the carrying out of the transaction by its nature cannot be postponed, the obliged parties shall inform the Agency immediately after carrying out the transaction, by taking every precaution to identify the destination of the funds involved in the transaction. The judicial authority shall authorise the carrying out of transactions when abstention might hinder ongoing investigations.”

Article 25  
(Risk-based approach)

1<sup>20</sup>. The obliged parties shall be required to apply customer due diligence procedures to all clients. With regard to existing customers, the above procedures shall be applied at the earliest convenience on a risk-sensitive basis.

2. Customer due diligence requirements shall be fulfilled by carrying out risk-based verifications, depending on the type of customer, business relationship, occasional transaction, professional service, product or transaction.

3. For the purposes of risk assessment, the obliged parties shall assess at least the following aspects:

A) with reference to customers:

- 1) the legal status,
- 2) the main business activity,
- 3) the behaviour at the time the business relationship is established, or the transaction is carried out or the professional service is performed,

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<sup>19</sup> As amended by Art. 10 of Decree-Law no. 134 of 26 July 2010.

<sup>20</sup> As amended by Art. 11 of Decree-Law no. 134 of 26 July 2010.

- 4) the residence or registered office of the customers or the counterparts with particular attention to the States that do not impose requirements equivalent to those laid down in this law;
- B) with reference to business relationships or occasional transactions:
- 1) the type and manner of performing,
  - 2) the amount,
  - 3) the frequency,
  - 4) consistency of the transaction with the whole information available to the obliged party,
  - 5) the geographic area of the execution of the transaction, with particular attention to the States that do not impose requirements equivalent to those laid down in this law.

Article 26  
(Simplified customer due diligence)

1. The obliged parties shall not be required to meet the customer due diligence requirements, where the customer is:
  - a) a financial party referred to in article 18, letters a), b) and c);
  - b) a foreign party that mainly carries out an activity which refers to the reserved activities mentioned in letters A), B), C), D) and E) of Annex 1 to Law No. 165 of 17 November 2005, located in a State which imposes requirements equivalent to those laid down in this law and provides for control on compliance with the requirements for the prevention and combating of money laundering and terrorist financing;
  - c) a foreign party that carries out an activity equivalent to that referred to in article 18, paragraph 1, letter c) located in a State which imposes requirements equivalent to those laid down in this law and provides for supervision and control over compliance with the requirements for the prevention and combating of money laundering and terrorist financing;
  - d) a company listed on a regulated market in a State, provided that this market is subject to regulations consistent with or equivalent to Community legislation;
  - e) a public Administration.
2. The obliged parties shall not be required to fulfil customer due diligence requirements in respect of:
  - a) life insurance policies where the annual premium does not exceed EUR 1,000 or the single premium is no more than EUR 2,500;
  - b) supplementary pension schemes provided that they do not envisage redemption clauses and cannot be used as collateral for a loan except in the circumstances provided for by the legislation in force;
  - c) compulsory and supplementary pension regimes or similar systems that provide retirement benefits, where contributions are made by way of deduction from income payments and the regime rules do not permit beneficiaries to transfer their own rights, unless after the holder's death.
3. The Agency may specify, by issuing relevant instructions, categories of parties or products characterized by a low risk of money laundering or terrorist financing to which customer due diligence shall not apply.
4. In the cases described in the previous paragraphs, the obliged parties shall in any case collect sufficient data and information to establish if the customer falls into an exempted category.

**Art. 26 bis<sup>21</sup>**

(Foreign exchange negotiation carried out on an occasional and limited basis)

1. Legal persons carrying out foreign exchange negotiation on an occasional and limited basis shall not be required to fulfil the obligations envisaged in this Law whenever the following conditions are met:
  - a) the proceeds of this activity do not exceed 250 euro per month and the value of the transactions does not exceed a total of 5,000 euro per month;
  - b) this activity is limited in terms of transactions and in any case it does not exceed 3 transactions per month for each customer;
  - c) this activity is not the main activity and in any case it does not exceed 5% of the total proceeds;
  - d) this activity is merely ancillary to the main activity;
  - e) the main activity is not connected with the reserved activities referred to in Annex 1 to Law no. 165 of 17 November 2005;
  - f) this activity is carried out exclusively for the customers of the main activity and not for the general public.
2. Whenever the activity carried out under the conditions envisaged in the preceding paragraph entails money laundering or terrorist financing risks, the Congress of State may change the above conditions, once the opinion of the Agency has been heard.
3. The Agency shall regulate the forms and ways of monitoring the activity referred to in this Article by issuing relevant Instructions.

**Article 27<sup>22</sup>**

(Enhanced customer due diligence)

1. The obliged parties shall take, on a risk-sensitive basis, enhanced customer due diligence measures in situations which, by their nature, may entail a higher risk of money laundering or terrorist financing. With its own instructions, the Financial Intelligence Agency shall establish what degrees of risk require the adoption of enhanced customer due diligence measures, as well as the contents of such enhanced customer due diligence.
2. The obliged parties shall take enhanced customer due diligence measures when:
  - a) the customer is not physically present;
  - b) the customer is a politically exposed person. The obliged parties shall adopt adequate procedures in relation to the activity carried out in order to determine whether the potential customer, the customer or the beneficial owner is a politically exposed person.
3. In the case referred to in letter a) of paragraph 2, the obliged parties shall compensate for the higher risk by adopting at least one of the following measures:
  - a) ensuring that the first transfer of funds in relation to the establishment of the business relationship or to the occasional transaction is carried out through an account opened in the customer's name with a financial party referred to in Article 26, paragraph 1, letters a) and b);
  - b) verifying the identity of the customer through additional documents or information to complement those required for face-to-face customers;
  - c) taking supplementary measures to verify the documents presented;
  - d) requiring the certification of information or documents presented;

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<sup>21</sup> As added by Art. 10 of Decree-Law n. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>22</sup> As superseded by Art. 12 of Decree-Law no. 134 of 26 July 2010.

e) requiring confirmatory certification by a financial party referred to in Article 26, paragraph 1, letters a) and b) that it has already met customer due diligence requirements.

4. In the case referred to in letter b) of paragraph 2, the obliged parties shall:

a) when the obliged parties are incorporated businesses, obtain the authorisation from the Director General, or equivalent, or from a person delegated by the Director General, before establishing a business relationship or carrying out an occasional transaction. This authorisation shall be obtained even where the customer or beneficial owner becomes or is found to be a politically exposed person after he/she has been accepted;

b) take any appropriate measure to establish the source of the funds and wealth of the customer or beneficial owner identified as politically exposed person, which have been used in the business relationship or in carrying out the occasional transaction;

c) ensure ongoing and enhanced control over the relationship with the customer.

5. The financial parties referred to in Article 18, letters a), b) and c) that maintain business relationships or carry out occasional transactions with foreign financial parties located in States not imposing obligations equivalent to those set forth in this Law and not providing for any supervision and control of compliance with such obligations, shall adopt the following enhanced customer due diligence measures:

a) gather sufficient information about a respondent foreign party to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the respondent and the quality of supervision;

b) assess the adequacy and effectiveness of controls carried out by the respondent party in relation to the prevention and combating of money laundering and terrorist financing;

c) obtain the authorisation from the Director General, or equivalent, or from a person delegated by the Director General, before establishing a business relationship or carrying out an occasional transaction;

d) specify in written form the respective obligations and responsibilities concerning the prevention and combating of money laundering and terrorist financing.

6. The financial parties referred to in Article 18, letters a) and b) shall ensure that the respondent party located in a State, which is not a member of the European Union (I) has verified the identity of customers having direct access to payable-through accounts, (II) has constantly met customer due diligence requirements, and (III) is able to provide, upon request, the financial party with information obtained following the meeting of such requirements.

7. The obliged parties shall pay special attention to any money laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity, and take measures, if needed, to prevent their use for money laundering or terrorist financing purposes.

## Article 28

### (Prohibition to operate with shell banks)

1. Financial parties shall not be permitted to enter into business relationships or carry out occasional transactions with shell banks or with foreign parties that are known to permit their accounts to be used by shell banks. Relationships already existing on the date of entry into force of this law shall be terminated at the earliest convenience.

**Article 29**  
**(Customer due diligence performed by third parties)**

1<sup>23</sup>. In order to meet the requirements laid down in Article 22, paragraph 1, letters a), b) and c), the obliged parties may rely on third parties with whom the customers have business relationships or whom have been tasked by the customers with carrying out an occasional transaction. For this purpose, third parties shall issue, if requested by the customer, a document attesting that they have met customer due diligence requirements. Also in this case, the ultimate responsibility for meeting customer due diligence requirements shall remain with the obliged parties.

2. For the purposes of this article, third parties shall mean financial parties referred to in Article 18, paragraph 1, letters a), b) and c) and in Article 26, paragraph 1, letters b) and c).

3. Third parties shall immediately make available to the obliged parties the information acquired while performing customer due diligence in accordance with the activities envisaged by article 22, paragraph 1, letters a), b) and c).

4. The information and documents regarding the identification of the customer or the beneficial owner shall immediately be forwarded, upon simple request by the obliged parties.

5. The Agency may identify, by issuing relevant instructions, other categories of third parties on which the obliged parties may rely in order to avoid the repetition of the requirements envisaged by article 22, paragraph 1, letters a), b) and c).

**CHAPTER III**

**ADDITIONAL MEASURES**

**Article 30**  
**(Prohibition against keeping anonymous accounts or accounts in fictitious names)**

1. Subject to article 31, financial parties shall be prohibited from keeping anonymous accounts or accounts in fictitious names.

**Article 31**  
**(Limit on the use of cash and bearer securities)**

1. The transfer between different parties of cash and bearer securities referred to in the subsequent paragraphs, when the value of the transaction, even fractioned, exceeds EUR 15,000, shall be exclusively effected through a party authorized to exercise the reserved activities mentioned in letters A), C) or I) of Annex 1 to Law no. 165 of 17 November 2005.

2. Cheques drawn on San Marino banks or issued by such banks, for individual amounts exceeding that specified in the preceding paragraph, shall bear the name and surname or the business name of the beneficiary and the “non-transferable clause”.

3. The balance of bearer passbooks issued from the date of entry into force of this law shall not be more than EUR 15,000.

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<sup>23</sup> As superseded by Art. 13 of Decree-Law no. 134 of 26 July 2010.

4. Bearer passbooks issued before the date of entry into force of this law, the balance of which exceeds the threshold of EUR 15,000, shall be closed or converted into relationships consistent with the provisions of this law by 31 December 2010.

5. Starting from 1 January 2012, the issuance of new bearer passbooks shall be prohibited and those issued before that date shall be closed or converted.

6. Except as provided in the previous paragraphs, for each deposit or withdrawal, closure or conversion regarding bearer passbooks, banks shall apply the customer due diligence measures as set forth in article 22, paragraph 1, letters a) and b).

**Article 32**  
(Reporting requirements to the Agency)

1. The obliged parties that discover violations of the provisions referred to in article 31, in the course of their activities, shall inform the Agency without delay.

**Article 33**  
(Special measures for electronic transfers of funds)

1. The Agency shall regulate the following aspects with its own instructions:

- a) the data and information that the financial parties authorized to carry out the reserved activity referred to in letter I) of Annex 1 to Law no. 165 of 17 November 2005, are required to obtain on those parties ordering an electronic transfer of funds;
- b) the procedures for recording and keeping such data and information.

2. The financial parties shall refuse the transfer of funds when they are not provided with the information referred to in the previous paragraph. If the financial party having received the transfer order fails to provide the information, the financial party to which the transfer order is addressed shall request the information in written form. Where the request is not satisfied, the financial party shall implement the enhanced measures set forth in article 27 and evaluate whether to suspend the relations with the financial party that has received the transfer order. The financial party shall forward to the Agency, without delay, a copy of the request for information sent to the counterpart.

## **CHAPTER IV**

### **REGISTRATION AND REPORTING REQUIREMENTS**

**Article 34<sup>24</sup>**  
(Information and record keeping and registration requirements)

1. The obliged parties shall register the data and information obtained to meet customer due diligence requirements and shall keep the records and copies of the documents obtained for a period of at least five years following the end of the business relationship or the carrying out of the occasional transaction.

2. The obliged parties shall register and keep the supporting evidence and records of business relationships and occasional transactions or of services provided. In particular, they shall register

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<sup>24</sup> As superseded by Art. 14 of Decree-Law no. 134 of 26 July 2010.

and keep original documents or copies admissible in court proceedings for a period of at least five years following the carrying out of the transaction or the provision of the service.

3. The data and information referred to in the preceding paragraphs shall be registered no later than the fifth day following their obtaining.

4. All data, information and documents registered and kept by the obliged parties shall be made available to the Agency without delay in order to enable it to perform its tasks of preventing and combating money laundering and terrorist financing.

5. In case of financial parties, keeping and registration requirements referred to in paragraphs 1 and 2 above shall apply to all transactions, both domestic and international, concerning existing and terminated business relationships, as well as to occasional transactions.

6. The Agency may order that data, documents and information referred to in the preceding paragraphs be kept for more than five years for the purposes of this Law.

#### **Art. 34 bis<sup>25</sup>**

*(Management of registrations and documents concerning financial parties that have ceased to carry out reserved activities)*

1. Following withdrawal, waiver or lapse of the authorisation to carry out a reserved activity, the financial party shall, even if in ordinary or compulsory winding-up, appoint a person responsible for keeping, for the purposes of this Law, documents and electronic archives for at least five years, or more if requested by the Agency.

2. The person referred to in the preceding paragraph shall satisfy the requests made by the Financial Intelligence Agency concerning existing relationships and/or movements and submit, if requested, the necessary documents.

3. The remuneration due to the person referred to in paragraph 1 above for performing his/her tasks shall be paid by the obliged party. The obliged party shall provide the above-mentioned person with appropriate premises to keep documents and electronic and paper-based archives.

4. The functions performed by the above-mentioned person shall not be incompatible with those of liquidator or commissioner.

#### **Art. 35<sup>26</sup>**

*(Anti-money laundering Electronic Archive)*

1. Financial parties shall have computer devices allowing them to respond timely and fully to the Agency's requests intended to determine whether these financial parties have had business relationships with certain customers during the previous five years and the nature of these relationships.

2. The financial parties referred to in Article 18, paragraph 1, letters a) and b) shall create an anti-money laundering electronic archive.

3. The anti-money laundering electronic archive shall be created and managed according to uniform criteria that are suitable to ensure clarity, completeness, as well as timely and easy access to information. In addition thereto, the archive shall be kept in such a way as to ensure the

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<sup>25</sup> Introduced by Art. 15 of Decree-Law no. 134 of 26 July 2010 and amended by Art. 11 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010).

<sup>26</sup> As amended by Art. 12 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

chronological storage of the information amended or supplemented and the possibility of inferring relevant facts.

4. The Agency shall regulate the characteristics and keeping of the Anti-money electronic archive by issuing relevant Instructions

#### Article 36<sup>27</sup> (Reporting requirements)

1. The obliged parties shall report the following to the Agency without delay:

- a) any transaction - even if not carried out – which, because of its nature, characteristics, size or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, arouses suspicion that the economic resources, money or assets involved in said transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences;
- b) anyone or any fact that, for any circumstance known on the basis of the activity carried out, may be related to money laundering or terrorist financing;
- c) the funds that the obliged parties know, suspect or have grounds to suspect to be related to terrorism or may be used for purposes of terrorism, terrorist acts, terrorist organisations and by those financing terrorism or by an individual terrorist.

2. If the report is made orally, the obliged party shall forward a written report to the Agency without delay providing all data and information required to conduct the financial investigation.

#### Article 37 (Possibility to report)

1. Anyone can report to the Agency facts or circumstances that are relevant for the purposes of preventing and combating money laundering and terrorist financing.

#### Article 38 (Protection of professional secrecy)

1. Those enrolled in the Register of Lawyers and Notaries and in the Register of Accountants (*holding a university degree or holding an high school certificate*) may invoke professional secrecy, against the Judicial Authority, the Financial Intelligence Agency and the Police Authority, with respect to the information they acquire while defending and representing their client during judicial or administrative proceedings or in relation to such proceedings, including advice on the possibility that proceedings are commenced or avoided, where the information is received or obtained before, during or after such proceeding.

2. In the cases provided for in the previous paragraph, lawyers and accountants have no reporting obligations.

3. Professional secrecy cannot not be invoked against the Judicial Authority, the Agency and the Police Authority in the exercise of their functions of preventing and combating money laundering and terrorist financing, except for the case provided for in the first paragraph.

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<sup>27</sup> As superseded by Art. 16 of Decree-Law no. 134 of 26 July 2010.

4. Official secrecy cannot be invoked against the Judicial Authority, the Agency and the Police Authority in the exercise of their functions of preventing and combating money laundering and terrorist financing.

5<sup>28</sup>. Professional secrecy and official secrecy cannot be invoked even when the data and information are necessary for the purposes of investigating the offences and administrative violations envisaged by this Law, apart from the cases referred to in paragraph 1.

#### Article 39 (Exemption from liability)

1. Reports and disclosures made in accordance with this law shall not constitute a breach of any restriction on disclosure of data or information resulting from contracts or legislative, statutory, regulatory or administrative provisions, nor of requirements of confidentiality and of professional, official or bank secrecy referred to in article 36 of Law No. 165 of 17 November 2005. Reports and disclosures, if in good faith, shall not involve liability of any kind.

#### Article 40 (Confidentiality of the identity of the reporting person and secrecy of the reports)

1<sup>29</sup>. The obliged parties shall adopt adequate measures to ensure the utmost confidentiality of the natural person that has detected the suspicious transaction in accordance with Article 36, paragraph 1, letters a), b) and c).

2. The acts and documents related to the suspicious transaction reports shall be kept under the responsibility of the obliged party, its legal representative or one of its delegates.

3. The Agency shall adopt appropriate measures to guarantee the confidentiality of the identity of the natural person detecting the suspicious transaction. Requests for information to the obliged party, any requests for further investigation, as well as exchanges of information relating to the suspicious transactions reported shall be made by adopting any appropriate procedures that guarantee the confidentiality of the person having detected the suspicious transaction.

4. In case of disclosure, complaint or report to the Judicial Authority, the identity of the natural person that has detected the suspicious transaction, even if it is known, shall not be mentioned.

5. The identity of the natural person that has detected the suspicious transaction can only be revealed when the Judicial Authority, by means of a reasoned order, declares it to be fundamental to the investigation of the offences in respect of which legal action is taken.

6. The obliged parties shall not be permitted to inform the party concerned and third parties, except in the cases provided for in this law, that a suspicious transaction report has been made or that a money laundering or terrorist financing investigation is being or may be carried out.

7<sup>30</sup>. Communication about suspicious transaction reports shall be allowed between financial parties located in the Republic of San Marino which belong to the same group.

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<sup>28</sup> As amended by Art. 13 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>29</sup> As amended by Art. 14 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

8. Such communication shall also be permitted between the obliged parties referred to in article 20 that perform their professional services in an associated form.

9. Any attempt by the obliged parties to dissuade a customer from engaging in illegal activity shall not constitute a violation of the requirement of secrecy.

10. Where the obliged parties notify the blocking order issued by the Agency to the party concerned, this shall not constitute a violation of the requirement of secrecy if the notification is necessary in connection with the prohibition of transfer, disposition or use as referred to in article 6, paragraph 3.

## **CHAPTER V**

### **PROCEDURES, CONTROLS AND STAFF TRAINING**

#### **Article 41 (Control obligations)**

1. The obliged parties referred to in article 17 that carry out the activities subject to the obligations set forth in this law, individually or as associates, as well as legal representatives and those persons that perform management, administration and control functions of the obliged parties organized as incorporated businesses shall, according to their respective tasks and responsibilities:

- a) comply with the obligations set forth in this law;
- b) make arrangements for and verify the fulfilment of said obligations on the part of employees and collaborators.

#### **Article 42 (Functions and powers of compliance officers)**

1<sup>31</sup>. When the financial parties are incorporated businesses, they shall internally appoint a compliance officer in charge of receiving internal suspicious transaction reports, further analysing such reports and forwarding them to the Agency, in case he/she considers that they are well-grounded on the basis of all elements in his/her possession, also inferred from other sources. The suspicious transaction reports shall be forwarded to the Agency without the name of the individual who has detected the suspicious transaction in accordance with Article 36.

2. The compliance officer shall have adequate professional skills and shall be given appropriate powers to carry out the functions referred to in the previous paragraph in full autonomy, including the power to access all information or documents also without authorization.

3. The instrument of appointment of the compliance officer shall include the specification and evaluation of the requirements of professionalism, as well as the powers conferred. The instrument of appointment shall be transmitted to the Agency.

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<sup>30</sup> As amended by Art. 15 of of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>31</sup> As replaced by Art. 17 of Decree-Law no. 134 of 26 July 2010.

4<sup>32</sup>. Until the appointment of the compliance officer, all duties and responsibilities related to said function shall be assigned to the legal representative. In case the compliance officer is absent, even temporarily, all duties and responsibilities related to said function may be assigned to a substitute. The substitute shall be appointed according to what envisaged in paragraphs 2 and 3 of this Article for the compliance officer. In case both the compliance officer and the appointed substitute are absent, all duties and responsibilities related to said function shall be assigned to the legal representative.

5. The compliance officer seeks and obtains information, also through employees and collaborators who, at any title, come into contact with the customers or, in any case, know about the business relationships with the customers or the execution of transactions on behalf of said customers.

6. Even in absence of internal suspicious transaction reports, the compliance officer shall analyse the transactions carried out, seek and obtain information and, in the cases set forth in article 36, forward the suspicious transaction report to the Agency.

#### Article 43<sup>33</sup>

##### (Compliance officer at non-financial parties)

1. Audit firms and other non-financial parties organised as incorporated businesses shall appoint a compliance officer. This obligation may be derogated from in case of companies whose number of employees does not exceed three. In case of appointment, the provisions referred to in Article 42 shall apply.

#### Art. 43 bis<sup>34</sup>

##### (Replacement of the compliance officer)

1. The Agency may order an obliged party to replace its compliance officer if the latter is considered not to sufficiently satisfy the requirements of good repute or not to have sufficient professional skills.

#### Article 44<sup>35</sup>

##### (Internal procedures and controls)

1. The obliged parties shall adopt policies and procedures in compliance with the requirements of this Law and with the instructions issued by the Agency with a view to preventing and combating money laundering and terrorist financing. In particular, they shall adopt policies and procedures to prevent the misuse of technological developments, related to the activities carried out, in money laundering or terrorist financing schemes. Moreover, they shall adopt policies and procedures to address any risks associated with non-face to face business relationships or transactions.

2. The obliged parties shall communicate to all employees and collaborators the requirements set forth in this Law and in the instructions issued by the Agency. The obliged parties shall

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<sup>32</sup> As replaced by Art. 18 of Decree-Law no. 134 of 26 July 2010.

<sup>33</sup> As amended by Art. 16 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>34</sup> As added by Art. 17 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>35</sup> As replaced by Art. 19 of Decree-Law no. 134 of 26 July 2010.

communicate to all employees and collaborators the measures and procedures adopted for the purpose of preventing and combating money laundering and terrorist financing.

3. The obliged parties shall promote ongoing employee training also through participation in specific training programmes concerning the prevention and combating of money laundering and terrorist financing.

4. The obliged parties shall develop and organise adequate internal controls to prevent and combat the involvement in business relationships or transactions relating to money laundering or terrorist financing.

5. The obliged parties shall be equipped with information technology or electronic means necessary to guarantee that reports are sent to the Agency in a prompt and confidential manner. The reports sent to the Agency shall be accessible only to the obliged parties.

6. The financial parties shall extend the requirements referred to in this Article to foreign branches.

7<sup>36</sup>. The financial parties shall put in place screening procedures to ensure high professional standards when hiring employees and collaborators, taking into account their role and functions.

#### Article 45

(Requirements for foreign subsidiaries and companies controlled by financial parties)

1<sup>37</sup>. The financial parties shall ensure that their foreign subsidiaries or controlled foreign companies that mainly carry out an activity corresponding to the reserved activities mentioned in letters A), B), C), D) and E) of Attachment 1 to Law no. 165 of 17 November 2005 comply with requirements equivalent to those set forth in this Law.

2. In case the legislation of the foreign State does not provide for requirements equivalent to those set forth in the previous paragraph, the financial parties shall inform the Agency and the Central Bank and adopt supplementary measures to effectively deal with the risk of money laundering or terrorist financing.

### TITLE IV

#### **MEASURES FOR PREVENTING, COMBATING AND SUPPRESSING TERRORIST FINANCING AND THE ACTIVITY OF STATES THAT THREATEN INTERNATIONAL PEACE AND SECURITY**

#### Article 46

(Restrictive measures adopted by the Congress of State)

1. In compliance with the international obligations undertaken by the Republic of San Marino to combat terrorism, terrorist financing and the activity of States that threaten international peace and security, the Congress of State, upon proposal by the Secretariat of State for Foreign Affairs and the Secretariat of State for Finance and the Budget, shall adopt without delay a decision outlining restrictive measures, in accordance with the resolutions of the United Nations Security Council or one of its Committees. The restrictive measures shall include the following:

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<sup>36</sup> As amended by Art. 18 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>37</sup> As amended by Art. 19 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

- a) freezing of funds and economic resources owned or controlled, directly or indirectly, by persons, entities or groups included in the lists drawn up by the competent United Nations Committee;
- b) commercial restrictions, including commercial restrictions on imports or exports and arms embargoes;
- c) restrictions of a financial nature, including financial restrictions or financial assistance and the prohibition against providing financial services;
- d) restrictions of any other nature, including restrictions on technical assistance, flight ban, prohibition of entry or transit, diplomatic sanctions, suspension of cooperation and the boycotting of sporting events.

2. The decision of the Congress of State can introduce additional restrictive measures or specific provisions related to the resolutions adopted by the United Nations Security Council or one of its Committees.

3. The decision of the Congress of State that orders the enforcement of restrictive measures can provide for derogations, in compliance with of the United Nations Security Council resolutions, or limitations for reasons of public order or interest.

4. Where a resolution of the United Nations Security Council or one of its Committees provides for the adoption, amendment or repeal of restrictive measures, the Congress of State shall provide by means of a decision for their enforcement in the territory of the Republic of San Marino.

5. The decisions referred to in the previous paragraphs shall be immediately published *ad valvas Palatii* and at the Court. From that moment they are expected to be known by every-one.

6. The decisions shall be sent to the Agency which shall forward them to the Judicial Authority, the Administrations referred to in article 48 and the obliged parties as mentioned in article 17.

#### Article 47

##### (Effects of freezing of funds and economic resources)

1. Except as provided in article 49, funds and economic resources subject to freezing cannot constitute the object of any transfer, disposition or use.

2. It is prohibited to make funds or economic resources available, directly or indirectly, to persons and parties included in the lists drawn up by the competent Committees of the United Nations or to allocate them for their benefit.

3. Freezing shall be effective from the date of the adoption of the Congress of State decision.

4. Acts carried out in violation of the prohibitions referred to in the previous paragraphs shall be null and void.

5. Freezing shall not prejudice the effects of any seizure or confiscation measures, adopted in the framework of proceedings involving the same funds or economic resources.

6. The freezing of funds and economic resources, the omission or refusal of financial services deemed in good faith, in compliance with this law, shall not involve liability of any kind for the natural person, legal person or entity without legal personality applying it, neither for its directors nor employees.

## Article 48 (Reporting requirements)

1. The State Administrations keeping public registers, which hold data or information relating to frozen funds or economic resources, shall immediately inform the Agency.
2. The Agency shall order the freezing of registered movable and immovable assets to be recorded in the public registers.
3. The obliged parties referred to in article 17 shall:
  - a) inform the Agency of the measures applied in accordance with this law, specifying the parties involved, the amount and nature of the funds or economic resources, within 15 days from the adoption of the Congress of State decision, or from the date of possession of the funds or economic resources;
  - b) inform the Agency of the transactions, business relationships, as well as provide it with any other data or information available with regard to the persons and parties included in the lists;
  - c) inform the Agency, on the basis of the information provided by the latter, of the transactions and business relationships, as well as provide it with any other data or information relating to persons or parties that may be included in the lists in accordance with article 49, paragraph 5.

## Article 49 (Functions of the Committee for Credit and Savings)

- 1<sup>38</sup>. The Committee for Credit and Savings, referred to in Law no. 96 of 29 June 2005 and subsequent amendments, has the duty to evaluate requests for unfreezing of funds and economic resources submitted by the parties concerned. The decision shall be adopted without delay.
2. In case of repeal of a freezing order under article 46, paragraph 4, the Committee for Credit and Savings shall take the necessary actions to return the assets to the rightful owner or, in cases involving registered movable or immovable assets, to register the unfreezing order in the public registers.
3. The Committee for Credit and Savings may authorize - upon completion of the procedure referred to in paragraph 4 hereunder - that the frozen assets or property be used to meet the fundamental needs of the persons included in the lists referred to in article 46 or a family member, including payments for foodstuffs, medicines, housing, medical care and legal assistance. The Committee for Credit and Savings may similarly authorize that the frozen assets or property be used to pay taxes, duties, compulsory insurance premiums and bank charges for the maintenance of accounts.
4. The authorization requested referred to in the previous paragraph shall be notified to the competent United Nations Security Council Committee. The authorization cannot be granted if the competent United Nations Security Council Committee takes a contrary decision.

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<sup>38</sup> As amended by Art. 20 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

5. The Committee for Credit and Savings shall formulate proposals to the competent International Organisations for including persons, entities or groups in the lists, on the basis of the information provided by the Agency and other national authorities, according to the criteria and procedures set forth in the United Nations resolutions.

6. The Committee for Credit and Savings shall formulate proposals to the competent International Organisations, according to the criteria and procedures set forth in the United Nations resolutions, for de-listing, also on the basis of requests submitted by the parties concerned.

7. The Agency, the Police Authority, the Interpol National Central Bureau, and the Public administrations shall provide the President of the Committee for Credit and Savings, by way of derogation from any provision in force on matters of official secrecy, with information referring to the functions envisaged in paragraphs 5 and 6. The Judicial Authority shall provide the Committee with any information deemed useful for the same purposes, unless this communication prejudices the ongoing investigations.

8. Whenever, on the basis of the information acquired in compliance with the previous paragraphs, there are sufficient elements to formulate designation proposals to the competent International Organisations and there is the risk that the funds or economic resources to be frozen might, in the meantime, be lost, concealed, or used for terrorist financing, the Committee for Credit and Savings shall inform the Agency, which, whenever there are the conditions specified in article 5, paragraph 1, letter d), shall order the freezing of said assets.

9. The Committee shall take action in the same manner also when foreign authorities notify they have adopted freezing measures in respect of persons not included in the lists foreseen in article 46, paragraph 1, letter a). The information and documents shall immediately be forwarded to the Agency.

10. The Agency shall take the measures set forth in article 5, paragraph 1, also on its own initiative, when it receives from national or foreign authorities evidence that assets, funds or other economic resources derive from terrorist financing or may be used to finance terrorism or activities that threaten international peace and security.

#### Article 50 (Judicial protection)

1. The party concerned can lodge personally or through a lawyer, an appeal against the restrictive measures ordered by the Congress of State decision and against the provisions adopted by the Committee for Credit and Savings. A judicial review shall be also allowed against the same measures.

2. By way of derogation from article 3 of Law No. 5 of 25 January 1984, the party concerned, if he/she has not designated his/her own defence lawyer or has no defence lawyer, shall be assisted by a public defender also in proceedings before the administrative judge. No compensation shall be owed to the public defender for the professional services provided under this article.

### TITLE V

## **STAFF OF POLICE FORCES**

### **CHAPTER I**

#### **DETACHMENT AND TRAINING OF POLICE OFFICIALS**

##### **Article 51**

###### **(Assignment of police officials)**

1. For the effective fulfilment of the duties established by the law and international obligations, upon request by the Director and approval by the Congress of State, police officials who have a specific attitude and preparation in relation to the functions envisaged by this law may be assigned to the Financial Intelligence Agency, also for limited periods of no less than one year.

2. The police officials shall be selected by the Director of the Agency, in agreement with the investigating judges and the Commanders of the Law Enforcement Agencies, taking into consideration their rank, educational degree and experience in the prevention and combating of financial crimes.

3. The Commanders of the Law Enforcement Agencies shall guarantee the Agency an adequate number of qualified officials for the fulfilment of the duties assigned by this law.

4. Police officials assigned to the Agency shall be exempted from the duties and obligations deriving from the regulations of the Corps to which they belong that do not pertain to judicial police functions, except for exceptional circumstances that shall be notified to the Agency.

##### **Article 52**

###### **(Training of Police officials)**

1. The Agency shall contribute to training Police officials in the area of financial investigations. For this purpose, it shall promote training through courses and internships of duration no longer than six months, according to specific Memorandums of Understanding undersigned with the Commanders of the Corps to which said officials belong.

## **TITLE VI SANCTIONS**

### **CHAPTER I**

## CRIMINAL SANCTIONS

### Article 53

(Violation of secrecy requirements regarding suspicious transaction reports)

1<sup>39</sup>. Unless the fact constitutes a more serious crime, anyone revealing – outside the cases provided for by law - that a report has been forwarded or that a money laundering or terrorist financing investigation is ongoing or may be initiated, shall be punished with first degree imprisonment, third degree disqualification and second degree daily fine.

2. The same punishment shall apply to anyone who, knowing that a suspicious transaction report has been filed under article 7, informs the party concerned or third parties thereof.

### Art. 53 bis<sup>40</sup>

(Violation of investigation secrecy)

1. Unless the fact constitutes a more serious crime, anyone, apart from the cases laid down by law, who discloses the existence and/or the results of investigations, inspections or requests for information by the Judiciary, the Police Authority, the Financial Intelligence Agency or the Central Bank of the Republic of San Marino, concerning this Law or, in any case, covered by official secrecy, shall be punished by terms of second-degree imprisonment and disqualification.

2<sup>41</sup>. If a blocking or seizure order has already been executed, financial parties may inform the customer of the execution of the order, unless the Judicial Authority has placed limitations on such communication.

### Article 54

(Omitted or false statements regarding customers)<sup>42</sup>

1. <sup>43</sup> Unless the fact constitutes a more serious crime, anyone failing to provide the particulars of the person on behalf of whom the transaction is carried out or providing false particulars, or anyone failing to indicate the beneficial owner or providing false indications about the beneficial owner, shall be punished with second degree imprisonment or second degree daily fine.

2. The same punishment envisaged in the preceding paragraph shall also be applied to anyone who does not provide information on the purpose and nature of the business relationship or occasional transaction.

### Article 55<sup>44</sup>

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<sup>39</sup> As amended by Art. 20 of Decree-Law no. 134 of 26 July 2010

<sup>40</sup> As introduced by Art. 36 of Decree-Law no. 134 of 26 July 2010

<sup>41</sup> As amended by Art. 21 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>42</sup> As amended by art. 7 of Law No. 73 of 19 June 2009 and subsequently by Decree-Law no.134 of 26 July 2010

<sup>43</sup> As replaced by Art. 21 of Decree-Law no. 134 of 26 July 2010

<sup>44</sup> As replaced by Art. 22 of Decree-Law no. 134 of 26 July 2010

(Non-compliance with reporting requirements)

1. Unless the fact constitutes a more serious crime, anyone not complying with the reporting requirements set forth in Article 36 shall be punished with first degree imprisonment, third degree disqualification and second degree daily fine.

Article 56

(Actions intended to prevent reporting)

1. Unless the fact constitutes a more serious crime, anyone using violence, threatening or giving, offering or promising any advantage for the purpose of delaying or preventing that a report of a suspicious transaction, even if not carried out, is transmitted to the Agency or the Judicial Authority, shall be punished by terms of second-degree imprisonment and second-degree daily fine.

2. Anyone using violence, threatening, giving, offering or promising an advantage after a report was transmitted to the Agency or the Judicial Authority, shall be punished by terms of second-degree imprisonment.

Article 57

(Non-compliance with the orders and provisions issued by the Agency and the Congress of State)

1. Unless the fact constitutes a more serious crime, anyone who, without justified reason, does not comply with, delays or hinders the execution of an order, request or provision issued by the Agency under article 5, shall be punished by terms of second-degree imprisonment and second-degree disqualification.

2. The same punishment shall be applied to anyone who does not comply with the restrictive measures adopted by decision of the Congress of State under article 46.

Article 58

(False or omitted declarations to the Agency)

1. Anyone being requested by the Agency to provide data or information for investigative purposes, who makes false declarations or hides, entirely or in part, what he/she knows about facts for which he/she has been summoned, shall be punished by terms of second-degree imprisonment.

2. The provision referred to in the previous paragraph shall not apply if false or reticent declarations are made by the person who is being investigated.

Article 59

(False information in acts intended for the Agency)

1. Unless the fact constitutes a more serious crime, anyone who declares or states false information in acts or documents intended for the Agency, shall be punished by terms of second-degree imprisonment.

2. The same penalty shall apply to anyone who provides the Agency with documents containing false information.

3. In case of acts or documents to be provided to the Judicial Authority, third-degree imprisonment shall be applied.

Article 60  
(Circumvention of freezing measures)

1. Anyone who carries out actions aimed at circumventing the freezing measures referred to in article 46, paragraph 1, letter a), shall be punished by terms of third-degree imprisonment, daily fine and disqualification. Moreover, pecuniary administrative sanctions up to double of the value of the funds or economic resources subject to freezing shall be applied.

**Art. 60-bis<sup>45</sup>**  
**(Non-compliance with or delay in implementing the blocking provision)**

1. Anyone failing to comply with or delaying the provision with which the Agency orders the blocking referred to in Article 5, paragraph 1, letter d) of this Law shall be punished with first degree imprisonment or second degree daily fine. A pecuniary administrative sanction from 2,000.00 euro to 40,000.00 euro and third degree disqualification shall also apply.
2. If violations are perpetrated by using fraudulent means, the punishments shall be increased by one degree and the pecuniary sanction shall be doubled.

CHAPTER II  
ADMINISTRATIVE VIOLATIONS<sup>46</sup>

Article 61<sup>47</sup>  
(Violation of customer due diligence and abstention requirements)

1. The violation of the customer due diligence requirements established by this Law shall be punished with a pecuniary administrative sanction from 5,000.00 euro to 70,000.00 euro.
2. If the violation of the customer due diligence requirements is perpetrated by using fraudulent means, the pecuniary administrative sanction shall be doubled.
3. The violation of the abstention requirements set forth in Article 24 shall be punished with a pecuniary administrative sanction from 5,000.00 euro to 80,000.00 euro.
4. Except as provided in Article 54, the violation of the obligations to provide information necessary to comply with customer due diligence requirements shall be punished with a pecuniary administrative sanction from 5,000.00 euro to 80,000.00 euro.
5. If the violation referred to in the paragraphs above hampers, delays or prevents the control on the part of the Supervisory Authority, besides the sanctions envisaged in this Article, the fine referred to in Article 84 of the Criminal Code shall be applied.

Article 62<sup>48</sup>  
(Violation of registration and record-keeping requirements)

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<sup>45</sup> As added by Art. 22 of Decree-Law no.187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>46</sup> As added by Article 23 of Decree-Law no.187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>47</sup> As amended by Article 23 of Decree Law no.134 of 26 July 2010 and subsequently replaced by Art. 24 of Decree-Law no.187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>48</sup> As modified by Article 24 of Decree-law no.134 of 26 July 2010 and subsequently replaced by Art. 25 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

1. The violation of the registration and record-keeping requirements laid down in Article 34 shall be punished with a pecuniary administrative sanction from 5,000.00 euro to 70,000.00 euro. Non-compliance with the obligations referred to in Article 35 shall also be punished with the same administrative sanction.

2. If the violation of registration requirements is perpetrated by using fraudulent means, the pecuniary sanction shall be doubled.

**Art. 62-bis<sup>49</sup>**

(Non-compliance with or delay in implementing the blocking provision)

**Art. 62-ter<sup>50</sup>**

(Violation of the prohibition to operate with shell banks)

1. Violations of the provision set forth in Article 28 shall be punished with a pecuniary administrative sanction from EUR 2,000 to 50,000.

**Article 63**

(Violation of the prohibition to keep anonymous accounts and violation of the limits on the use of cash and bearer securities)

1. Violations of the prohibition to keep anonymous accounts or accounts in fictitious names shall be punished with a pecuniary administrative sanction from EUR 2,000 to 50,000.

2. Violations of article 31, paragraphs 1 and 2 shall be punished with a pecuniary administrative sanction up to half the amount of each transaction.

3. Violations of the provisions set forth in article 31, paragraphs 3, 4 and 5 shall be punished with a pecuniary administrative sanction up to half the balance of the bearer passbook.

**Article 64**

(Violation of the provisions on freezing)

1. Unless the fact constitutes a crime, the violation of the provisions referred to in article 47, paragraph 1, shall be punished with a pecuniary administrative sanction up to double of the value of the funds or economic resources subject to transfer, disposition or use.

2. Unless the fact constitutes a crime, the violation of the provisions referred to in article 47, paragraph 2, shall be punished with a pecuniary administrative sanction up to double of the value of the funds or economic resources made available directly or indirectly to persons, entities or groups included in the lists drawn up by the competent Committee of the United Nations or allocated for the benefit of such persons, entities or groups.

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<sup>49</sup> Added by Decree Law no. 134 of 26 July 2010 and then repealed by Art. 26 of of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>50</sup> As introduced by Art. 26 of Decree-Law no. 134 of 26 July 2010.

#### Article 65

(Violation of reporting requirements regarding frozen funds and resources)

1. Unless the fact constitutes a crime, the violation of the provisions referred to in article 48 shall be punished with a pecuniary administrative sanction from EUR 500 to 25,000.

#### Article 66<sup>51</sup>

(Other violations)

1. Without prejudice to the criminal and administrative violations referred to in the preceding articles, violations of other provisions envisaged in this Law shall be punished with a pecuniary administrative sanction from EUR 3,000 to 100,000.

#### Article 67<sup>52</sup>

(Violation of instructions)

1. Unless the fact constitutes a crime or a more serious administrative violation, failure to comply with the instructions issued by the Agency shall be punished with a pecuniary administrative sanction from EUR 3,000 to 100,000.

### **CHAPTER III**

#### **LIABILITY FOR ADMINISTRATIVE VIOLATIONS**

#### Article 68

(Subjective element for administrative violations)

1. In the administrative violations envisaged by this law, each person shall be liable for his/her own actions or omissions, consciously and voluntarily committed, whether wilful or negligent.

#### Article 69

(Complicity of persons)

1. Where several persons act in complicity in an administrative violation, each one of them shall be subject to the sanction prescribed for this action.

#### Article 70

(Joint and several liability)

1. If the violation is committed by a person subject to another authority, direction or control, the person vested with the authority or having the responsibility for the direction or control shall be held jointly and severally liable for the payment of the amount owed by the perpetrator of the violation, unless the person proves that he/she could not have prevented the violation.

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<sup>51</sup> As replaced by Art. 27 of Decree-Law no. 134 of 26 July 2010

<sup>52</sup> As replaced by Art. 27 of Decree-Law no. 134 of 26 July 2010

2. If the violation is committed by the representative or an employee of a legal person or entity without legal personality, of a sole proprietor or professional in the exercise of his own functions or duties, the legal person, entity, entrepreneur or professional shall be held jointly and severally liable for the payment of the amount owed by the perpetrator of the violation.

3. In the cases envisaged in the previous paragraphs, anyone being held jointly and severally liable for the payment shall be bound to claim against the perpetrator of the violation.

4. The joint and several liability referred to in paragraphs 1 and 2 shall apply even when the perpetrator of the violation has not been identified.

#### Article 71

(Several violations of provisions envisaging administrative sanctions)

1. Unless otherwise provided by law, anyone who, through actions or omissions, violates several provisions that set forth administrative sanctions or commits several violations of the same provision, shall be subject to the sanction envisaged for the most serious violation, increased up to three times.

#### Article 72

(Criteria for the application of pecuniary administrative sanctions)

1. In determining the pecuniary administrative sanction set forth by law between a minimum and a maximum limit, account shall be taken of the seriousness of the violation, the conduct subsequent to the violation aimed at aggravating or attenuating the consequences of the violations, the behaviour and economic conditions of the perpetrator of the violation shall be taken into account.

#### Article 73<sup>53</sup>

(Voluntary settlement)

1. For the administrative violations set forth in this Law, the option to correct the violation by paying a lower amount shall not apply.

#### Article 74

(Application of the sanctions)

1. The Agency shall detect the administrative violations and apply the sanctions set forth in this law.

## CHAPTER IV

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<sup>53</sup> As replaced by Art. 28 of Decree-Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

## INVALIDITY OF ACTS EVIDENCING TITLE TO ASSETS SUSCEPTIBLE TO CONFISCATION

### Article 75<sup>54</sup>

(Invalidity of the acts concerning the disposal of property subject to confiscation)

1. Any act – performed at any title – concerning the disposal of property, funds or resources that constitute, directly or indirectly, the price, product or proceeds of an offence shall be invalid if the person who has received such property, funds or resources knew or should have known that they derived from an offence.
2. The Government Syndics shall sue the transferor, the transferee and any successors in title, who shall be jointly sentenced to transfer the property, funds or economic resources to the State, or, if this is not possible, to pay an equivalent amount.
3. It shall be for the transferee and any successors in title to demonstrate their good faith in conformity with the first paragraph of this Article.
4. Any other reciprocal action performed between the transferor, the transferee and any successors in title shall not be affected.
5. All actions performed by the victim of the offence, from which the property, funds or resources derive, shall not be affected.
6. The provisions referred to above shall apply by way of derogation from the general rules concerning contractual invalidity, with a view to preventing and combating money laundering and terrorist financing in a more effective way.
7. In conformity with the aim referred to in the preceding paragraph, the judge shall, upon request of the interested party, give effect to the foreign measure which, in the framework of non-criminal proceedings aimed at confiscating the property, funds or resources envisaged in paragraph 1 above, identifies the same property, funds or resources and orders precautionary measures for their preservation. The judge shall verify the authenticity and enforceability of the foreign measure and that its implementation is not contrary to public order. The requested acts shall not prejudice the Republic's sovereignty, security and other essential interests. As for all aspects not covered, the procedural rules concerning civil judgements shall apply.

## TITLE VII AMENDMENTS TO THE LEGISLATION IN FORCE

### CHAPTER I

## SUPPLEMENTS AND AMENDMENTS CONSEQUENT ON INTERNATIONAL CONVENTIONS

### Article 76

(Criminal jurisdiction, extradition and confiscation)

1. In article 6 paragraph 1 of the criminal code, after “337 *bis*”, introduced by article 2 of Law No. 28 of 26 February 2004, the term “337 *ter*,” is added and after “347,” the term “374 *ter*” is added.

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<sup>54</sup> As replaced by Art. 28 of Decree-Law no. 134 of 26 July 2010

2. In article 8 paragraph 3 of the criminal code, after the terms “in no case shall be deemed political”, introduced by article 3 of Law No. 28 of 26 February 2004, the terms “crimes set forth in articles 337 *bis*, 337 *ter* as well” are added.

3. In article 140 of the criminal code, the following number: “6. Payments of sum in money set forth in article 147 paragraph 3” is added.

4. Article 147, paragraph 3 of the criminal code is replaced by the following:

“In case of conviction, the confiscation of the instrumentalities that served or were destined to commit the offences referred to in articles 199 paragraph 1, 199 *bis*, 207, 305 *bis*, 337 *bis*, 337 *ter*, 371, 372, 373, 374 paragraph 1, 374 *ter* paragraph 1 and the offences for the purpose of terrorism or subversion of the constitutional order, as well as of the things being the price, product or profit thereof shall always be mandatory. Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money corresponding to the value of the instrumentalities and things referred above”.

Article 77  
(Crimes against property)

1. Article 199 of the criminal code shall be replaced by the following:

“*Sale of stolen property* – Apart from cases of complicity to commit an offence, anyone who buys or receives properties knowing that these are proceeds of crime, shall be punished by terms of second-degree imprisonment and second-degree daily fine and third-degree disqualification from public offices and political rights.

Where a bankruptcy procedure is initiated, the same penalty shall apply to anyone who, for profit making purposes, intervenes to lead others to buy or receive properties which are proceeds of crime, or receives properties owned by individuals or companies knowing that such individuals or company suffer insolvency or buys such properties at a much lower price.

2. After the fourth paragraph of article 199 *bis* of the criminal code, the following paragraphs are introduced:

“Anyone who commits the crimes set forth in this article shall be punished by terms of fourth-degree imprisonment, second-degree daily fine and third-degree disqualification from public offices and political rights.

The penalties may be decreased by one degree based on the amount of money or assets corresponding to them and by the nature of the transactions carried out. The penalties may be increased by one degree when the facts have been committed during the exercise of a commercial-professional activity subject to the authorization or licence granted by the competent Public Authorities.

The judge shall apply the penalty corresponding to that for the predicate offence, if this is less serious.”

3. The first paragraph of article 207 of the criminal code is replaced by the following:

“Anyone who takes or promises, in return for a professional services, an exorbitant interest rate or other advantages or intervenes to lead [someone] to receive or promise to others the aforementioned interests or advantages, shall be punished with a third-degree imprisonment, second-degree daily fine and third-degree disqualification from public office and political rights.

4. In article 207 paragraph 2 of the criminal code, the terms “by the Office of Banking Supervision” are replaced by the following: “by the Central Bank of the Republic of San Marino.”
5. After the third paragraph in article 207 of the criminal code, the following paragraph is added:  
“The penalties may be decreased by one degree considering the amount of money or the amount of the interests. The penalties may be increased by one degree when the facts have been committed during the exercise of a commercial-professional activity subject to the authorization or licence granted by the competent Public Authorities or if the offender is a usurer.”

Article 78  
(Terrorism crimes)

1. The first paragraph in article 337 *bis* of the criminal code is replaced by the following:  
“Anyone promoting, establishing, organizing or directing associations that aim at perpetrating violent acts for purposes of terrorism or subversion of the constitutional order, against public or private institutions or bodies either of the Republic of San Marino, of a foreign State or an International Organisation, shall be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights.”
2. After article 337 *bis* of the criminal code, the following article is added:  
“Article 337 *ter. Financing of Terrorism*– Anyone who by any means, even through another person, receives, collects, detains, gives up, transfers or conceals funds intended to be used, in full or in part, in order to carry out one or more terrorist acts or to economically support terrorist individuals or groups, or provides them with a financial service or other connected services, shall be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights.”

Article 79  
(Crimes against the public administration)

1. The first paragraph in article 373 of the criminal code is replaced by the following:  
“A public official, who receives any undue advantage for himself or others, or accepts the promise of the advantages with the purpose of omitting or delaying or for having omitted or delayed an act of his office or of carrying out or having carried out an act contrary to his official duties, shall be punished by terms of fourth-degree imprisonment and fourth-degree disqualification from public offices and political rights as well as third-degree daily fine.”
2. After article 374 of the criminal code the following articles are added:  
“374 *bis. Incitement to corruption* – Anyone who offers or promises any undue advantage to a public official or public employee who does not hold the position of public official in order to lead him to omit or delay an act of his office, or to carry out an act contrary to his duties shall be punished, whether the offer or promise has not been accepted, by terms of third-degree imprisonment and third-degree disqualification from public offices and political rights as well as second-degree daily fine.  
If the offer or promise has been made to lead a public official or public employee who does not hold the position of public official to carry out an act of his office, whether the offer or promise has not been accepted, the offender shall be subject to third-degree arrest and second-degree daily fine.

The penalty referred to in the first paragraph shall be applied to the public official or public employee who does not hold the position of public official that demands a promise or any advantage from a private citizen for the purposes foreseen in article 373.

The penalty set forth in the second paragraph shall be applied to the public official or public employee who does not hold the position of public official that demands a promise or any advantage from a private citizen for the purpose envisaged in article 374.”

“374 *ter. Embezzlement, extortion, corruption and incitement to corruption of officials from foreign States and international public organizations* – The provisions of articles 371, 372, 373 paragraphs 1, 2 and 3, 374 paragraph 1, and 374 *bis* paragraphs 3 and 4, shall also be applied to those who exercise functions or activities corresponding to those of a public official or public employee who does not hold the position of public official in foreign States or international public organizations as well as officials and agents recruited by contract in foreign States or international public organizations.

The provisions of articles 373 paragraph 4, 374 paragraph 2, 374 *bis* paragraphs 1 and 2, shall be applied even if the advantage has been given, offered or promised to persons specified in the first paragraph of this article.”

#### Article 80 (Insider trading)

1. Paragraph 4 of article 305 *bis* of the criminal code is replaced by the following:

“Except as provided in article 147, in case of conviction, the confiscation of the instrumentalities, including financial ones, that were used to commit the crime, shall always be mandatory, except where they belong to a person not involved in the crime.”

## CHAPTER II

### PROVISIONS ON THE EXTRADITION AND TRANSFER OF PRISONERS OR PERSONS UNDER PREVENTIVE DETENTION

#### Article 81 (Extradition for terrorist crimes)

1. For the offences of association for the purpose of terrorism, terrorist financing as well as any crime committed for the purpose of terrorism, in the absence of specific international treaties, the extradition of a person who is in the territory of the Republic of San Marino shall be regulated by the International Convention for the Suppression of the Financing of Terrorism, done in New York on 9 December 1999 and ratified through Decree no. 125 of 10 December 2001. The provisions set forth in article 8 paragraph 2, nos. 1, 2 and 3 of the criminal code shall apply.

#### Article 82 (Transfer of a person abroad)

1. Failing specific international treaties, where a foreign judicial Authority requests - for the purposes of carrying out procedural acts related to crimes of association for the purpose of terrorism, terrorist financing, or any other crime perpetrated for terrorist purposes - the presence of a person under preventive detention or serving imprisonment as ordered by the San Marino judicial Authority, the judge may authorize the transfer of said person provided that:

- a) the person to be transferred freely gives his or her informed consent;
  - b) the requesting State adopts the measures deemed most appropriate by the San Marino judicial Authority for the purposes of the transfer;
  - c) the State to which the person is transferred commits itself to keeping the person transferred in custody, unless otherwise requested or authorized by the San Marino judicial Authority;
  - d) the State to which the person is transferred commits itself to returning, without delay, the person as agreed beforehand or decided by the requesting Authority and the San Marino Authority;
  - e) the State to which the person is transferred commits itself not to requiring to initiate extradition proceedings for the return of the person transferred;
  - f) the State to which the person is transferred neither prosecutes, nor subjects that person to imprisonment or to any other restriction of his/her personal liberty in respect of convictions anterior to his/her transfer, unless otherwise authorized by the San Marino judicial Authority;
  - g) the State to which the person is transferred does not envisage the death penalty in its legal system.
2. The San Marino judicial Authority shall take into due account the time spent in the custody of the State to which the person was transferred to determine the punishment to be served in the Republic of San Marino by said person.

### **CHAPTER III**

#### **AMENDMENTS TO THE LAW ON FOREIGNERS**

Article 83  
(Smuggling of migrants)<sup>55</sup>

### **CHAPTER IV**

#### **AMENDMENTS TO PROVISIONS REGARDING POWERS AND FUNCTIONS IN COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING**

Article 84  
(Special investigative measures and combating of terrorist financing)

1. In article 15, paragraph 1 of Law no. 28 of 26 February 2004, after “337 *bis*”, the term: “337 *ter*” is added.
2. Article 17 of Law no. 28 of 26 February 2004 is replaced by the following:  
“The Central Bank of the Republic of San Marino shall conduct financial investigations also in cooperation with the Police Forces - subject to the prior authorization of the Law Commissioner - which shall report directly to the Central Bank. Whenever the Central Bank detects facts that might constitute an offence, it shall report them to the Single Court.”

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<sup>55</sup> Repealed by Article 40 of Law no.118 of 28 June 2010

Article 85  
(Amendments to the Statute of the Central Bank)

1. In article 12, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, the terms “and combating money laundering” are repealed.
2. In article 15, paragraph 2 of Law no. 96 of 29 June 2005 and subsequent amendments, the terms “and as an anti-money laundering unit” are repealed.
3. In article 16, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, the terms “and its anti-money laundering functions” are repealed.
4. In article 29, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, after the term “penal sanctions” the following terms “and to the Financial Intelligence Agency in the exercise of its function of prevention and combating of money laundering and terrorist financing” are added.
5. In article 30, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, the terms “and to the anti-money laundering unit” are repealed.
6. In article 33, paragraph 1 of Law no. 96 of 29 June 2005 and subsequent amendments, letter: “e. the anti-money laundering unit” is repealed.
7. Article 48, paragraph 2 of Law no. 96 of 29 June 2005 and subsequent amendments is replaced by the following:  
“The Committee for Credit and Savings shall be entrusted with the functions of directing and guiding the supervision over banking, financial and insurance activities and promoting national and international cooperation to effectively prevent and combat money laundering and terrorist financing.”
8. After paragraph 3 of article 48 of Law no. 96 of 29 June 2005 and subsequent amendments, the following paragraphs are added:
  - “4. For the purpose of promoting national and international cooperation to effectively combat money laundering and terrorist financing, the Committee for Credit and Savings shall convene on a regular basis.
  5. A Magistrate appointed by the Judicial Council during an ordinary sitting, the Director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the Police Forces shall attend the meetings referred to in the previous paragraph.
  6. The President of the Committee, according to the items on the agenda, can invite representatives of Professional Associations, Public Administrations, and the obliged parties envisaged by the law on the prevention and combating of money laundering and terrorist financing to take part in such meetings.”

Article 86  
(Amendments to the law on companies and banking, financial and insurance services)

1. Article 36, paragraph 5, letter b) of Law no. 165 of 17 November 2005 is replaced by the following:

“to the supervisory authority in the exercise of its functions of supervision, and to the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing.”  
2<sup>56</sup>.

## CHAPTER V

### AMENDMENTS TO THE COMPANY LAW

#### Article 87<sup>57</sup>

(Meeting of anonymous companies)

#### Article 88<sup>58</sup>

(Fulfilment of customer due diligence requirements in respect of anonymous companies)

## TITLE VIII

### TRANSITORY AND FINAL PROVISIONS

#### Article 89

(Repeal)

1. The following shall be repealed:
  - a) article 9 of Law no. 41 of 25 April 1996 “Provisions on currency matters”;
  - b) articles 6, 8 and 16 of Law no. 28 of 26 February 2004 “Provisions on anti-terrorism, anti-money laundering and anti-insider trading”;
  - c) article 39, paragraph 3 of Law no. 165 of 17 November 2005 “Law on companies and banking, financial and insurance services”;
  - d) Decree no. 71 of 29 May 1996 “Provisions on anti-money laundering”;
  - e) Law No. 123 of 15 December 1998 “Law on anti-money laundering and usury”;
  - f) any provision in contrast with this Law.

#### Article 90

(Delegated Decree)

1. The following shall be regulated by delegated decree:
  - a) custody, administration and management of economic resources that are subject to freezing measures;
  - b) control on cross-border transportation of cash and similar instruments;

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<sup>56</sup> Repealed by art. 29 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>57</sup> Repealed by Art. 30 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

<sup>58</sup> Repealed by Art. 30 of Decree Law no. 187 of 26 November 2010 (Ratifying Decree Law no. 181 of 11 November 2010)

c) procedures for closing bearer passbooks that have not been converted within the time limits set forth in article 31.

2. Upon proposal of the Agency, other parties and activities to be subjected to the requirements envisaged by this law may be identified by means of a delegated decree.

3. The amounts set forth in article 26, paragraph 2 may be modified by delegated decree.

### **Article 91 (Delegated Decree regulating the Agency)**

1. Within one month from the publication of this Law, the Congress of State shall regulate by a delegated decree:

- a) the professional, independence and respectability requirements referred to in article 3, as well as the cases of non-compatibility;
- b) the legal status and remuneration of the Agency staff;
- c) the functions of the Director and Vice Director of the Agency;
- d) the organizational, functional and financial structure of the Agency.

### **Article 92 (Beginning of the effectiveness of the Agency)**

1. The Director of the Agency, appointed pursuant to article 3, shall inform the Congress of State, through the Secretariat of State for Finance and the Budget, when the Agency begins to be effective.

### **Article 93 (Transfer of functions regarding financial analysis activities)**

1. At the date of entry into force of this law, the functions and powers for the purposes of combating money laundering and terrorist financing assigned to the Central Bank of the Republic of San Marino through the provisions repealed by this law shall be transferred to the Agency.

2. Until the communication referred to in article 92, the functions and powers assigned to the Agency by this law shall be exercised by the Central Bank.

3. The information and documents, also in electronic format, regarding the suspicious transaction reports received, any financial analysis carried out and the exchange of information between financial intelligence units, shall be sent in copy by the Central Bank to the Agency within 30 days following the communication referred to in article 92. The Director of the Agency shall acknowledge delivery of the documents.

4. The electronic systems and devices used by the Central Bank for financial analysis and exchange of information shall be transferred to the Agency within 30 days following the communication referred to in article 92.

5. The Central Bank shall continue to conduct financial analysis with respect to the suspicious transaction reports received before the communication referred to in article 92, in accordance with the provisions set forth in this law and to the fullest extent consistent with the organizational

structure of the Central Bank. For the analysis being undertaken on that date, the Central Bank may make use of the electronic systems and devices transferred to the Agency.

6. Within three months from the communication set forth in article 92, the Central Bank shall inform the Agency of the results of the financial analysis of the suspicious transaction reports received before that communication. To this end, the Central Bank shall transmit a copy of the relevant documentation to the Agency.

7. The documents and information already acquired by the Central Bank in the exercise of its functions and powers for the prevention and combating of money laundering, shall not be used for other purposes set forth in article 3 of Law no. 96 of 29 June 2005.

8. Until the recruitment of its staff is completed, the Agency shall rely on the employees and officials of the Central Bank, identified by the Director of the Agency, in agreement with the Director of the Central Bank, taking into consideration the operational and functional requirements of both the Agency and the Central Bank.

#### Article 94 (Technical Annex)

1. For the purposes of identifying the parties referred to in article 1, paragraph 1, letter n), as well as the “assets” or “funds” referred to in article 1, paragraph 1, letter e), reference shall be made to the provisions in the Annex to this Law.

2. The Annex referred to in the previous paragraph may be modified or supplemented by delegated decree.

#### Article 95 (Timing of compliance and instructions)

1. The obliged parties shall be required to fulfil the requirements of customer due diligence, registration and reporting starting from the entry into force of this Law.

2. Within six months from the communication referred to in article 92, the Agency shall issue the following instructions:

- a) On the procedures for the fulfilment of the requirements referred to in article 22, paragraph 1, letter b);
- b) on risk-assessment and additional assessments referred to in article 25;
- c) on the identification carried out through third parties and on the procedures for the transmission of documents and information referred to in article 29;
- d) on the information that shall be acquired in case of transfer of funds pursuant to article 33;
- e) on the typologies of suspicious transactions and procedures for analysing the transactions referred to in article 36;
- f) on the data and information that shall be recorded and maintained according to article 34, paragraph 1.

3. Subject to article 25, the obliged parties shall be required to meet the requirements referred to in the previous paragraph according to the procedures set forth in the instructions issued by the Agency.



4. The provisions referred to in the previous paragraphs shall also apply to occasional transactions and professional services which might be being carried out at the entry into force of this law, as well as to relationships existing on that date.

5. The Agency shall suggest to the Congress of State, through the Committee for Credit and Savings, the identification of foreign jurisdictions whose system for the prevention and combating of money laundering and terrorist financing is equivalent to that set forth in international standards. The Congress of State shall identify the equivalent jurisdictions by adopting a relevant decision.

6. The circulars and standard letters issued by the Central Bank regarding the prevention and combating of money laundering and terrorist financing shall continue to be applied, *mutatis mutandis*, until the instructions referred to in paragraph 2 are issued.

Article 96  
(Entry into force)

1. This Law shall enter into force three months after its legal publication.

*Done at our Residence, on 17 June 2008*

THE CAPTAINS REGENT

*Rosa Zafferani – Federico Pedini Amati*

THE SECRETARY OF STATE  
FOR INTERNAL AFFAIRS

*Valeria Ciavatta*

## TECHNICAL ANNEX

### Article 1<sup>59</sup>

(Politically exposed persons referred to in Article 1, paragraph 1, letter n)

1. The expression “politically exposed persons” shall mean:

A) natural persons, residing in a foreign State, who are or have been entrusted, during the year preceding the establishment of the business relationship, the carrying out of the transaction or the provision of the professional service, with prominent public functions, including the following functions, even if differently named:

- 1) heads of State, heads of government, ministers, deputy ministers, assistant ministers, members of parliaments,
- 2) members of judicial bodies whose decisions are not generally subject to further appeal,
- 3) members of the board of directors of central banks or supervisory authorities,
- 4) ambassadors, chargés d'affaires, high-ranking officers in the armed forces,
- 5) members of the administrative, management or supervisory bodies of State-owned enterprises;

B) immediate family members or persons known to be close associates of the persons referred to in the preceding letter, including the following persons:

- 1) the spouse or any partner considered as equivalent to the spouse,
- 2) the children and their spouses,
- 3) the parents;

C) any natural person who is known to have beneficial ownership of companies or legal entities with a person referred to in letter A);

D) any natural person who has sole beneficial ownership of a company, legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in letter A) above.

2. The obliged parties shall continue to meet, on a risk-sensitive basis, enhanced customer due diligence requirements even if they have ceased to be entrusted with a prominent public function.

### Article 2

(“Assets” or “funds” referred to in article 1, paragraph 1, letter e)

1. “Assets” or “funds” shall mean: property of every kind, whether tangible or intangible, movable or immovable, including means of payment and credit instruments, documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such property, including, but not limited to:

- a) cash, checks, drafts, claims on money, money orders and other means of payment;
- b) deposits with banks or financial institutions or other entities, balances on accounts, debts, debt obligations and publicly and privately traded securities, as well as financial instruments as defined by Law no. 165 of 17 November 2005 and subsequent amendments;
- c) interest, dividends and other income and value accruing from or generated by assets;
- d) credit, right of set-off, guarantees, performance bonds and other financial commitments, letters of credit, bills of lading and bills of sale;
- e) documents evidencing an interest in funds or economic resources;
- f) any other instrument of export-financing.

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<sup>59</sup> As amended by Art. 29 of Decree-Law no. 134 of 26 July 2010