

# Republic of San Marino

**We, the Captains Regent  
of the Most Serene Republic of San Marino**

*Having regard to article 4 of Constitutional Law n. 185/2005 and article 6 of Qualified Law n. 186/2005;*

*Promulgate and order the publication of this Law approved by the Great and General Council during its sitting of June 10, 2008.*

**LAW N° 92, June 17, 2008**

## **PROVISIONS ON PREVENTING AND COMBATING MONEY LAUNDERING AND TERRORIST FINANCING**

### **TITLE I GENERAL PROVISIONS**

#### **Article 1 (Definitions and scope)**

1. For the purposes of this Law, the following definitions apply:
  - a) “Agency”: the Financial Intelligence Unit referred to in article 2;
  - b) “Public administrations”: Secretaries of State, Departments, public institutions, state corporations, public administration offices;
  - c) “Central Bank”: the Central Bank of the Republic of San Marino as defined in Law N° 96 of June 29, 2005 and subsequent amendments;
  - d) “shell bank”: any entity that carries out activity equivalent to that defined in Annex 1 Law N° 165 of November 17, 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”: any property, whether tangible or intangible, movable or immovable, including means of payment and credit, any document or instrument, including electronic or digital form, evidencing title to, or interest in such property; economic resources of any nature, tangible or intangible, movable or immovable assets, thus including all accessories, fixtures and returns that may be used to obtain funds, assets or services as well as any other utility 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 field of their activities, execute an occasional transaction or establish a business relationship, or the natural person, legal person, or entity without legal personality to which the

- obliged parties render a professional service, regardless whether or not payment is made;
- g) “freezing of funds”: the prohibition to move, transfer, modify, dispose, use or manage funds or economic resources, to have access to them in such a way as to modify the entity, amount, location, entitlement of rights, ownership, nature, destination or cause any other change that would permit the use of funds or economic resources, including, for mere illustration purposes, portfolio management, sales, leasing, renting or establishment of real rights of guarantee;
  - h) “anonymous accounts or accounts in fictitious names”: the relationships for which the customer due diligence obligations, in order to guarantee that the financial entity knows the identity of the client in every phase of the relationship with the client itself, are not fulfilled;
  - i) “payable-through accounts”: transnational bank accounts used directly by the customers to carry out transactions on their own behalf;
  - j) “terrorism purposes”: the proposition to influence the institutions or intimidate the population or part of it, to destabilize or overthrow the political, constitutional, economic, or social institutions of the Republic of San Marino, of a foreign State or of an International Organization, in contrast with the constitutional order, the rules of international law and the statutes of International Organizations;
  - k) “terrorist financing”: except as provided in article 337 *ter* of the criminal code, any activity intended, by any means, to collect, provide, intermediate, deposit, keep or endow funds or economic resources, regardless of how they were obtained, destined to be used, in full or in part, in order to carry out or promote one or more offences for terrorist purposes, regardless of the actual use of the funds or economic resources to carry out said offences;
  - l) “instructions”: the provisions enacted by the Financial Intelligence Agency in the exercising of its functions of prevention and combating money laundering and terrorist financing;
  - m) “occasional transaction”: any transaction, professional service or action carried out for the customers, outside a business relationship, that involves the transfer or moving also by electronic means of cash or other means of payment;
  - n) “politically exposed person”: natural persons, foreign citizens, who are or have been entrusted with important public functions abroad during the year preceding the establishment of the business relationship, transaction or professional service, their immediate family members or persons known to be close associates of such persons, as foreseen in the technical Annex to this Law;
  - o) “business relationship”: any relationship or professional service between an obliged party, regardless of whether payment is required or not, which involves carrying out more than one transaction;
  - p) “terrorism” or “terrorist act”: any conduct, contrary to the constitutional order, the rules of international law and statutes of International Organizations, aimed at seriously injuring people or things, so as to compel the institutions of the Republic of San Marino, of a foreign State or International Organization to carry out or refrain from carrying out any act, or to intimidate the population or part of it, or to destabilize or destroy the political, constitutional, economic or

social institutions of the Republic of San Marino, of a foreign State or 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”:

- (I) the natural person who ultimately owns or controls the customer, when the latter is a legal person or entity without a legal personality;
- (II) the natural person 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, at any rate, because of agreements or other reasons, is able to control voting rights equal to said percentage or has 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 the European Union 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 that administers funds; whenever the beneficiaries have not been determined, the natural person(s) in whose principal interest the entity is established or acts;
  - 3) the natural person(s) who is able to control 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 relative to preventing and combating money laundering and terrorist financing.

2. With the sole object of the laws regarding preventing and combating money laundering, except as provided in articles 199 and 199 *bis* of the criminal code, the following conducts may constitute money laundering if committed intentionally:

- a) converting or transferring assets knowing that such assets come directly or indirectly from criminal activity or from participation in said activity, with the aim of concealing or disguising the criminal origin of the said assets, or assisting any person involved in said activity to evade the legal consequences deriving from his or her actions;
- b) concealing or disguising the true nature, origin, location, disposition, movement of property, ownership of the assets or interest in such assets, carried out knowing that such assets come directly or indirectly from criminal activity or participation in said activity;

c) the purchase, possession or use of assets, knowing, at the time of receipt, that such assets are proceeds directly or indirectly of a criminal activity or participation in said 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 paid for by the Central Bank. The Agency shall use the resources according to criteria of cost effectiveness and efficiency.

4. The Agency shall prepare annual accounts by the month of May regarding the management of the resources received from the Central Bank during the previous year and a budget document outlining expenses for the following year by the month of September. The annual accounts and budget document shall be sent to the Committee for Credit and Savings. The Committee for Credit and Savings shall evaluate if the resources have been programmed and managed according to the criteria of cost effectiveness and efficiency and then transmit the pertinent 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 choosing among people who have the necessary requisites of professionalism, 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 procedure required for their appointment only if they no longer satisfy the conditions required for the fulfilment of their functions or are guilty of serious deficiencies.

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 attributed 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 fact 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.

2. The Agency shall analyze and study financial flows in order to identify and prevent money-laundering and terrorist financing. It shall examine the indicators of anomalies with reference to determined 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 perform the functions attributed by this law and for the purpose of preventing and combating money-laundering and terrorist financing, the Agency, through its reasoned request in writing, 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 ways and terms established by the Agency;
  - b) to ask the Central Bank or Public Administration to communicate data or information, or to exhibit or hand over any formal papers or documents according to the ways and terms established by the Agency;
  - c) to carry out on-site inspections of the obliged parties. If the obliged party, for the fulfilment of the obligations set forth in this law, makes use of external subjects, the inspections may also be conducted in the offices of said subjects;
  - d) to order the block of assets, funds or other economic resources whenever there are reasonable grounds to believe 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, suspected transactions of money-laundering or terrorist financing for a maximum of five working days, whenever this does not prejudice investigations;

f) to make inquiries about persons who refer to 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 make use of police officers.

3. The Agency shall take note of all activities conducted, also in a concise manner, according to the way deemed 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).

4. The judicial Authority can delegate the Agency to carry out investigations related to proceedings regarding 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** **(Ways and effects of blocking)**

1. The measure with which the Agency orders the blocking in accordance with letter d) of article 5 shall be adopted in written form and shall be justified. Except for the terms set forth in subsequent paragraph 5, in case of urgency the written justification may be submitted subsequent to the blocking.

2. The Agency shall communicate the measure to the entity or person who holding the assets, funds or economic resources in the ways deemed most appropriate. The Agency shall also communicate the measure to the interested party except where the communication may prejudice the outcome of the investigation. If the assets are registered as movable or immovable ones, the Agency shall order the blocking to be registered at the State Office in charge of keeping public registries.

3. The assets freezing cannot constitute the object of any act evidencing transfer, title to or use of such assets.

4. Without prejudice to confirmation in accordance with 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, who shall confirm – if requirements are met – the blocking measure within the following 96 hours. Failing such requirements, the judicial Authority shall also lift the block if the reasons for the precautionary measure foreseen in the provision issued by the Agency no longer exist.

6. The provision of the judicial Authority shall be notified to the Agency and to the entity to which the freezing was executed.

7. Such freezing may not exceed 15 days starting from the date of the provision issued by the Agency. This term is established by the judicial Authority in the

confirmation provision and is extendable up to 45 days, upon reasoned request of the Agency, where investigations are particularly complex or where cooperation of foreign financial intelligence units is needed. The request for the extension shall be deposited in the offices of the judicial Authority prior to the expiration of the term. The judicial Authority shall grant or deny the extension within 96 hours from the receipt of the request and shall communicate its decision to the Agency and to the entity having the assets, funds or economic resources at its disposal.

8. Prior to the expiration of the terms established in the previous paragraph, the Agency, with a specific report based on the financial investigations conducted, shall indicate to the judicial Authority any data useful to proceed to the seizure or revocation of the freezing. The judicial Authority shall issue its judgment indicating its reasons within the following 96 hours.

9. In case of termination or revocation of the freezing, the judicial Authority shall take the necessary measures in order to return the frozen assets to the party entitled or, in case of registered movable or immovable assets, to cancel the registration of the freezing 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 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 the documents and acts, including the report on the financial investigation conducted, to the judicial Authority without delay. If, upon completion of the financial investigation, no criminal conduct has 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 may communicate the transmission of the documents or acts to the judicial Authority, or the closure ordered in compliance with the previous paragraph, directly to the obliged reporting party, except when the communication might prejudice the outcome of the investigation or the secrecy of the identity of the reporting person.

#### **Article 8 (Access to information)**

1. The Agency shall have access, also through electronic means, to the data and information available in public registries, archives, professional rolls kept by the Central Bank, Public administrations and Professional Associations.

2. Except as provided in the previous paragraph, the data and information held by the Central Bank, Public administrations and Professional Associations are immediately made available to the Agency, upon simple motivated request in relation to the purposes of preventing and combating money-laundering and terrorist financing.

3. For these same purposes foreseen in the previous paragraph, the Agency, upon simple request, shall have access to registries, archives, data or information kept by police Authorities or by the Single Court, including data regarding criminal record. The data and information regarding jurisdictional activity shall be provided to the Agency, upon authorization by the judge only for the purpose 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 are covered by official secrecy even in relations with the Public administrations, without prejudice to cases of communication or exchange of information set forth in this law. Official secrecy cannot be claimed for requests made by the criminal judicial Authority.

2. The Agency shall take steps, also including the use of computerized means, to ensure that the data and information acquired are not accessible 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 money-laundering and terrorist financing.

2. The Agency shall present an annual report through the Secretary of State for Finance and Budget to the Great and General Council [*Parliament*] every year on the activity carried out for the prevention and combating of money-laundering and terrorist financing.

3. The Agency shall propose to the Congress of State the adoption of measures intended to heighten 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, Police Authority, 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, Police Authority, Central Bank and Professional Associations shall provide, upon motivated request by the Agency, the data and information in their possession, useful for the prevention and combating of money-laundering and terrorist financing.

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

### **Article 12 (Cooperation with Police Authority)**

1. The Agency shall cooperate with the Police Authority and the National Central Office of Interpol, also by exchanging information.

2. The Police Authority, in the fulfilment of its statutory role, may also conduct activities of preventing and combating money laundering and terrorist financing on its own initiative.

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

### **Article 13 (Competences of Professional Associations)**

1. Professional Associations, in the fulfilment of their functions assigned by the respective statutes, shall promote and oversee the compliance with obligations under this law by their members.

2. Professional Associations shall promote the training of their members, employees and collaborators in order that the obligations set forth in this law are correctly observed.

### **Article 14 (Competences of the Central Bank)**

1. The Central Bank, if during the course of its function of supervision over financial entities as referred to in article 18, letters a), d) and e) detects violations of this law or facts or circumstances that might be related to money-laundering and terrorist financing, shall inform the Agency in written form without delay.

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 the study of financial movements.

3. The powers for verifying the adequacy of the organizational and procedural structures of the authorized parties remain within the competence of the Central Bank. The Central Bank may enact secondary legislation regarding these parties in accordance with Law N° 165 of November 17, 2005.

**Article 15**  
**(Cooperation with the judicial Authority)**

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

**CHAPTER III**  
**INTERNATIONAL COOPERATION**

**Article 16**  
**(Cooperation with foreign financial intelligence units)**

1. The Agency shall cooperate with foreign financial intelligence units on the basis of reciprocity including the exchange of information. The foreign financial intelligence units shall guarantee the same conditions of confidentiality of the information, as assured 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*] and inform the Committee for Credit and Savings about them.

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, the information may not be sent to third parties without prior written consent by the Agency and is covered by official or professional secrecy.

4. The information exchanged cannot be used to initiate or continue administrative, police or judicial investigations without prior written consent by the Agency.

5. The protocols of agreement or conditions of reciprocity shall provide that the foreign financial intelligence unit informs the Agency whether international judicial assistance procedures have been initiated in relation to a fact being the subject of a request for information. In this case, the Agency shall not exchange the information, unless otherwise ordered by the judicial Authority of San Marino.

**TITLE III**  
**PREVENTIVE MEASURES**

**CHAPTER I  
PERSONS AND ENTITIES SUBJECT TO OBLIGATIONS****Article 17  
(Obligated parties)**

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

**Article 18  
(Financial parties)**

1. Financial parties are defined as follows:
  - a) the authorized parties on the basis of Law N° 165 of November 17, 2005 and subsequent amendments;
  - b) the Central Bank, whenever in the field of its institutional functions, establishes business relationships or carries out occasional transactions that require the fulfilment of obligations set forth in this law;
  - c) the post offices whenever they establish business relationships or carry out occasional transactions that require the fulfilment of obligations set forth in this law;
  - d) the financial promoters as defined in article 24 and 25 of Law N° 165 of November 17, 2005;
  - e) the insurance and reinsurance agencies as defined in article 26 and 27 of the Law N° 165 of November 17, 2005;
  - f) the parties that provide professional credit recovery on behalf of third parties.

**Article 19  
(Non-financial parties)**

1. Non-financial parties are defined as parties that provide professional services regarding the following activities:
  - a) office of the co-trustee as defined by Law N° 37 of March 17, 2005;
  - b) assistance and consultancy on matters of investment services;
  - c) assistance and consultancy on tax, financial and commercial matters;
  - d) credit brokerage;
  - e) real estate brokerage;
  - f) running of gambling houses and games of chance as set forth in Law N° 67 of July 25, 2000 and subsequent amendments;
  - g) custody and transport of cash, securities or values;
  - h) management of auction houses or art galleries;
  - i) trade in antiques;
  - j) purchase of unrefined gold;

- k) manufacturing, mediation of and trade in, including export and import of precious metals and stones.

**Article 20  
(Professionals)**

1. Professionals are defined as follows:
- a) members of the Registry of Accountants (*holding a university degree or holding an high school certificate*) of the Republic of San Marino;
  - b) members of the Registry of External Auditors and Auditing companies and of the Registry of Actuaries of the Republic of San Marino;
  - c) members of the Bar Association of Lawyers and Notaries of the Republic of San Marino, when they carry out in name of or on behalf of their clients any financial or real estate transaction, or when they assist a customer in the planning or execution of related transactions, such as:
    - 1) the transfer of any title of real rights on properties or companies;
    - 2) the management of currency, financial instruments or other assets of customers;
    - 3) the opening or management of bank accounts, savings and securities accounts;
    - 4) the establishment, management or administration of companies, trusts or similar arrangements with or without legal personality;
    - 5) the organisation of all the steps required to establish, operate or manage companies.

**CHAPTER II  
OBLIGATION OF CUSTOMER DUE DILIGENCE**

**Article 21  
(Field of application of customer due diligence)**

1. The obliged parties shall fulfil the customer due diligence obligations in the following cases:
- a) when establishing a business relationship;
  - b) when carrying out occasional transactions or professional services for an amount exceeding 15,000 euros, 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 the information and data previously obtained for the identification of the customer.
2. The financial parties referred to in article 18 shall also fulfil the customer due diligence obligations when they act as intermediaries or are at any rate part of the transfer of money or bearer negotiable instruments, in euros or foreign currency, carried out in any capacity among different entities for a total amount exceeding 15,000 euros.

3. The professionals referred to in article 20 and non-financial parties referred to in article 19 shall also fulfil the customer due diligence obligations when the transaction is of an undetermined or non-definable amount. The establishment, management or administration of a company, trust or other arrangements with or without legal personality constitutes in any case a transaction of a non-definable value.

4. Members enrolled in the Registry of Accountants (*holding a university degree or an high school certificate*) are not required to fulfil the customer due diligence obligations and registration in relation to the execution of the mere activity of drafting or filing income tax returns.

#### **Article 22** **(Customer due diligence measures)**

1. The fulfilment of customer due diligence obligations shall comprise the carrying out, if needed through employees or collaborators, of the following measures:

- 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) if necessary, identification of the beneficial owner and taking risk-based and adequate measures to verify the 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 they are compatible with the data and information that the obliged parties have regarding the customer, its economic activities and risk profile, taking into consideration the source of the funds where necessary;
- e) updating documents, data and information acquired during the fulfilment of customer due diligence obligations.

2. Customers are obliged to provide, under their own responsibility, in written form, all data and information required and updated to permit the obliged parties to fulfil their obligations as set forth in this law.

#### **Article 23** **(Identifying and verifying the identity of the customer and beneficial owner)**

1. The obliged parties shall identify and verify face-to-face, through their employees or collaborators, the identity of the customer and beneficial owner 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, taking risk-based and adequate measures in order 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 registries, lists, acts or documents in the public domain, containing information on the beneficial owners, and request from its customers the pertinent data and information, or obtain information in other ways.

4. Verifying the identity of the customer and beneficial owner may be completed in the shortest time possible after 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. The non-financial entities that carry out activities set forth in article 19, paragraph 1, letter f) shall identify and verify the identity of the customer immediately on entry [*into gambling houses*], regardless of the amount of gambling chips purchased, sold or exchanged. They shall also 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 2,000 euros or more.

#### **Article 24 (Obligations of abstention)**

1. If the obliged parties are not able to fulfil the obligations of customer due diligence foreseen in article 22, paragraph 1, letters a), b) and c), they shall refrain from establishing business relationships or carrying out occasional transactions, and interrupt them, if already initiated, at the earliest opportunity and decide whether the situation should be reported to the Agency.

2. The members enrolled in the Registry of Lawyers and Notaries and Registry of Accountants (*holding a university degree or an high school certificate*) shall not be obliged to apply the provisions of the previous paragraph in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in administrative or judicial proceedings, or concerning such proceedings, including advice on instituting or avoiding proceedings.

3. The obliged parties shall refrain from carrying out transactions when there are reasonable grounds to believe that these transactions could be related to money-laundering or terrorist financing. In these cases, a suspicious transaction report shall be promptly sent to the Agency. Where abstention is not possible because there is a legal obligation to receive the act, or the carrying out of the transaction by its nature cannot be postponed, or where the abstention might hinder ongoing investigations, the obliged parties shall inform the Agency immediately after the carrying out, taking every precaution to identify the destination of the funds transferred during the transaction.

**Article 25**  
**(Risk-based approach)**

1. The obliged parties are required to fulfil the due diligence on all their customers.
2. The customer due diligence obligations are fulfilled by risk-based verifications which depend on the type of customer, business relationship, occasional transaction, professional service, product or transaction.
3. For the evaluation of the risk, the obliged parties shall evaluate at least the following aspects:
  - A) with reference to the customer:
    - 1) the legal status,
    - 2) the main business activity,
    - 3) the behaviour at the moment of establishing the business relationship, or carrying out the transaction or professional services,
    - 4) the residence or registered office of the customer or of the counterpart with particular attention to that do not require equivalent obligations to those set forth in this law;
  - B) with reference to any business relationship or occasional transaction:
    - 1) the type and specific way of execution,
    - 2) the amount,
    - 3) the frequency,
    - 4) the coherency of the transaction in relation to the whole of information available for the obliged party,
    - 5) the geographic area of the execution of the transaction, with particular attention to that do not require equivalent obligations to those set forth in this law.

**Article 26**  
**(Simplified customer due diligence)**

1. The obliged parties shall not be subject to the customer due diligence obligations, where the customer is one of the following:
  - a) a financial party referred to in article 18, letters a), b) and c);
  - b) a foreign institution that mainly carries out an activity which refers to the reserved activities mentioned in letters A), B), C), D) and E) of Annex 1 of Law N° 165 November 17, 2005, located in a State which requires obligations equivalent to those set forth in this law and imposes supervision and control over compliance with the requirements for the prevention and combating of money-laundering and terrorist financing;
  - c) a foreign institution 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 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, as long as this market is subject to regulations consistent with or equivalent to the European Union legislation;

e) domestic public authorities.

2. The obliged parties shall not be subject to the requirements of customer due diligence in respect of:

- a) life insurance policies where the annual premium is no more than 1,000 euros or the single premium is no more than 2,500 euros;
- b) complementary pension schemes if there is no surrender clause and the policy cannot be used as collateral for a loan under the schemes set forth in current legislation;
- c) compulsory, complementary or similar pension schemes that provide retirement benefits, for which contributions are made by way of deduction from wages and the scheme rules do not permit the transfer of beneficiaries' rights unless after the death of the holder.

3. The Agency may indicate with instructions the categories of entities or products characterized by a low risk of money-laundering or terrorist financing for which customer due diligence does not apply.

4. In the cases described in the previous paragraphs, the obliged parties shall in any case collect data and information sufficient to establish if the customer falls into an exempted category.

#### **Article 27** **(Enhanced customer due diligence)**

1. The obliged parties, on the basis of a risk assessment, shall take enhanced customer due diligence measures in situations which by their nature can present a higher risk of money-laundering or terrorist financing.

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 take adequate procedures in relation to the activity carried out in order to determine if the customer is a politically exposed person.

3. In the case foreseen in letter a) of paragraph 2, the obliged parties shall compensate for the higher risk by applying 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 execution of the occasional transaction is carried out through an account opened in the customer's name with a financial entity referred to in article 26, paragraph 1, letters a) and b);
- b) verifying the identity of the customer through supplementary documents or information in addition to those requested for a customer that is physically present;
- c) taking supplementary measures to verify the documents supplied;
- d) requiring certification in relation to the information or documents supplied;
- e) requiring a statement of confirmation by a financial party referred to in article 26, paragraph 1, letters a) and b) that has already fulfilled customer due diligence obligations on the customer in question.

4. In the case foreseen in letter b) in paragraph 2, the obliged parties shall do the following:

- a) when the obliged parties are organized in a company structure, they shall obtain the approval of the general director or an equivalent figure, or a person authorized by the general director, before establishing a business relationship or carrying out an occasional transaction;
- b) they shall take any appropriate measure to establish the source of the funds used in the business relationship or in carrying out the occasional transaction;
- c) they shall ensure an 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 institutions located in States which do not require obligations equivalent to those set forth in this law and do not impose supervision and control over compliance with such obligations, shall adopt the following enhanced customer due diligence measures:

- a) collect sufficient information about a respondent foreign institution to fully understand the nature of the respondent's business and to determine, from publicly available information, the reputation of the institution and the quality of supervision;
- b) assess the adequacy and effectiveness of controls applied by the respondent institution regarding matters of preventing and combating money laundering and terrorist financing;
- c) obtain authorization by the general director or equivalent figure, or by a person authorized by the general director, before establishing a business relationship or carrying out an occasional transaction;
- d) specify in written form the respective obligations and responsibilities regarding matters of preventing and combating money laundering and terrorist financing.

6. The financial parties referred to in article 18 letters a) and b) shall assure that the respondent institution 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 performed ongoing customer due diligence, and (III) is able to provide relevant customer due diligence data to financial party, upon request.

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. The financial parties are prohibited from establishing business relationships or carrying out occasional transactions with a shell bank or with a foreign institution that is known to permit its accounts to be used by a shell bank. Relationships that already exist on the date this law enters into force should be closed at the earliest opportunity.

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

1. In order to fulfil the requirements laid down in article 22, paragraph 1, letters a), b) and c), the obliged parties may rely on third parties with which the customers have business relationships or which the customers have used to carry out an occasional transaction. For this purpose, the third-parties shall issue a suitable statement confirming that they have fulfilled customer due diligence obligations. However, the ultimate responsibility for the identification and verification of the identity of the customer shall remain with the obliged parties.

2. For the purposes of this article, the third-parties shall be 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. The third-parties shall immediately make available to the obliged parties all information required in fulfilling the customer due diligence obligations in accordance with the activities foreseen in article 22, paragraph 1, letters a), b) and c).

4. The information and documents regarding the identification of the customer or of the beneficial owner shall be forwarded, without delay, upon simple request by the obliged parties.

5. The Agency may identify, by means of instructions, other categories of third-parties upon which the obliged parties may rely on in order to avoid the repetition of obligations foreseen in article 22, paragraph 1, letters a), b) and c).

**CHAPTER III**  
**ADDITIONAL MEASURES**

**Article 30**  
**(Prohibition to maintain anonymous accounts or accounts in fictitious names)**

1. Except as provided in article 31, financial parties are prohibited to maintain anonymous accounts or accounts in fictitious names.

**Article 31**  
**(Limitations 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, also fractioned, is more than 15,000 euros, shall take place exclusively through a party authorized to conduct the reserved activity referred to in letters A), C) or I) of Annex 1 of Law N° 165 of November 17, 2005.

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

3. The balance of bearer passbooks issued from the date on which this law enters into force shall not be more than 15,000 euros.

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

5. Starting on January 1, 2012, it will no longer be possible to issue bearer passbooks 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 carry out customer due diligence obligations as set forth in article 22, paragraph 1, letters a) and b).

**Article 32**  
**(Obligation of communication to the Agency)**

1. The obliged parties that detect 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 the electronic transfer of funds)**

1. The Agency regulates the following with its own instructions:
  - a) the data and information that the financial parties, authorized to carry out reserved activity referred to in letter I) of Annex 1 of Law N° 165 November 17, 2005, are required to be obtained about those parties ordering the electronic transfer of funds;
  - b) the ways for registering and maintaining these data and information.

2. The financial parties shall deny 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 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 OBLIGATIONS**

**Article 34**  
**(Obligations for registering and maintaining documents and information)**

1. The obliged parties shall register the data and information required when fulfilling customer due diligence obligations and shall keep the records and copies of the

documents obtained for at least five years from the closure of the business relationship or execution of the occasional transaction.

2. The obliged parties shall register and keep the records and registrations of the business relationships and occasional transactions or professional services provided. In particular, they shall register and maintain all original documents or copies admissible in court proceedings, for a period of at least five years from the closure of the business relationship or execution of the transaction or professional service.

3. The data and information referred to in the previous paragraphs shall be registered no later than five days after their acquisition.

4. All the data, information and documents registered and maintained by the obliged parties shall be made available to the Agency without delay for the carrying out of its functions of preventing and combating money laundering and terrorist financing.

#### **Article 35 (Supplementary measures for financial parties)**

1. The financial parties shall equip themselves with electronic systems that enable them to respond rapidly and completely to the Agency's requests that are intended to determine whether these financial parties have had business relationships with specific customers during the previous five years and the nature of these relationships.

#### **Article 36 (Reporting obligations)**

1. The obliged parties shall report the following to the Agency without delay:
  - a) any transaction - even if not executed - which, because of its nature, characteristics, amount, 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, rouses suspicion that the economic resources, money or funds involved in the 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.

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

#### **Article 37 (Possibility to report)**

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

**Article 38**  
**(Safeguarding of professional secrecy)**

1. Members of the Registry of Lawyers and Notaries and members of the Registry of Accountants (*holding a university degree or holding an high school certificate*) may invoke professional secrecy, in front of the Judicial Authority, the Financial Intelligence Agency and the Police Authorities, on the information they acquire while defending and representing their client during a judicial or administrative proceeding or in relation to that proceeding, including advice on the eventuality of prosecuting or avoiding a proceeding, where the information is received or obtained before, during or after such proceeding.

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

3. Professional secrecy may not be invoked in front of the Judicial Authority, the Agency, and Police Authorities in pursuance of their functions on preventing and combating money laundering and terrorist financing, except for the case provided in the first paragraph.

4. Official secrecy may not be invoked in front of the Judicial Authority, the Agency, and the Police Authorities in pursuance of their functions on preventing and combating money laundering and terrorist financing.

5. Professional secrecy and official secrecy may not be invoked even when the data and information are necessary for the investigation of offences and administrative violations set forth in this law.

**Article 39**  
**(Exemption from responsibility)**

1. The suspicious transactions reports and disclosures forwarded under this law do not constitute violation of any restriction to the communication of data or information resulting from contracts or legislative, statutory, regulatory or administrative provisions, nor of obligations of confidentiality and of professional, official or bank secrecy referred to in article 36 of Law N° 165 November 17, 2005. The suspicious transactions reports and disclosures made in good faith shall not entail liability of any kind.

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

1. The obliged parties shall adopt suitable measures to ensure the maximum confidentiality of the person that has detected the suspicious transaction in accordance with article 36, paragraph 1, letters a) and b).

2. The acts and documents related to the suspicious transactions 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 person that detected the suspicious transaction. Requests for information to the obliged party, and requests for further investigation, as well as exchange of information related to suspicious transactions reported, shall be made with appropriate ways that guarantee the confidentiality of the person that has detected the suspicious transaction.

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

5. The identity of the person that has detected the suspicious transaction can be revealed only when the Judicial Authority, with a justified decree, declares it essential to the investigation of the offences for which it is proceeding.

6. The obliged parties shall not disclose to the customer reported and to third parties involved, beyond cases provided for under this law, the fact that a suspicious transaction report has been forwarded or that a money laundering or terrorist financing investigation is being or may be carried out.

7. The communication of the forwarded suspicious transaction reports is permitted among the financial entities located in the Republic of San Marino, belonging to the same group or having business relationships with the same customer, or having executed the transactions reported.

8. Furthermore, the communication is permitted between the obliged parties referred to in article 20 that carry out their professional services in an associated form.

9. Where obliged parties seek to dissuade a customer from engaging in illegal activity, this shall not constitute a violation of the obligation of confidentiality.

10. Where obliged parties disclose information to the party concerned by the freezing provisions ordered by the Agency, if the communication is necessary in connection with the prohibition of transfer, holding or use as referred to in article 6, paragraph 3, this shall not constitute a violation of the obligation of confidentiality.

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

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

1. The obliged parties referred to in article 17 that carry out the activity subject to the obligations set forth in this law, as individuals or associates, as well as legal representatives and those persons that perform management, administration and control

functions of the obliged parties organized in a company structure shall, according to their respective tasks and responsibilities, do the following:

- a) fulfilling obligations set forth in this law;
- b) making arrangements for and verifying the fulfilment of said obligations on the part of employees and collaborators.

**Article 42**  
**(Functions and powers of the compliance officer)**

1. Financial parties, having company status, shall appoint an internal compliance officer in charge of receiving internal suspicious transaction reports, further analysing and forwarding them to the Agency, should he feels reports are grounded on the basis of all the elements in his possession, also inferred from other sources. The suspicious transaction reports shall be forwarded to the Agency without the name of the person who has detected the suspicious transaction in accordance with article 36, paragraph 1, letters a) and b).

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

4. Until the appointment of the compliance officer, or in case of his absence also temporarily, all his 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 that at any title, come into contact with the customers or who at any rate know about the business relationships with the customers or the execution of transactions for their benefit.

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

1. The auditing companies and other non-financial parties may appoint a compliance officer. In case of appointment, the provisions referred to in article 42 shall apply.

**Article 44**  
**(Procedures and internal controls)**

1. The obliged parties shall adopt policies and procedures conforming to the obligations of this law and to the instructions issued by the Agency in order to prevent and combat money laundering and terrorist financing. In particular, they shall adopt policies and procedures to ensure that technological advancements, connected to the activity, are not used for the purpose of money laundering and terrorist financing.

2. The obliged parties shall inform all employees and collaborators of the obligations set forth in this law and of instructions issued by the Agency. The obliged parties shall inform all employees and collaborators of the measures and procedures adopted for the purpose of preventing and combating money laundering and terrorist financing.

3. The obliged parties shall foster the continuous staff training through participation in specific training programmes on matters of preventing and combating money laundering and terrorist financing.

4. The obliged parties shall develop and organize adequate internal controls for preventing and combating the involvement in business relationships or transactions relating to money laundering or terrorist financing.

5. The obliged parties shall be equipped with electronic systems suitable for ensuring the prompt, confidential reception of information sent by the Agency. The information sent by the Agency shall be accessible only to the obliged parties.

6. The financial parties shall extend the obligations referred to in this article to foreign branches.

**Article 45**  
**(Obligations of foreign branches and subsidiaries controlled by financial parties)**

1. The financial parties shall ensure that their foreign branches or subsidiaries fulfil obligations 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 give notice to the Agency and 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 REPRESSING**  
**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 assumed 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 Secretary of State for Foreign Affairs and the Secretary of State for Finance and Budget, shall adopt without delay a decision outlining restrictive measures, conforming to the resolutions of the United Nations Security Council or one of its Committees. The restrictive measures include the following:

- a) the freezing of funds and economic resources held or controlled, directly or indirectly, by persons, entities or groups included in the list drawn up by the appropriate 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 of providing financial services;
- d) restrictions of any other nature, including restrictions on technical assistance, flight prohibitions, prohibition of entry or transit, diplomatic sanctions, the 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 of or limitations to the United Nations Security Council resolutions 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 abrogation 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, and from that moment they are expected to be known by every one.

6. The decisions are sent to the Agency that shall provide for their transmission to the Judicial Authority, the State Administrations referred to in article 48 and the obliged parties referred to in article 17.

**Article 47**  
**(Effects of the freezing of funds and economic resources)**

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

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

3. The freezing is 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 are null and void.

5. The freezing does not prejudice the effects of any seizure or confiscation proceedings, adopted in the field of proceedings having the same funds or economic resources as their object.

6. The freezing of funds and economic resources, the omission or refusal of financial services deemed in good faith conforming to this law shall not imply any kind of responsibility for the natural person, legal person or entity without legal personality who applies it, neither for its directors nor employees.

**Article 48**  
**(Communication obligations)**

1. The State Administrations that keep public registries, which have data or information relating to frozen funds or economic resources, shall immediately give notice to the Agency.

2. The Agency shall order to annotate in the public registries the freezing of registered movable and immovable assets.

3. The obliged parties referred to in article 17 shall do the following:

- a) notify the Agency of the measures applied in accordance with this law, indicating the subjects involved, the amount and nature of the funds and economic resources, within 15 days from the adoption of the Congress of State decision, or from the date of the possession of the funds and economic resources;
- b) notify the Agency of the transactions, business relationships, as well as any other data or information available with reference to subjects included in the lists;
- c) notify the Agency, on the basis of the information provided by it, of transactions and business relationships as well as any other data or information with reference to subjects 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. The Committee for Credit and Savings, under Law N° 96 of June 29, 2005 and subsequent amendments, has the competence to evaluate requests for unfreezing of funds and economic resources presented by the interested parties. The decision shall be adopted within four months from the presentation of the request.

2. In case of abrogation of a freezing measure 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 annotate the unfreezing order in the public registries.

3. The Committee for Credit and Savings may authorize - upon completion of the procedure referred to in the following paragraph 4 - that the frozen assets or property be used to meet the fundamental needs be accessible of the subjects included in the list referred to in article 46, or of family member, including to pay 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 and other tax liabilities, mandatory insurance obligations and, bank fees for bank account maintenance.

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 United Nations Security Council Committee takes a contrary decision.

5. The Committee for Credit and Savings shall formulate proposals to the competent International Organisations for listing persons, entities or groups, on the basis of information provided by the Agency and other national authorities according to the criteria and ways established 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 ways established in the United Nations resolutions, for de-listing, also on the basis of requests presented by the interested parties.

7. The Agency, Police Authorities, Interpol National Central Office, and Public administrations shall communicate to the President of the Committee for Credit and Savings, by way of derogation from every provision in force on matters of official secrecy, information referring to the functions foreseen in paragraphs 5 and 6. The Judicial Authority shall send to the Committee all information deemed useful for the same purposes, when this communication does not prejudice the ongoing investigations.

8. Whenever, on the basis of information acquired in compliance with the previous paragraphs, there are sufficient elements to formulate proposals of designations to the competent International Organisations and in the meantime there is the risk that the assets to be frozen might be lost, concealed, or used for terrorist financing, the Committee for Credit and Savings shall inform the Agency of this fact, which,

whenever there are the conditions foreseen 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 communicate the adoption of measures of freezing in respect of subjects not included in the lists foreseen in article 46, paragraph 1, letter a). The information and documentation shall immediately be transmitted to the Agency.

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

**Article 50  
(Jurisdictional protection)**

1. The interested subject 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 jurisdictional appeal is also admitted against the same measures.

2. By way of derogation from article 3 of Law N° 5 of January 25, 1984, the interested subject, if he/she has not designated his/her own defence lawyer or has no defence lawyer, shall be assisted by the 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 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 Police Forces, taking into consideration rank, educational degree and experience in the prevention and combating of financial offences.

3. The Commanders of the Police Forces 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 exonerated from duties and obligations deriving from regulations of the Corps to which they belong that are not inherent to judicial police functions, except for exceptional circumstances that shall be notified to the Agency.

**Article 52**  
**(Police officials training)**

1. The Agency shall contribute to the training of the police officials on matters of financial investigations. For this purpose, it shall promote training through courses and internships of a duration no longer than six months, according to the specific agreement protocols undersigned with the Commanders of the Corps to which they belong.

**TITLE VI**  
**SANCTIONS**

**CHAPTER I**  
**PENAL SANCTIONS**

**Article 53**  
**(Violation of confidentiality of reports)**

1. Except where the conduct amounts to a more serious crime, anyone subject to reporting obligations reveals - except for cases set forth in the law - that a report has been forwarded or is ongoing or an investigation may be initiated for money laundering or terrorist financing, shall be punished by terms of first-degree imprisonment and second-degree daily fine.

2. The same penalty applies to anyone who, knowing that a suspicious transaction report has been filed under article 7, informs the party concerned or a third party of the filing.

**Article 54**  
**(Omitted or false statements regarding customers)**

1. Except where the conduct amounts to a more serious crime, anyone who bears false testimony when requested to provide information for applying customer due diligence obligations, shall be punished by terms of second-degree imprisonment and second-degree daily fine.

**Article 55**  
**(Disregard of the reporting obligation)**

1. Except where the conduct amounts to a more serious crime, anyone who disregards the reporting obligations set forth in article 36, shall be punished by terms of first-degree imprisonment and second-degree daily fine.

**Article 56**  
**(Actions intended to prevent reporting)**

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

2. Anyone who uses violence, threatens, offers or promises an advantage, after that the report has been transmitted to the Agency or Judicial Authority, shall be punished by terms of imprisonment of second-degree.

**Article 57**  
**(Disregard of the orders and provisions issued by the Agency and Congress of State)**

1. Except where the conduct amounts to a more serious crime, anyone who, without justified reason, disregards, 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 penalty shall be applied to anyone who disregards 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 who, if required by the Agency to provide data or information useful for the investigation, bears false declarations or withholds, 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 provisions referred to in the previous paragraph do not apply if the false or reticent declarations are borne by the person who is being investigated.

**Article 59**  
**(False information in acts intended for the Agency)**

1. Except where the conduct amounts to 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. If the action involves acts or documents to be provided to the Judicial Authority, the penalty shall be a third-degree imprisonment.

**Article 60**  
**(Evading measures for freezing funds)**

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

**CHAPTER II**  
**ADMINISTRATIVE VIOLATIONS**

**Article 61**  
**(Violation of customer due diligence and registration)**

1. The violation of the customer due diligence obligations established by this law shall be punished with pecuniary administrative sanctions from 2,000 to 40,000 euros.

2. If the violation of customer due diligence obligations is carried out using fraudulent means, the pecuniary administrative sanction shall be doubled.

3. The violation of the obligations of abstention set forth in article 24, shall be punished with a pecuniary administrative sanction from 5,000 to 50,000 euros.

4. Except as provided in article 54, the violation of the obligations to provide information for applying customer due diligence obligations, shall be punished with a pecuniary administrative sanction from 3,000 to 50,000 euros.

**Article 62**  
**(Violation of the obligation of registration and maintenance)**

1. The violation of the obligations of registration and maintenance [of documents and information] set forth in article 34 shall be punished with a pecuniary administrative sanction from 2,000 to 40,000 euros.

2. If the violation of obligation of registration is carried out using fraudulent means, the pecuniary administrative sanction shall be doubled.

**Article 63****(Violation of the prohibition to keep anonymous accounts and violation of the limits on the use of currency and bearer securities)**

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

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

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

**Article 64****(Violation of the provisions on matters of freezing funds)**

1. Except where the conduct amounts to a more serious 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 object of the transfer, holding or use.

2. Except where the conduct amounts to a more serious 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 list drawn up by the appropriate Committee of the United Nations or allocated in favour of such persons, entities or groups.

**Article 65****(Violation of the obligation of communication regarding frozen funds and resources)**

1. Except where the conduct amounts to a more serious crime, the violation of the provisions referred to in article 48 shall be punished with a pecuniary administrative sanction from 500 to 25,000 euros.

**Article 66****(Other violations)**

1. Except for the criminal and administrative violations referred to in the previous articles, the violation of other provisions envisaged in this law shall be punished with a pecuniary administrative sanction from 200 to 20,000 euros.

**Article 67**  
**(Violation of instructions)**

1. Except for the administrative and criminal violations envisaged in this law, the violation of the instructions issued by the Agency shall be punished with a pecuniary administrative sanction from 200 to 20,000 euros.

**CHAPTER III**  
**RESPONSIBILITY FOR ADMINISTRATIVE VIOLATIONS**

**Article 68**  
**(Subjective element for administrative violations)**

1. In the administrative violations envisaged in this law, each person is responsible for his own actions or omissions, consciously and voluntarily, both fraudulent and negligent.

**Article 69**  
**(Complicity of persons)**

1. Where one or more 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 liability)**

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

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

3. In the cases envisaged in the previous paragraphs, anyone who is held jointly liable has the obligation to claim against the perpetrator of the violation.

4. The joint liability referred to in paragraphs 1 and 2 exists even if the perpetrator of the violation has not been identified.

**Article 71****(More violations of provisions subject to administrative sanctions)**

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

**Article 72****(Criteria for the application of pecuniary administrative sanctions)**

1. In determining the pecuniary administrative sanction established by the law between a minimum and a maximum limit, the seriousness of the violation, the behaviour 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****(Voluntary settlement)**

1. For the administrative violations set forth in this law, by way of derogation from article 33, paragraph 1, letter a) of Law N° 68 of June 28, 1989, the offender may exercise the right to voluntary settlement, consisting in the immediate payment of half of the sanction applied in accordance with article 72.

**Article 74****(Application of the sanctions)**

1. The Agency shall provide for the ascertainment of the administrative violations and application of the sanctions set forth in this law.

**CHAPTER IV****INVALIDITY OF ACTS EVIDENCING TITLE TO ASSETS SUSCEPTIBLE TO  
CONFISCATION****Article 75****(Nullity of the acts evidencing title to assets susceptible to confiscation)**

1. Any act - fulfilled in any capacity - evidencing title to assets, funds or economic resources that constitute directly or indirectly the price, product or profits from an offence is null and void, if the person who has received such assets, funds or economic resources knew or should have known that they derived from an offence.

2. "*I Sindaci di Governo*" [*authorities dealing with acts and deeds involving the State*] shall convene the assignor, assignee and any subsequent assignees that are jointly sentenced to the transfer of assets, funds or economic resources to the *Ecc.ma Camera* [*State*], or, if this is not possible, to the payment of an equivalent sum.

3. The assignee and any subsequent assignees have the onus of proving their good faith in accordance with the first paragraph of this article.

4. Any other reciprocal action between the assignor, assignee and any subsequent assignees is guaranteed.

5. Any action is guaranteed to the person damaged by the offence from which the assets, funds, or economic resources are derived.

6. This article shall apply by way of derogation from the general provisions in force regarding matters of contractual invalidity, with the aim of more effectively preventing and combating money-laundering and terrorist financing.

## TITLE VII AMENDMENT TO 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 in article 2 of Law N° 28 of February 26, 2004, the term “337 *ter*,” is added and after “347,” the term “374 *ter*” is added.

2. In article 8 paragraph 3 of the criminal code, after the terms “in no case shall be deemed political”, introduced in article 3 of Law N° 28 of February 26, 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 for the purpose of terrorism or subversion of the constitutional order, and of the things being the price, product or profit is always obligatory. Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money equal to the value of the instrumentalities and things referred above”.

#### Article 77 (Property crimes)

1. Article 199 of the criminal code is 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 in article 199 *bis* of the criminal code, the following paragraphs are inserted:

“Anyone who commits crimes set forth in this article shall be punished by terms of fourth-degree imprisonment, a 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 equivalent 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 authorization or certification by the competent Public Authorities.

The judge shall apply the corresponding penalty for the predicate crime, 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, a 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 authorization or certification 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 inserted:  
 “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 a third-degree daily fine.”
2. After article 374 of the criminal code the following articles are inserted:  
 “374 *bis. Instigation of corruption* – Anyone who offers or promises any undue advantage to a public official or public employee, who does not have an official capacity, 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 been accepted or not, by terms of third-degree imprisonment and third-degree disqualification from public offices and political rights as well as a second-degree daily fine.  
 If the offer or promise has been made to lead a public official or public employee, who does not have an official capacity, to carry out an act of his office, whether the offer or promise has been accepted or not, the offender shall be subject to third-degree arrest and a 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 have an official capacity, that demands a promise or gift of any advantage from a private citizen for the purposes foreseen in article 373.  
 The penalty foreseen in the second paragraph shall be applied to the public official or public employee, who does not have an official capacity, that demands a promise or gift of any advantage from a private citizen for the purpose foreseen in article 374.”  
 “374 *ter. Embezzlement, extortion, corruption and instigation to corruption of officials from foreign 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 be applied to those who exercise functions or activities equivalent to those of a public official or public employee, who does not have an official capacity in the field of foreign or international public organizations as

well as officials and agents recruited by contract in foreign 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 foreseen in the first paragraph of this article.”

**Article 80**  
**(Misuse of privileged information)**

1. The fourth paragraph in article 305 *bis* of the criminal code is replaced by the following:

“Except as provided in article 147, in case of a 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 IN CUSTODY**

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

1. For crimes of association for 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 is regulated by the International Convention for the repression of terrorism held in New York on December 9, 1999 and ratified with Decree N° 125 of December 10, 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 a specific International treaty, where a foreign judicial Authority request - for the purpose of fulfilling procedural requirements 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 in custody 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 consent thereto freely and consciously;
- b) the requesting State adopts the measures deemed as most appropriate for the transfer by the San Marino judicial Authority;
- c) the State of destination commits itself to keeping the transferee in custody or prison, unless otherwise requested or allowed by the San Marino judicial;
- d) the State of destination commits itself to restitution without delay, in accordance with what previously agreed or decided by the requesting authority and the San Marino authority;

- e) the State of destination commits itself not to making restitution subject to extradition of the transferee;
  - f) the State of destination neither prosecutes, nor imprisons or deprives of liberty the transferee for convictions suffered prior to the date of transfer, unless otherwise allowed by the San Marino judicial authority;
  - g) the State of destination does not provide for the death penalty.
2. The San Marino judicial authority shall take into due account the imprisonment already served in the State of destination in order to determine the punishment to serve in the Republic of San Marino.

### CHAPTER III AMENDMENT TO THE LAW ON FOREIGNERS

#### Article 83 (Trafficking in migrants)

1. After article 3 of Law N° 22 of February 24, 2000, the following articles are added:

“3 *bis*. *Trafficking in migrants* – Anyone who, for the purpose of making a profit, direct or indirect, carries out acts intended to obtain the illegal entry of one or more persons into the territory of the Republic of San Marino in violation of the laws in force on foreigners or on residencies and permits of stay, shall be punished by terms of third-degree imprisonment and a second-degree daily fine.

The same penalty shall be applied to anyone who, for the purpose of making a profit, direct or indirect, carries out acts intended to obtain the illegal entry of one or more persons into a State of which the person is not a citizen or not a resident.

The penalties referred to in the previous paragraphs shall be increased by one degree upon the following conditions:

- a) if, in order to obtain the illegal entry, the person has been exposed to a risk for his/her life or safety;
- b) if, in order to obtain illegal entry or stay, a person has been subjected to inhuman or degrading treatment;
- c) if the fact has been committed using counterfeit or altered documents, or at any rate illegally obtained.

If the facts referred to in paragraphs 1 and 2 are carried out for the purpose of recruitment for prostitution, or at any rate for sexual exploitation, or when the facts concern the entry of minors to be used in illegal activity, the imprisonment shall be increased by two degrees and a third degree fine shall be applied.

Apart from the cases envisaged in the previous paragraphs and except where the conduct amounts to a more serious crime, anyone who favours by illegal means the stay of a foreigner in the territory of the Republic of San Marino in order to obtain an undue profit, in violation of the laws in force on foreigners, on residences and permits of stay, shall be punished with imprisonment and a second-degree daily fine.

3 *ter*. *Falsification of travel and identity documents* – Except where the conduct amounts to a more serious crime, anyone who, for the purpose of committing the

crime of trafficking in migrants or permitting the commission by third parties, counterfeits or alters a travel or identity document or purchases, receives, possesses, gives up or uses a travel or identity document counterfeited or altered shall be punished by terms of third-degree imprisonment.

*3 quater. Confiscation* - In the cases envisaged in articles 3 *bis* and 3 *ter*, the confiscation of the things that served or were destined to commit the offences shall be always mandatory as well as the things being the price, product or profits. Where confiscation is not possible, the judge shall order an obligation to pay a sum of money equal to the value of the things mentioned above.

Confiscated things or the equivalent sums, shall be allocated to the inland revenue or, where appropriate, destroyed.

*3 quinquies. Jurisdiction of San Marino* - Any citizen who commits offences envisaged in articles 3 *bis* and 3 *ter* outside the national territory, is subjected to the laws of San Marino.

The laws of San Marino shall also apply to any foreigner who commits the offences envisaged in articles 3 *bis* and 3 *ter* outside the territory of San Marino if he/she is present in the territory of the State and whenever extradition under the laws of San Marino, treaties and international conventions is not possible.

No proceedings shall be taken towards a citizen or foreigner when one of the following conditions is met:

- 1) the person has been tried abroad and found innocent;
- 2) the person who, sentenced abroad, has served the entire sentence handed down, even if less severe than that set forth in this law;
- 3) the person who, sentenced abroad, has served part of the sentence handed down whenever the sentence that has been served is no less than the minimum penalty set forth in this law.”

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

##### **Article 84**

##### **(Special investigative measures and combating of terrorist financing)**

1. In article 15, paragraph 1 of Law N° 28 of February 26, 2004, after “337 *bis*”, the term: “337 *ter*” is added.

2. Article 17 of Law N° 28 of February 26, 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 Commissioner of the Law - which shall report directly to the Central Bank. Where the reported facts might constitute an offence, the Central Bank shall report them to the Single Court.”

**Article 85**  
**(Amendments to the statute of the Central Bank)**

1. In article 12, paragraph 3 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms “and combating money laundering” are repealed.
2. In article 15, paragraph 2 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms “and as an anti-money laundering unit” are repealed.
3. In article 16, paragraph 3 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms “and its anti-money laundering functions” are repealed.
4. In article 29, paragraph 3 of Law N° 96 of June 29, 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 N° 96 of June 29, 2005 and subsequent amendments, the terms “and to the anti-money laundering unit” are repealed.
6. In article 33, paragraph 1 of Law N° 96 of June 29, 2005 and subsequent amendments, letter: “e. the anti-money laundering unit” is repealed.
7. Article 48, paragraph 2 of Law N° 96 of June 29, 2005 and subsequent amendments is replaced by the following:  
“The Committee for Credit and Savings will be assigned the functions of directing and guiding the supervision over banking, financial and insurance activities and the promotion of national and international cooperation for effectively preventing and combating money laundering and terrorist financing.”
8. After paragraph 3 in article 48 of Law N° 96 of June 29, 2005 and subsequent amendments, the following paragraphs are added:
  4. For the purpose of promoting national and international cooperation for effectively combating money laundering and terrorist financing, the Committee for Credit and Savings shall convene periodically.
  5. A Magistrate appointed by the Judicial Council in an ordinary session, 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 items on the agenda, can invite to the meeting representatives of Professional Associations, Public administrations, and the obliged parties envisaged by the law on preventing and combating money laundering and terrorist financing.”

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

1. Article 36, paragraph 5, letter b) of Law N° 165 on November 17, 2005 is replaced by the following:

“to the supervisory authority in the exercise of its function of supervision, and to the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing.”

2. In article 37, letter c) of Law N°. 165 of November 17, 2005, after the terms “financial nature” the following terms “in cooperation with other competent authorities” are added.

**CHAPTER V**  
**AMENDMENTS ON COMPANY LAW**

**Article 87**  
**(Assembly of anonymous joint stock companies)**

1. Paragraph 2 in article 44 *bis* of Law N° 47 of February 23, 2006 and subsequent amendments is replaced by the following:

“2. The notary shall:

- a) identify the bearer of the shares and verify his/her identity;
- b) acquire a copy of the identity document for each bearer;
- c) draw up a separate act which indicates the date of the assembly, the identity of the participants and the capital represented by each participant;
- d) keep copies of the acts and identity documents required for at least five years from the closure of the professional relationship with the company .”

2. Paragraph 4 in article 44 *bis* of Law N°. 47 of February 23, 2006 and subsequent amendments is replaced by the following:

“4. The information and documents referred to in paragraph 2 may be acquired by the Judicial Authority at the notary’s offices in the context of criminal proceedings and by the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing.

5. The notary shall make use of the documents and information referred to in paragraph 2 to fulfil customer due diligence obligation set forth in the law on preventing and combating money laundering and terrorist financing.

6. The notary may release the information and documents referred to in paragraph 2 also to permit the fulfilment of the customer due diligence obligations by the obliged parties set forth in the law on preventing and combating money laundering and terrorist financing .

7. Apart from the cases set forth in paragraphs 4, 5 and 6, the notary who reveals the identity of the bearers of shares shall be punished according to article 377 of the criminal code.”

**Article 88**  
**(Fulfilment of the customer due diligence obligations regarding anonymous joint stock companies)**

1. Failing to release the documents and information by the notary, under article 44 *bis*, paragraph 6 of Law N°. 47 of February 23, 2006 as amended by article 87 of this law, shall not exonerate the obliged parties from fulfilling customer due diligence obligations.

**TITLE VIII**  
**TRANSITORY AND FINAL DISPOSITIONS**

**Article 89**  
**(Abrogations)**

1. The following are abrogated:
  - a) article 9 of Law N° 41 of April 25, 1996 “Provisions on currency matters”;
  - b) articles 6, 8 and 16 Law N° 28 of February 26, 2004 “Provisions on anti-terrorism, anti-money laundering and anti-insider trading”;
  - c) article 39, paragraph 3 of Law N°. 165 of November 17, 2005 “Law on companies and banking, financial and insurance services”;
  - d) Decree N° 71 of May 29, 1996 “Provisions on the matter of anti-money laundering”;
  - e) Law N° 123 of December 15, 1998 “Law on the matter of 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) the custody, administration and management of economic resources that are the object of freezing measures;
  - b) the controls on the transport of money and similar instruments across transnational borders;
  - c) the procedures of closing bearer passbooks that have not been converted within the terms set forth in article 31.
2. Upon proposal by the Agency, other entities and other activities may be identified, by a delegated decree, for being subjected to the obligations set forth in this law.
3. The amounts established in article 26, paragraph 2 may be modified by delegated decree.

**Article 91**  
**(Delegated decree for the regulation of the Agency)**

1. Within one month from the publication of this law, the Congress of State shall regulate the following by delegated decree:
- a) the requirements of professionalism, independence, and respectability referred to in article 3, as well as the cases of non-compatibility;
  - b) the legal status and pay 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 effectiveness of the Agency)**

1. The Director of the Agency, appointed under article 3, shall inform the Congress of State, through the Secretary of State for Finance and Budget, of the beginning of effectiveness of the Agency.

**Article 93**  
**(Transfer of functions regarding financial analysis activity)**

1. On the entry into force of this law, the functions and powers on the matter of combating money laundering and terrorist financing assigned to the Central Bank of the Republic of San Marino by the provisions abrogated by this law, shall be transferred to the Agency.

2. Before the communication referred to in article 92, the functions and powers assigned to the Agency by this law shall be carried out 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 information units, shall be sent in copy by the Central Bank to the Agency within 30 days from the communication referred to in article 92. The Director of the Agency shall confirm that the documents have been delivered.

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

5. The Central Bank shall continue to exercise its duties of financial analysis of reports on suspicious transactions received before the communication referred to in article 92, in accordance with the provisions set forth in this law and compatibly with the organizational structure of the Central Bank. For the ongoing analysis on that date, the Central Bank may make use of the electronic systems 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 relative documentation to the Agency.

7. The documents and information already acquired by the Central Bank in the exercise of its functions and powers for preventing and combating money laundering, may not be used for other purposes set forth in article 3 of Law N° 96 of June 29, 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 purpose of identifying the individuals referred to in article 1, paragraph 1, letter n) and the identification of “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 integrated by delegated decree.

#### **Article 95 (Timeframe of fulfilments and instructions)**

1. The obliged parties are required to fulfil the obligations 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 ways for the fulfilment of the obligations referred to in article 22, paragraph 1, letter b);
- b) on the risk-assessment and additional evaluations referred to in article 25;
- c) on the identification to be carried out through third parties and on the way of transmission of documents and information referred to in article 29;
- d) on the information that shall be acquired in case of transfer of funds referred to in article 33;
- e) on the typologies of suspicious transactions and procedures for the examination of operations referred to in article 36;
- f) on the data and information that shall be registered and maintained according to article 34, paragraph 1.

3. Except as provided in article 25, the obliged parties are required to fulfil the obligations referred to in the previous paragraph according to the way set forth in the instructions issued by the Agency.

4. The provisions referred to in the previous paragraphs shall apply also to occasional transactions and professional services which might be ongoing on the entry into force of this law, as well as 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 preventing and combating money laundering and terrorist financing is equivalent to that set forth in international standards. The Congress of State, by decision, shall identify the equivalent jurisdictions.

6. The circulars and standard letters issued by the Central Bank on matters of preventing and combating money laundering and terrorist financing shall continue to be applied, in such that they are compatible, until the issue of the instructions referred to in paragraph 2.

**Article 96**  
**(Entry into force)**

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

*Issued from our Residence, on this day, June 17, 2008*

THE CAPTAINS REGENT

*Rosa Zafferani – Federico Pedini Amati*

THE SECRETARY OF STATE  
FOR INTERNAL AFFAIRS  
*Valeria Ciavatta*

## TECHNICAL ANNEX

## Article 1

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

1. It should be considered as “politically exposed persons”:
  - A) any natural person, foreign citizen, who is or has been entrusted with prominent public function abroad during the year preceding the establishment of the business relationship, transaction or professional service, including the following even if differently named:
    - 1) head of State, head of government, minister, vice minister, undersecretary of State, member of Parliament,
    - 2) member of judiciary bodies whose decisions are not generally subjected to further appeal,
    - 3) member of the board of directors of central banks or supervisory authorities,
    - 4) ambassador, chargé d’affaires, a high-ranking officer in the armed forces,
    - 5) member of the board of directors, management or supervisory bodies of companies owned by the State;
  - B) any immediate family members of the persons foreseen in the previous letter or persons known to be close associates of such persons, including the following persons:
    - 1) spouse or partner considered equivalent to the spouse,
    - 2) children and their spouses,
    - 3) parents;
  - C) any natural person who is known to have the beneficial ownership of companies or legal entity with a person referred to in letter A);
  - D) any natural person who is the sole beneficial owner of companies or legal entities or legal arrangements which is known to have been set up for the benefit de facto of the person referred to in letter A).

2. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence obligations, where a person has ceased to be entrusted with a prominent public function for a period of the least one year, the obliged parties shall not be required to consider such a person as politically exposed.

## Article 2

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

1. The following are considered “assets” or “funds”: property of any kind, tangible or intangible, movable or immovable, including means of payment and credit, any document or instrumentalities, even electronic or digital, evidencing title to or interest in such property. The following can be included as an example:
  - a) cash, checks, bills of exchange, pecuniary credits and claims on money, payment orders and other means of payment;
  - b) deposits with banks or financial institutions or other entities, the balance on accounts, credits, bonds of any nature and negotiable securities at public and private levels as well as financial instruments as defined by Law N° 165 on November 17, 2005 and subsequent amendments;

- c) interests, dividends and other incomes and increases of values generated by the assets;
- d) credits, right of set-off (settlement and clearing), guarantee of any nature and other financial commitments, letters of credit, bills of lading and other certificates representative of assets or goods;
- e) documents that demonstrate an interest in funds or economic resources;
- f) all other instruments of exports-financing.