AGENZIA DI INFORMAZIONE FINANZIARIA
FINANCIAL INTELLIGENCE AGENCY

AGENZIA DI INFORMAZIONE FINANZIARIA
Istituita con Legge 17 giugno 2008 n. 92
e disciplinata con decreto delegato 28 novembre 2008 n.146

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CONSOLIDATED TEXT

of

Law no. 92 of 17 June 2008

Transposing

Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015

on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

(last update 27/02/2020)

UNOFFICIAL TEXT

NOTICE

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Law no. 92 of 17 June 2008

as amended by Law no. 73 of 19 June 2009, Decree Law no. 134 of 26 July 2010, Decree Law no. 187 of 26 November 2010 (Ratification of Decree Law no. 181 of 11 November 2010), Decree Law no. 98 of 25 July 2013 (Ratification of Decree Law no. 82 of 12 July 2013), Decree Law no. 176 of 27 December 2013, Delegated Decree no. 77 of 19 May 2014 (Ratification of Delegated Decree no. 24 of 4 March 2014), Law no. 146 of 19 September 2014, Delegated Decree no. 178 of 3 November 2014 (Ratification of Delegated Decree no. 152 of 30 September 2014), Decree Law no. 83 of 5 June 2015 (Ratification of Decree Law no. 47 of 10 April 2015), Decree Law no. 197 of 30 December 2015 and Decree Law no. 139 of 11 December 2017 (Ratification of Decree Law no. 116 of 29 September 2017), Law 24 December 2018 no. 173, Law 29 March 2019 no. 57, Law no. 88 of 30 May 2019, Delegated Decree no. 33 of 27 February 2020 (Ratification of Delegated Decree no. 21 of 3 February 2020).

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

TITLE I

GENERAL PROVISIONS

Art. 1
(Definitions and scope of application)

1. For the purposes of this Law, the following definitions shall apply:

a) “Agency”: the Financial Intelligence Unit referred to in Article 2;

a bis) “senior manager or senior management”: a manager, officer or employee with sufficient knowledge of the obliged entity's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors;

b) “public administrations”: Ministries, Eccellentissima Camera (the State), Departments, public entities, State corporations, public administration offices;

b bis) virtual assets: digital representations of assets which can be traded or transferred digitally and can be used for payment or investment purposes. Virtual assets shall not include digital representations of fiat currencies, transferable securities or other financial assets;

c) “Central Bank”: the Central Bank of the Republic of San Marino referred to in Law no. 96 of 29 June 2005 and subsequent amendments;

d) "shell bank": an entity engaged in activities equivalent to those envisaged in letter A) of Annex 1 to Law no. 165 of 17 November 2005, licensed or incorporated in a jurisdiction in which it has no physical presence, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision. Physical presence means meaningful mind and management located within a country. The existence simply of a local agent or low level staff does not constitute physical presence;

e) “asset” or “funds”: assets or funds as defined by Article 1, paragraph 1, letter c) of Law no. 57 of 29 March 2019 and its subsequent amendments and by Article 1 of the Technical Annex to the same Law;.

f) “customer” or “customers”: the natural person, legal person, legal arrangement or entity with or without legal personality, with whom the obliged entities, in the context of their activities, carry out an occasional transaction

or establish a business relationship, or to whom they provide a professional service, regardless of whether payment is required or not;

g) “freezing of funds”: preventing any movement, transfer, alteration, disposition, use or management of and access to funds or economic resources in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds or economic resources, including, but not limited to, portfolio management, selling, leasing, hiring or mortgaging of such funds or economic resources;

h) “anonymous accounts or accounts in fictitious names”: accounts for which customer due diligence requirements have not been complied with to guarantee that the financial entity knows the identity of the customer in every phase of the business relationship with the customer itself;

“i) “payable-through accounts”: cross-border or national correspondent accounts used directly by the customers to carry out transactions on their own behalf;

i bis) Directive (EU) 2015/849: Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing;

j) “purpose of terrorism”: the intention to influence institutions or intimidate the population or part of it, to destabilize or destroy the political, constitutional, economic, or social structures of the Republic of San Marino, a foreign State or an International Organization, in opposition to the constitutional order, the rules of international law and the Statutes of International Organizations;

k) “terrorist financing”: without prejudice to Article 337 ter of the Criminal Code, any activity aimed at, by any means, supplying, collecting, providing, intermediating, depositing, keeping or disbursing funds or economic resources, regardless of how they were obtained, whether directly or indirectly, intended to be used, in full or in part, in order to commit or favour one or more criminal offences for the purpose of terrorism, regardless of the actual use of the funds or economic resources for the perpetration of said criminal offences;

l) “instructions and circulars”: the provisions issued by the Agency in exercising its functions of prevention and combating of money laundering and terrorist financing;

m) "occasional transaction": a transaction not related to any business relationship, including an intellectual or commercial service provided to the customer, also extemporaneously;

n) "politically exposed person": the natural person referred to in Article 1, paragraph 1 of the technical annex to this Law;

n bis) “providers of services related to games of chance and gaming houses”: anyone who provides a service which involves wagering a stake with monetary value in games of chance, including those with an element of skill such as lotteries, casino games, poker games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services.

n ter) “trust or company service providers”: any natural or legal person that provides to third parties, by way of its business, namely receiving a remuneration by any means and in any form, any of the following services:

1. forming companies, trusts, foundations, similar legal entities or arrangements with or without legal personality;

2. acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to an arrangement or entity referred to in point 1;

3. providing a registered office, business address, correspondence or administrative address to the entities in point 1;

4. acting as or arranging for another person to act as a professional trustee of a trust or equivalent position for other similar legal arrangements;

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n quater) "cross-border correspondent relationships":
I) banking services provided by one bank as the correspondent to another bank as the respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;
II) the relationships between and among banks and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers;

o) "business relationship": a relationship of a business, professional or commercial nature, or otherwise falling within the activities performed by the institution, which is related to the activities carried out by an obliged entity and which does not terminate with the completion of a single transaction;

o bis) “suspicious transaction report”: report referred to in Article 36, paragraph 1 of this Law;

o ter) SEPA: Single Euro Payments Area, as disciplined by the regulations of the European Union;

p) “terrorism” or "terrorist act" means any conduct contrary to the constitutional order, the rules of international law and the statutes of international organizations, aimed at causing a serious injury to persons or property, accomplished by force the institutions of the Republic, of a foreign state or international organization to perform or abstain from performing any act, or to intimidate the population or a part thereof, or to destabilize or destroy the fundamental political, constitutional, economic or social the Republic, of a foreign State or an international organization. “Terrorism” or “terrorist act” also includes any conduct envisaged and defined by the International Convention for the Suppression of the Financing of Terrorism and by the treaties listed in the Annex thereto;

q) “terrorist”:
(I) any person who commits or attempts to commit an act as defined in letter p) of this paragraph;
(II) any group established as an association under Article 337 bis of the Criminal Code;
(III) any entity acting on behalf of or under the direction of such persons or groups to which the funds derived or generated from property owned or controlled directly or indirectly by such persons or groups have been transferred, even partly;

r) “beneficial owner”: any natural person(s) who ultimately owns or controls, directly or indirectly, the customer or the natural person(s) on whose behalf or in any case in whose interest the business relationship, service or transaction is established, provided or carried out respectively. The criteria for determining the beneficial owner are specified in Article 1 bis of the Technical Annex;

r bis) “transfer of funds: any transaction at least partially carried out by electronic means on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, irrespective of whether the payer and the payee are the same person and irrespective of whether the payment service provider of the payer and that of the payee are one and the same;

s) “financial intelligence unit”: the central national authority responsible for receiving, requesting, analysing and disseminating to the competent authorities information relating to the prevention and combating of money laundering and terrorist financing

s bis) “virtual asset service providers”: any natural or legal person who, on a professional basis, i.e. when receiving remuneration in any form or manner, carries out one or more of the following activities or transactions in the name or on behalf of another natural or legal person:
i) exchange between virtual assets and fiat currencies;
ii) exchange between one or more forms of virtual assets;
iii) transfer of virtual assets;
iv) custody and/or administration of virtual assets or tools that allow to have control over virtual assets;
v) participation and provision of financial services related to the offer and/or sale of a virtual asset of an issuer.

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2. For the purposes of the legislation on the prevention and combating of money laundering only, except as provided in Articles 199 and 199 bis of the Criminal Code, the following conduct, when committed intentionally, may be regarded as money laundering, even if committed abroad:
a) the conversion or transfer of property, knowing that such property is derived, also indirectly, from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of such activity to evade the legal consequences of his action;
b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived, also indirectly, from criminal activity or from an act of participation in such activity;
c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived, also indirectly, from criminal activity or from an act of participation in such activity;

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

TITLE II
COMPETENT AUTHORITIES

CHAPTER I
FINANCIAL INTELLIGENCE AGENCY

Art. 2
(Establishment and purpose)

1. The Financial Intelligence Agency for preventing and combating money laundering and terrorist financing shall be established at the Central Bank.

2. The Agency shall perform the functions assigned to it by this Law in complete autonomy and independence.

3. The costs for the staff, structure, organization and functioning of the Agency shall be borne by the Central Bank. The Agency shall use the resources according to criteria of cost effectiveness and efficiency.

4. By May of each year, the Agency shall draw up a report on the management of the resources received from the Central Bank during the previous year and by September of each year a document outlining the expenditure forecast for the following year. The report and the forecast document shall be sent to the Credit and Savings Committee. After assessing whether the resources have been allocated and managed according to criteria of cost effectiveness and efficiency, the Credit and Savings Committee shall transmit the relevant documentation to the Central Bank for the fulfilment of its obligations.

Art. 3
(Director and Deputy Director)

1. The Congress of State, upon proposal of the Credit and Savings Committee and having heard the opinion of the Central Bank, shall appoint the Director and Deputy Director of the Agency from among persons who meet the requirements of professional competence, independence and good repute. The mandate of the Director and Deputy Director shall last five years and is renewable only once.

2. The Director and Deputy Director can be removed from their offices, according to the same procedures envisaged for their appointment, only if they no longer meet the requirements for the fulfilment of their functions or in case of serious misconduct.

3. In the exercise of their functions under this Law, the staff members of the Agency shall be considered as public officials and shall be bound by official secrecy.

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Art. 4
(Functions of the Financial Intelligence Agency)

1. The Agency shall perform the following functions:
a) receiving suspicious transaction reports and other communications provided for by law;
b) carrying out financial analyses on the reports received or on its own initiative;
c) reporting to the criminal judicial authority any facts that might constitute money-laundering, predicate offences or terrorist financing;
d) issuing instructions, circulars and guidelines regarding the prevention and combating of money-laundering and terrorist financing;
e) supervising compliance with the obligations under this Law and the relevant instructions and circulars issued by the Agency by adopting a risk-based approach;
f) taking part in the works of national and international bodies involved in the prevention and combating of money laundering and terrorist financing and periodically reporting to the Technical Commission for National Coordination;
g) collaborating, also by exchanging information, with national authorities and with the foreign authorities referred to in Article 16.
h) detecting and assessing trends, patterns and risks of money laundering and terrorist financing.

Art. 5
(Powers of the Financial Intelligence Agency)

1. In order to fulfil the functions assigned by this Law, the Agency, by means of a written reasoned act for the purposes of preventing and combating money laundering and terrorist financing, shall have the power to:
a) order the obliged entities to produce or deliver documents, also in original, or to disclose data and information, according to the procedures and time limits laid down by the Agency, also following inspections;
b) ask the Central Bank, public administrations and police authorities to disclose data or information, or to produce or deliver any acts or documents according to the procedures and time limits laid down by the Agency;
c) carry out on-site inspections at obliged entities. If obliged entities rely on third parties to meet the requirements provided for by this Law, the inspections may also be carried out at such third parties;
c bis) obtain from the obliged entities the documents, information, data and statistics necessary to verify compliance with the obligations under this Law and to assess the risk of money laundering and terrorist financing of the individual obliged entities, of the categories they belong to and of the sectors in which these operate;
c ter) obtain documents, information and data from the entities in respect of which an assessment is being conducted for violations of the provisions on cross-border transportation of cash and similar instruments or for violation of Article 31, paragraph 1 of this Law;
d) order the blocking of assets, funds or other economic resources when there are reasonable grounds to believe that these assets, funds or resources are derived from money laundering, predicate offences or terrorist financing or may be used to commit such criminal offences;
e) suspend for a maximum of five working days, also upon request of the criminal judicial authority or of a foreign financial intelligence unit, suspected money laundering or terrorist financing transactions or transactions concerning assets or funds suspected to derive from predicate offences;
f) collect summary information from persons who may report circumstances useful to investigations regarding offences of money laundering, predicate offences and terrorist financing, as well as criminal offences and administrative violations set forth in this Law;
g) order financial entities, also upon request of a foreign financial intelligence unit and for a fixed period of time, to monitor one or more business relationships according to the procedures and time limits laid down by the Agency;
h) inform the obliged entities, for preventive purposes, about transactions, including attempted transactions, or about persons and circumstances, which may pose money laundering or terrorist financing risks.

2. In the exercise of the powers set forth in the preceding paragraph, the Agency may rely on the collaboration of the police forces or request the latter to obtain data, information and documents on its behalf.

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3. The Agency shall take note, in the way considered most suitable, also in summary form, of all activities conducted. Without prejudice to what specifically provided for 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 may delegate the Agency to carry out investigations in the context of proceedings relating to money laundering and terrorist financing, as well as to the criminal offences and administrative violations set forth in this Law. In this case, the Agency shall act as judicial police.

The acts carried out on behalf of the judicial authority shall be documented in a report.

Art. 5 bis
(Characteristics of the financial analysis)

1. The financial analysis of the Agency shall consist of the following:
a) an operational analysis which focuses on individual cases and specific areas or on appropriately selected information, for the purpose of reporting to the judicial authority in accordance with Article 7 of this Law and
b) a strategic analysis, based on the information and data held by the Agency or which the latter can obtain, aimed at detecting money laundering and terrorist financing trends and patterns, also useful to the national risk assessment referred to in TITLE II BIS of this Law.

Article 5 ter
(Characteristics of the supervisory activity)

1. The Agency shall assess the risks of money laundering and terrorist financing to which the obliged entities are exposed. In consideration of the risks, the Agency shall establish the frequency and intensity of supervision of such entities.

2. The assessment of money laundering and terrorist financing risk profile of obliged entities, including the risks of non-compliance with the obligations imposed by this Law and by the instructions and circulars issued by the Agency, shall be reviewed both periodically and when there are major events or developments in their management and operations.

3. Supervision shall be conducted through inspections, as well as obtaining and assessing information, data and documents.

4. In order to safeguard the integrity of the economic and financial sector of the Republic of San Marino, the Agency shall promote initiatives to widely disseminate the legislation, instructions and circulars on the prevention of money laundering and terrorist financing, to improve the operators' training and to update the control systems adopted by the obliged entities.

Art. 6
(Procedures and effects of blocking)

1. The blocking referred to in letter d) of Article 5 shall be ordered by the Agency through a written reasoned measure. Without prejudice to the time limits set forth in paragraph 5 hereunder, in case of urgency the reasons for the measure may also be submitted in writing after the blocking.

2. The Agency shall notify the measure to the person holding the assets, funds or economic resources according to the procedures deemed most appropriate. If the assets are registered movable or immovable property, the Agency shall order State administrations in charge of keeping public registers to register the blocking measure.

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

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

5. Within 48 hours from the execution of the blocking measure, the latter shall be notified to the judicial authority, which shall validate the blocking measure within the following 96 hours, if the necessary conditions are fulfilled. Failing such conditions, the judicial authority shall declare that the blocking measure has ceased to be effective. The judicial authority shall declare that the blocking measure has ceased to be effective also when the precautionary reasons specified in the measure ordered by the Agency no longer exist.

6. The measure of the judicial authority shall be notified to the Agency and to the person subject to the blocking.

7. The blocking shall not exceed 15 days starting from the date of issuance of the order by the Agency. Such time limit shall be established by the judicial authority in the validation measure and it may be extended up to 45 days, upon reasoned request of the Agency, when the financial analysis is particularly complex or requires the cooperation of foreign financial intelligence units. The request for extension shall be deposited with the judicial authority before the expiry of the time limit. The judicial authority shall grant or deny the extension within 96 hours from receipt of the request and shall communicate its decision to the Agency and to the person holding the assets, funds or economic resources.

8. Before the expiry of the time limits in the preceding paragraph, the Agency, with a specific report based on the financial analysis conducted, shall provide the judicial authority with any data useful for the seizure or for the revocation of the blocking measure. The judicial authority shall issue a reasoned order on the above within the following 96 hours.

9. If the blocking ceases to be effective or is revoked, the judicial authority shall take the necessary measures in order to return the blocked assets to the rightful owner or, in case of registered movable or immovable property, to enter the cancellation of the blocking measure in the public registers.

10. The provisions of this Article shall not prevent the judicial authority from ordering seizures under the procedural rules in force. In this case, the blocking measure ordered by the Agency shall cease to be effective.

Art.7
(Reports to the judicial authority)

1. In case the Agency, as a result of the financial analysis conducted, detects facts that might constitute money laundering offences, predicate offences or terrorist financing, it shall transmit to the judicial authority the report on the financial analysis and the related documents via dedicated, safe and secure channels.

2. The judicial authority shall inform the Agency, also at the request of the latter, about the results of the reports received.

Art. 8
(Access to information)

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

2. The data and information held by the Central Bank, public administrations and professional associations shall be immediately made available to the Agency, upon its reasoned request, for the purposes of preventing and combating money laundering and terrorist financing.

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

4. The data and information obtained by the Agency may be used exclusively to exercise the functions set forth in this Law.

Art. 9
(Official secrecy)

1. All data and information obtained by the Agency shall be covered by official secrecy, also in respect of public administrations, except for the cases of reporting or exchange of information set forth in this Law. Official secrecy cannot be invoked against the criminal judicial authority.

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

Art. 10
(Statistical data collection and annual report)

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

2. Every year the Agency shall submit a report on the activity for the prevention and combating of money laundering and terrorist financing to the Great and General Council through the Ministry of Finance and the Budget.

Art. 10 bis
(Feedback notices to obliged entities)

1. The Agency shall draw up periodic feedback notices addressed to the obliged entities that illustrate in detail the usefulness and the follow up given to the reports received, the indicators that allow to detect them, as well as money laundering and terrorist financing trends and patterns.

CHAPTER II
NATIONAL COOPERATION

Art. 11
(Cooperation with other authorities and with 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 administrations, police authority, Central Bank and professional associations shall provide, upon reasoned request of the Agency, all data and information useful for the prevention and combating of money laundering and terrorist financing.

3. The public administrations, Central Bank and professional associations shall provide the Agency with updated data on obliged entities.

Art. 12
(Cooperation with the police authority)

1. The Agency, the police authority and the National Central Bureau of Interpol shall cooperate also by exchanging information, either spontaneously or upon request, by concluding ad hoc memoranda of understanding.

2. In the exercise of its functions, the police authority shall carry out, also on its own initiative, activities for the prevention and combating of money laundering and terrorist financing.

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3. The information shall be exchanged via dedicated, safe and secure channels and may be used exclusively for the purposes of preventing and combating money laundering, predicate offences and terrorist financing. The information shall not be disclosed to third parties without the prior written consent of the Agency and shall be covered by official secrecy also with respect to those who receive it.

4. If, in the exercise of its functions, the police authority has reason to believe that the funds derive from criminal activity or may be used for the purposes of money laundering or terrorist financing, it may request the Agency:
a) to transmit information already held by the Agency;
b) to obtain from the obliged entities the information necessary to carry out police investigations.
The request for information by the police authority shall contain all relevant facts, background information, the reasons for the request and how the information sought will be used.

4 bis. The Agency shall execute the requests set out in paragraph 4, unless there are objective grounds for assuming that the provision of such information would have a negative impact on or delay ongoing investigations or analyses, where disclosure of the information would be clearly disproportionate or irrelevant with regard to the purposes for which it has been requested or in case of fishing expeditions.

4 ter. The police authority shall inform the Agency about the use made of the information provided and about the outcome of the investigations performed. The Agency may use the information received from the police authority for its institutional duties.

5. The investigations carried out by the police authority shall be focused on identifying the offender, establishing the criminal offence and determining the destination of the funds in order to establish whether they have been used to commit other criminal offences.

6. For the purposes of this Law, the police authority shall have unlimited access, also through electronic means, to data and information contained in rolls, archives, professional registers, acts and documents kept by public administrations.

7. For the purposes of this Law, the police authority shall cooperate, also by exchanging information with foreign counterparts, on the basis of specific cooperation agreements. The police authority may also exchange information through the National Central Bureau of Interpol.

Art. 13
(Functions of professional associations)

1. Professionals shall undergo ongoing training on the prevention and combating of money laundering and terrorist financing and shall also ensure that their employees and collaborators are properly informed about compliance with the obligations prescribed by this Law.

2. Professional associations, in the exercise of the functions assigned to them by their respective statutes, shall promote compliance of enrolled professionals with the obligations established by this Law, in collaboration with the Agency. Professional associations shall ensure and verify that their members have adequate and updated training on their obligations under this Law and shall help organise the training and updating of their members.

3. Professional associations shall be responsible for the development and updating of procedures and methodologies, adopted in consultation with the Agency, to assess the risk of money laundering and terrorist financing, to which professionals are exposed in the exercise of their activity.

Art. 14

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(Collaboration with the Central Bank)

1. The Agency and the Central Bank shall cooperate also by exchanging information, either spontaneously or upon request, via dedicated, safe and secure channels and on the basis of ad hoc memoranda of understanding.

2. Except for the cases where it operates as obliged party under Article 18, paragraph 1, letter b), whenever the Central Bank, in the exercise of its supervision functions over the financial institutions referred to in Article 18, paragraph 1, letters a), c), d), e) and f), or in the exercise of the other statutory functions, detects violations of this Law, or facts or circumstances that might be related to money laundering or terrorist financing, it shall inform the Agency thereof in writing and without delay.

3. The Central Bank shall provide the Agency with data regarding financial institutions, as well as information useful for carrying out the financial analysis and the other functions envisaged by law.

Art. 15
(Cooperation with the judicial authority)

1. Without prejudice to Article 5, paragraph 4, the judicial authority shall inform the Agency whenever it has reasonable grounds to believe that offences of money laundering or terrorist financing have been committed through transactions carried out at obliged entities.

Article 15 bis
(Technical Commission for National Coordination)

1. The Technical Commission for National Coordination is established with the following composition:
a) the Magistrate appointed by the Judicial Council, who shall preside over the meetings of the Commission;
b) the Head Magistrate of the Single Court;
c) the Director and the Deputy Director of the Financial Intelligence Agency;
d) a member of the Supervision Committee of the Central Bank;
e) a representative of the On-Site Inspection Service of the Central Bank;
f) the Commanders of the police forces;
g) two members of the police forces responsible for combating money laundering and terrorist financing;
h) a representative of the Ministries of Foreign Affairs, Finance and Justice when the Commission meets to perform the functions referred to in letter b) of paragraph 3 hereunder.

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

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

4. According to the topics on the agenda, the Commission may invite to the meetings other representatives of authorities or public administrations, as well as representatives of the obliged entities.

CHAPTER III
INTERNATIONAL COOPERATION

Art 16
(Cooperation with foreign authorities)

1. The Agency shall cooperate, also by exchanging information, on the basis of reciprocity, with one or more foreign authorities that perform, in whole or in part, equivalent or similar functions, regardless of their organisational status. This exchange may be spontaneous or upon request and concerns information related to money laundering, predicate offences or terrorist financing and to the natural or legal person involved, even if the predicate offences are not identified at the time of the exchange or are differently defined in the various national legislations.

2. The request for information shall contain all relevant facts, background information, reasons for the request and how the information sought will be used, unless the authorities have agreed upon different information exchange mechanisms.

3. Information shall be exchanged through secure and protected channels of communication.

4. The information exchanged may be used by foreign authorities only for the purposes of prevention and combating of money laundering, predicate offences and terrorist financing. The information shall not be sent to third parties, or used for purposes beyond those originally approved, without the prior written consent of the Agency and shall be covered by official secrecy.

5. Foreign authorities shall guarantee the same conditions of confidentiality of information ensured by the Agency in order not to undermine the outcome of financial analyses or of information requests.

6. The Agency, with the aim of regulating the cooperation activity referred to in paragraph 1, may conclude appropriate memoranda of understanding.

7. The information exchanged shall not be used to initiate or continue administrative, police or judicial investigations without the prior written consent of the Agency.

8. The Agency shall exchange with foreign authorities all information it is able to obtain at national level.

TITLE II BIS
ASSESSMENT OF THE RISK OF MONEY LAUNDERING AND TERRORIST FINANCING

Art. 16 bis
(National assessment of the risks of money laundering and terrorist financing)

1. The national assessment of the risks of money laundering and terrorist financing:
a) shall be conducted through the adoption of measures aimed at the identification, analysis and assessment of the risks and their mitigation;
b) shall be reviewed periodically and when there are new risks, major events or developments in the reference scenarios or whenever it is deemed appropriate.

2. The Department of Finance and Budget and the Department of Foreign Affairs shall coordinate the activities related to the risk assessment referred to in the preceding paragraph. To this end, it shall be supported by the Technical Commission for National Coordination.

3. The risk assessment referred to in paragraph 1 and any subsequent review thereof shall take account of the findings in the report issued by the European Commission under Article 6, paragraph 1 of the Directive (EU) 2015/849, when these are transmitted by the European Commission to the Department of Finance and Budget. The risk assessment shall also take into account low and high risk factors established by the Agency.

4. The national assessment of the risks of money laundering and terrorist financing shall be used to:
a) identify the sectors or areas of low or high risk of money laundering and terrorist financing;
b) define priorities, allocate the resources necessary to prevent and combat money laundering and terrorist financing and the activities to be carried out by the public administrations and by the authorities according to the degree of risk established;

c) inform the obliged entities about the results of the national assessment to facilitate the carrying out of their own money laundering and terrorist financing risk assessments.

5. In order to ensure international cooperation in the strategy to combat money laundering and terrorist financing, which the Republic of San Marino shares, the results of the national assessment of the risks of money laundering and terrorist financing shall be communicated by the Department of Finance and Budget to the European Commission, if the latter so requests, and to third entities upon approval of the Congress of State.

Art. 16 ter
(Data and information collection for the national assessment of the risks of money laundering and terrorist financing)

1. For the purposes of the national assessment referred to in Article 16 bis, and of the assessment of the effectiveness of the prevention and combating of money laundering and terrorist financing, the Department of Finance and Budget shall identify the public administrations, authorities and categories of obliged entities required to produce data, information, documents and statistics on the matters subject to assessment. To this end, the Department shall also define the appropriate timing and modalities.

2. The data, information, statistics and documents transmitted by the public administrations, authorities and categories of obliged entities shall be subject to official secrecy.

3. The public administrations and the authorities involved pursuant to paragraph 1, shall collect, maintain, keep up to date and transmit to the Department of Finance and Budget, also by way of derogation from official secrecy, all data, documents, information and statistics requested by the Department, the list of which, though non-exhaustive, is contained in Article 3 of the technical annex.

4. The Department of Finance and Budget shall publish, in the way that it considers most appropriate, a consolidated review of the statistics referred to in Article 3 of the technical annex.

Art. 16 quater
(National coordination)

1. The Department of Finance and Budget shall inform the public administrations and the authorities involved of the results of the national assessment of the risks of money laundering and terrorist financing and shall coordinate and supervise the initiatives taken with regard to the risks identified.

2. The Department of Finance and Budget, supported by the Technical Commission for National Coordination, public administrations and authorities involved, shall identify the policies and activities to prevent and combat money laundering and terrorist financing that are consistent with the results of the national assessment and aimed at mitigating the risks identified.

3. The public administrations and authorities involved shall enforce the policies and activities referred to in the preceding paragraph and shall periodically report to the Department of Finance and Budget about the activities and controls adopted.

4. The Department of Finance and Budget shall periodically inform the Technical Commission for National Coordination of the continuation of the activities constituting the national response to the risks identified.

Art. 16 quinquies
(Self-assessment of the risks of money laundering and terrorist financing by the obliged entities)

1. The obliged entities shall adopt procedures to identify, analyse and assess the risks of money laundering and terrorist financing they are exposed to in the exercise of their activities, taking into account various risk factors, including those related to the type of: transactions carried out, customers, countries or geographical areas

interested by the transactions, products and services offered, distribution channels used and how these are offered to customers.

2. The self-assessment procedures referred to in the preceding paragraph shall be proportionate to the nature of the activities performed and to the size of the obliged entities.

3. For the obliged entities not included in Article 18 paragraph 1 letters a), b), c) and f) of this Law, the self-assessment of the risks of money laundering and terrorist financing shall be carried out by professional associations or trade associations according to the schemes indicated by the Agency.

4. For the purposes of self-assessment of the risks referred to in paragraph 1, the obliged entities shall give due consideration to the results of the national risk assessment and, when available, of the findings in the report prepared by the European Commission referred to in Article 6, paragraph 1 of the Directive (EU) 2015/849.

5. The self-assessment of the risks shall be in writing, documented, updated and communicated to the Agency according to the frequency indicated by the latter.

Art. 16 sexies
(Risk mitigating measures)

1. Obliged entities shall take measures that are proportionate and adequate to the risks identified by enforcing policies, procedures and controls aimed at effectively managing and mitigating the risks of money laundering and terrorist financing identified by them and those identified at the national level. These policies, procedures and controls shall be proportionate to the nature and size of the obliged entities.

2. The obliged entities, upon approval from their senior management, shall adopt the policies, procedures and controls referred to in this Article, verify their adequacy and also take enhanced measures to manage and mitigate those risks that have been identified as higher.

Art. 16 septies
(Exemptions for providers of games of chance services)

1. With the exception of gaming houses, and following the results of the national assessment of the risks of money laundering and terrorist financing or of a specific assessment of these risks, the providers of games of chance services may be exempted, in whole or in part, from the obligations envisaged by this Law on the basis of the low degree of risk proven by the nature and operational size of said services.

2. Among the factors considered in assessing the risks is the degree of vulnerability of the transactions carried out by the providers of such services, including with respect to the payment methods used.

3. The risk assessment shall make use of the findings in the report prepared by the European Commission referred to in Article 6, paragraph 1 of the Directive (EU) 2015/849.

4. The Congress of State, by means of an ad hoc delegated decree, upon proposal of the Credit and Savings Committee, shall establish the exemptions referred to in paragraph 1.

Art. 16 octies
(Exemptions for entities performing low-risk financial activities)

1. The Congress of State, by means of an ad hoc delegated decree, upon proposal of the Credit and Savings Committee, may establish the exemption of certain entities from the obligations envisaged by this Law, provided that the following requirements are met:
a) the financial activity is limited in absolute terms, namely an activity whose total turnover does not exceed the threshold established by the Credit and Savings Committee, also based on the national assessment of the risks of money laundering and terrorist financing or of a specific assessment of such risks;

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b) the financial activity is limited in terms of transactions, namely an activity that does not exceed a maximum threshold per customer and per single transaction, which is identified, depending on the type of financial activity, by the Credit and Savings Committee also on the basis of the national assessment of the risks of money laundering and terrorist financing or of a specific assessment of such risks;
c) the financial activity is not the main activity;
d) the financial activity is ancillary and directly related to the main activity;
e) the main activity is not an activity mentioned in Article 2, paragraph 1 of Directive (EU) 2015/849, with the exception of the activity referred to in the same paragraph 1, point 3), letter e);
f) the financial activity is provided only to the customers of the main activity and is not generally offered to the public.

2. The risk assessment referred to in paragraph 1 shall pay special attention to any financial activity, which is considered to be particularly likely, by its nature, to be used or abused for the purposes of money laundering or terrorist financing.

3. What indicated in the first paragraph shall not apply to the entities providing money remittance services as referred to in San Marino legislation and in Article 4, point 13) of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 and subsequent amendments.

4. For the purposes of paragraph 1, letter b), the maximum threshold per customer and per single transaction shall be defined regardless of whether the transaction is carried out in a single transaction or in several transactions which appear to be linked. This threshold is set at EUR 1,000.

5. For the purposes of paragraph 1, letter c), the turnover of the financial activity shall not exceed 5% of the total turnover of the entity in question.

Art. 16 novies
(Electronic money)

1. By way of derogation from Article 22, paragraph 1, letters a), b) and c) and Articles 23 and 24 and where the national assessment of the risks of money laundering and terrorist financing or a specific assessment of such risks demonstrates a low risk profile, certain customer due diligence measures with respect to electronic money shall not be applied, provided that all of the following risk-mitigating conditions are met:
a) the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of EUR 150, which can be used only in the Republic of San Marino;
b) the maximum amount stored electronically does not exceed EUR 150;
c) the payment instrument is used exclusively to purchase goods or services;
d) the payment instrument cannot be funded with anonymous electronic money;
e) the issuer carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions.

2. (paragraph deleted)

3. The derogation provided for in paragraph 1 or paragraph 2 shall not be applicable in the case of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 50.

4. With reference to paragraph 1 of this Article, the customer due diligence measures with respect to electronic money that shall not be applied concern the identification and verification of the customer and beneficial owner, while the control of the transactions or business relationships referred to in Article 22, paragraph 1, letter d) shall be performed.

Art. 16 decies
(Monitoring of exemptions)

1. The Agency shall coordinate the risk-based control activities in order to prevent the abuse of the exemptions granted under Articles 16 septies, 16 octies and 16 novies, with the support of the Ente Giochi, the Central Bank and the police forces.

2. Where the assessments made give rise to the suspicion of money laundering or terrorist financing the exemptions granted under Articles 16 septies, 16 octies and 16 novies shall be immediately suspended by means of a delegated decree. In case of suspension the interested party shall fully comply with the obligations envisaged by this Law.

TITLE II TER
COUNTRIES HAVING STRATEGIC DEFICIENCIES IN THEIR ANTI-MONEY LAUNDERING AND COUNTER-FINANCING OF TERRORISM REGIMES AND THAT POSE SIGNIFICANT THREATS TO PEACE AND INTERNATIONAL SECURITY

Art. 16 undecies
(High-risk countries)

1. With a view to protecting San Marino economy and financial sector, the Credit and Savings Committee, upon proposal of the Technical Commission for National Coordination, shall identify the foreign jurisdictions with strategic deficiencies in their anti-money laundering and counter-financing of terrorism regimes.

2. The Commission shall propose to the Credit and Savings Committee the jurisdictions that:
a) pose a high risk for the Republic of San Marino on the basis of the national assessment of the risks of money laundering and financing of terrorism;
b) have been identified by the European Commission under Article 9, paragraph 2 of Directive (EU) 2015/849;
c) have been identified by the FATF, MONEYVAL and other *FATF Associate Members* for strategic deficiencies in their anti-money laundering and counter-financing of terrorism regimes or that do not cooperate in preventing and combating money laundering and terrorist financing.

3. The Credit and Savings Committee shall inform the Congress of State of the jurisdictions identified. The Congress of State shall approve the list of high-risk Countries.

TITLE III
PREVENTATIVE MEASURES

CHAPTER I
ENTITIES SUBJECT TO OBLIGATIONS

Art. 17
(Obliged entities)

1. For the purposes of this Law, the following are defined as obliged entities:
a) financial entities;
b) non-financial entities;
c) professionals.

2. Those belonging to the categories referred to in paragraph 1 above are specified in the subsequent articles of this Chapter.

3. If, following the national assessment of the risks of money laundering and terrorist financing, the Technical Commission for National Coordination finds that activities other than those performed by obliged entities can

be used for money laundering or terrorist financing purposes, it shall propose to the Credit and Savings Committee the extension, in whole or in part, of the obligations envisaged by this Law to such activities.

4. The extension of the obligations referred to in the preceding paragraph shall be adopted by means of an ad hoc delegated decree.

5. The Agency shall keep a register of the obliged entities referred to in Article 19. Such entities shall provide the Agency with updated information and documents in accordance with the procedures determined by the Agency itself.

5 bis. The Register of Non-financial Institutions referred to in the preceding paragraph 5, with the exception of suspended or removed parties, shall be made freely available by the Agency on its website only with respect to the name and surname or the business name of the obliged party, the registration number in the aforementioned register and the economic operator code, if assigned.

Art. 18
(Financial entities)

1. Financial entities are defined as follows:
a) authorised entities pursuant to Law no. 165 of 17 November 2005 and subsequent amendments;
b) the Central Bank, whenever in the context of its institutional functions, establishes business relationships or carries out occasional transactions that require the fulfilment of the obligations prescribed by this Law;
c) Poste San Marino S.p.A., when offering the postal financial services described in Article 3, paragraph 1, letter c) of the Articles of Association of Poste San Marino S.p.A. referred to in Annex A) to Delegated Decree no. 22 of 26 February 2015;
d) financial promoters pursuant to Articles 24 and 25 of Law no. 165 of 17 November 2005;
e) insurance and reinsurance intermediaries pursuant to Articles 26 and 27 of Law no. 165 of 17 November 2005;
f) branches of foreign entities that carry out an activity corresponding to the reserved activities mentioned in letters A), B), C), D) and E) of Annex 1 to Law no. 165 of 17 November 2005, operating in San Marino and whose main office is located abroad.

2. In case of withdrawal, waiver or lapse of the authorisation to carry out a reserved activity under Law no. 165 of 17 November 2005, the financial entity, even if in ordinary or administrative compulsory winding-up, shall be subject to the obligations of this Law until striking off of the company or amendment of the corporate purpose or license. Registration and record-keeping requirements under Articles 34 and 34 bis shall in any case apply.

2 bis. The following shall not be included among financial entities when operating exclusively in the non-life insurance sector:
- the entities referred to in paragraph 1, letter a) that perform the reserved activity in letters G) or H) of Annex 1 to Law no. 165 of 17 November 2005;
- the intermediaries referred to in paragraph 1, letter e).
In case the operations are carried out both in the non-life and life insurance sectors, the provisions of this Law shall apply only in relation to the life insurance sector.

Art. 19
(Non-financial entities)

1. Non-financial entities are defined as follows:
a) trust or company service providers other than financial institutions;
b) mutual credit guarantee consortium with limited liability among economic operators of the Republic of San Marino and regulated by Law no. 42 of 22 July 1977;
c) real estate agents, even when they act as intermediaries in the lease of real estate, but only in relation to transactions for which the monthly rent is equal to or greater than 10,000 euro;

d) providers of services related to games of chance and gaming houses;
e) the parties carrying out the activity of custody and transport of cash, works of art, securities or values;
f) dealers in precious metals and stones, as defined in Article 4 of the technical annex;
g) the parties carrying out the activity of auction house, art gallery, trade in antiques or in any case works of art, if the value of the transaction or a series of transactions connected with each other is equal to or greater than 10,000 euro;
g ter) service companies that carry out activities supporting the professional services provided by the entities referred to in Article 20;
g quater) service providers in the field of virtual assets.

2. In the event that a non-financial entity carries out several activities, not all falling within the activities mentioned in paragraph 1, the obligations envisaged by this Law shall apply only in relation to the activities indicated therein.

3. The Agency, by means of its own instructions, can determine which types of transactions, services or relationships fall within the activities referred to in paragraph 1 or which, on account of a low risk of money laundering or terrorist financing, may be excluded.

Art. 20
(Professionals)

1. Professionals are defined as follows:
a) members of the professional register of accountants (holding a university degree or a high school diploma) of the Republic of San Marino, who have not been suspended;
b) members of the register of auditors and auditing firms and of the register of actuaries of the Republic of San Marino, who have not been suspended;
c) members of the professional register of lawyers and notaries of the Republic of San Marino, when they carry out in name of or on behalf of their customers any financial or real estate transaction, or when they assist a customer in the preparation or execution of transactions related to:
1) transfer at any title of rights in rem in relation to real estate or economic activities;
2) the management of money, financial instruments or other assets of customers;
3) the opening or management of bank, savings or securities accounts and other business relationships at financial entities;
4) the establishment, management or administration of companies, trusts, foundations, legal entities or arrangements with or without legal personality and the transfer, at any title, of company units or shares;
5) the organisation of contributions necessary for the creation, operation or management of companies.

2. Professionals enrolled in foreign registers who provide occasional services in the Republic of San Marino shall fall within the list in paragraph 1 above.

3. The professionals referred to in paragraph 2 shall keep in a single place in the Republic of San Marino the documents, records, data and information relating to the requirements envisaged by this Law according to the procedures and time-limits laid down by Article 34. Such place shall be communicated to the Agency before accepting the professional assignment.

4. The Agency, by means of its own instructions, may determine which types of transactions, services or relationships fall within the activities referred to in paragraph 1 or which, on account of a low risk of of money laundering or terrorist financing, may be excluded.

CHAPTER II

CUSTOMER DUE DILIGENCE REQUIREMENTS

Art. 21

(Scope of application of customer due diligence measures)

1. Obliged entities shall apply customer due diligence measures in the following cases:
a) when establishing a business relationship;
b) when carrying out occasional transactions for an amount equal to or exceeding EUR 15,000, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
c) when they perform occasional transactions representing a transfer of funds equal to or higher than EUR 1,000;
d) when there is a suspicion of money laundering or terrorist financing;
e) when there are doubts about the veracity or adequacy of previously obtained customer identification data and information.

2. Providers of services related to games of chance and gaming houses shall fulfil their due diligence requirements in case of purchase or exchange of chips or other gaming instruments or upon the collection of winnings by the customer for an amount equal to or exceeding EUR 2,000, whether the transaction is carried out in a single operation or in several operations which appear to be linked.

3. The financial entities referred to in Article 18 shall also apply customer due diligence measures when they act as intermediaries or, in any case, take part in the transfer of cash or bearer securities, either in Euro or a foreign currency, carried out, at any title, between different entities for a total amount equal to or exceeding the threshold referred to in Article 31, paragraph 1.

4. The entities referred to in Article 20 and the non-financial entities referred to in Article 19 shall also apply customer due diligence measures when the transaction is of an undetermined or non-determinable amount. The transactions referred to in Article 20, paragraph 1, letter c), number 4 shall be considered in any case of an indeterminable amount.

5. The entities referred to in Article 20 shall not be required to fulfil customer due diligence and registration obligations in relation to the execution of the mere activity of drafting and/or transmitting income tax returns of natural persons and of the tasks relating to personnel administration.

5 bis. Notwithstanding the provisions of paragraph 2, the providers of services related to games of chance and gaming houses subject to the public control referred to in Law no. 67 of 25 July 2000 and subsequent amendments and in Law no. 143 of 27 December 2006, regardless of the amount of chips or other gaming instruments purchased, sold or exchanged, shall identify and verify the identity of the customer upon entry into the premises and shall be required to adopt appropriate procedures to link the identification data of the customer to the transactions referred to in paragraph 2 carried out by the customer within the gaming house.

Art. 22
(Customer due diligence measures)

1. Customer due diligence measures shall include the following activities:
a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
b) identifying the beneficial owner and taking reasonable measures to verify the person’s identity, using information and data obtained from reliable sources, so that the obliged entity is satisfied that it knows who the beneficial owner is, taking into account the criteria referred to in Article 1bis of the technical annex;
c) understanding and obtaining information on the purpose and intended nature of the business relationship or professional activities; If there is a high risk of money laundering and terrorism financing, the activity of understanding and obtaining information on the purpose and intended nature shall also apply to occasional transactions other than professional activities;
d) conducting ongoing monitoring of the business relationship, including scrutiny of transactions undertaken throughout the course of that relationship, to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds and ensuring that the documents, data or information held are kept up-to-date. If there is a high-

risk of money laundering and terrorist financing, the obliged entity shall perform, more frequently, a review of documents, data and information previously obtained and, if necessary, carry out additional verifications on the customer's transactions.

Art. 22 bis
(Customers' requirements)

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

2. Companies, foundations and similar legal entities or arrangements, with or without legal personality, shall obtain and keep adequate, accurate and current information on their beneficial owners who are natural persons and shall provide it to obliged entities in order to facilitate the application of customer due diligence measures.

3. The information referred to in paragraph 2 concerning companies shall be obtained by the directors on the basis of compulsory records, communications received from the shareholders and any other data known. In case of doubts, the directors shall request information necessary to identify the beneficial ownership. If the shareholder fails to provide the requested information to the directors, or provides them with false or partial information, the director shall convene a meeting. If the shareholder fails to provide the elements necessary to identify the beneficial ownership, such shareholder shall not exercise his voting rights and any decisions adopted with his vote may be annulled.

4. The information referred to in paragraph 2 concerning foundations and entities with or without legal personality shall be obtained by the founder, if alive, or by the persons entrusted with the representation and administration of the entity, on the basis of what results from the articles of association, memorandum of association, records and any other communication or data known.

5. The trustees and persons holding equivalent positions for other similar legal arrangements shall obtain and keep adequate, accurate and current information on the beneficial owners of the trust who are natural persons, as envisaged by Article 1 bis, paragraph 6 of the technical annex, and shall provide it to the obliged entities in order to facilitate the application of customer due diligence measures.

6. The trustees who establish a business or professional relationship or carry out an occasional transaction with the obliged entities shall declare their office of trustee.

6 bis. The trustees of fiduciary agreements who establish a business or professional relationship or carry out an occasional transaction with the obliged entities shall declare their status.

Art. 23
(When to identify and verify the identity of customers and beneficial owners)

1. The obliged parties shall identify and verify the identity of the customer and beneficial owner before establishing a business relationship, assigning the professional service or carrying out an occasional transaction.

2. The verification of the identity of the customer and beneficial owner can be postponed after the establishment of a business relationship, or after the assignment of the professional service, if it is necessary not to interrupt the normal conduct of the business with the customer, when the risk of money-laundering or terrorist financing is low or where it is possible to manage such risk in an adequate manner. In such situations the procedures for the verification of the identity shall be completed as soon as possible after the first contact with the customer and in any case before carrying out financial or assets related transactions. The obliged entities allowing operations before completion of the verification shall adopt internal procedures for managing the risk of money laundering or terrorist financing, which define the conditions under which the operations can be allowed in advance.

Art. 23 bis

(How to fulfil customer due diligence obligations)

1. The obliged entities shall verify the actual existence of the power of representation of anyone acting on behalf of customers and shall acquire the data and information necessary to identify and verify their identity.

2. The obliged entities shall understand the economic activity performed by the customer, as well as the relevant ownership and control structure.

3. In order to identify and verify the identity of the beneficial owner, the obliged entities may request from their customers the relevant data and information, use public registers, databases, publicly available lists or lists accessible to the obliged entities, acts or documents from which such information can be inferred, or obtain information in other ways.

4. The obliged entities shall keep records of the verifications performed to identify the beneficial owner, as well as a written record of the assessments made in order to identify the beneficial owner.

5. Upon the transfer of any real estate or company shareholdings through a public deed or authenticated private agreement, the obliged entities referred to in Article 20, paragraph 1, letter c) shall obtain a specific declaration with an analytical indication of how the consideration was paid, according to the specific instructions given by the Agency.

Art. 23 ter

(Identifying and verifying the identity of customers and beneficial owners for life insurance activities)

1. For life or other investment-related insurance business, obliged entities shall apply, in addition to the customer due diligence measures, the following measures on the beneficiaries of life insurance and other investment-related insurance policies, as soon as the beneficiaries are identified or designated:
a) obtaining the name or denomination of the person specifically identified as a beneficiary;
b) in the case of beneficiaries that are designated by characteristics or by class, obtaining sufficient information to enable the obliged entity to establish the identity of the beneficiary at the time of the payout of the capital or return on capital.

2. With reference to letters a) and b) of paragraph 1, the verification of the identity of the beneficiaries shall take place at the time of the payout of the capital or return on capital. In the case of assignment, in whole or in part, of the life or other investment-related insurance to a third party, the obliged entity aware of the assignment shall identify the beneficial owner at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the policy assigned.

2 bis. Obliged parties shall be required to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced due diligence measures are applicable. Where obliged parties determine that a beneficiary, other than a natural person, presents a higher risk, they shall be required to take enhanced measures, including reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary at the time of payout of the capital or return on capital.

Art. 23 quater

(Reporting and access to information on the beneficial ownership of legal persons and trusts)

1. Companies, associations, foundations and similar entities with legal personality shall report information relating to their beneficial owners who are natural persons to the Office for Industry for the purposes of keeping such information in a register with restricted access.

2. Information relating to natural persons who are beneficial owners of the trust already entered in the trust register shall be reported by the trustees shall report to the Office of the Trust Register for the purposes of keeping information in a register with restricted access, when such trustees are:
a) resident in the Republic of San Marino;
b) not resident in the Republic of San Marino, provided that at least one of the following conditions are met:

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i) the trustees are not required to meet similar reporting requirements abroad;
ii) the trust is subject to tax obligations in the Republic of San Marino.

3. The data and information on beneficial ownership shall be reported, also through the technical assistance of the professionals in Article 20, paragraph 1, letters a) and c), by the legal representative of companies, associations, foundations and similar entities with legal personality and of the trustee, if a legal person, or the individual trustees, or through the resident agent when the trustees are not resident in the Republic of San Marino. The report shall be made in hard copy or electronically, in accordance with the instructions given by the Offices that keep the registers of beneficial owners.

4. The reports referred to in paragraphs 1 and 2 shall contain:
a) name, surname, date and place of birth, nationality and residence address of each beneficial owner, as well as Social Security number or any other unique code provided by jurisdictions other than San Marino;
b) copy of a valid identity document;
c) the starting date of the beneficial ownership;
d) indication of the reasons for which the reported entities acquire the capacity as beneficial owner.

5. The reports referred to in paragraphs 1 and 2 shall be made:
a) within six months of the establishment of the respective registers or within one month of the establishment of the company, association, foundation, similar entity with legal personality, of the establishment of a trust and in any case within one month of the change of the beneficial owner referred to in letter b) hereunder;
b) whenever the change in the shareholder structure or in another situation relevant for the purposes of this Law affects the identification of the beneficial owner.

6. Access to the register kept by the Office for Industry referred to in paragraph 1 shall be allowed to the following:
a) Judicial Authority, Agency, Central Bank, Police Forces, Tax Office, Central Liaison Office and Office for Control and Supervision over Economic Activities;
b) obliged entities, in order to facilitate the application of customer due diligence measures;
c) parties that can demonstrate an interest in accessing the register, following verification by the Office for Industry of compliance with the requirements established through Congress of State Regulation and with the procedures laid down in paragraph 8 hereunder.

7. Access to the register kept by the Office of the Trust Register referred to in paragraph 2 shall be allowed to the following:
a) Judicial Authority, Agency, Central Bank, Police Forces, Tax Office, Central Liaison Office and Office for Control and Supervision over Economic Activities;
b) obliged entities, in order to facilitate the application of customer due diligence measures;

8. The information on beneficial ownership shall be made freely accessible in a timely and unlimited manner, through direct electronic access, to the parties referred to in paragraph 6, letter a) and paragraph 7, letter a). The information on beneficial ownership kept in the register referred to in paragraph 1 shall be made timely accessible to the entities referred to in paragraph 6 letter b).

9. The parties referred to in paragraph 6, letters b) and c), shall access the register upon payment of the administrative fees and following the fulfilment of the authorisation procedures established by the Office for Industry.

9 bis. The information on beneficial ownership kept in the register referred to in paragraph 2 shall be made timely accessible to the entities referred to in paragraph 7, letter b) upon payment of the administrative fees and following the fulfilment of the authorisation procedures established by the Office of the Trust Register.

9 ter. The modalities and criteria according to which information is entered in the registers referred to in paragraphs 1 and 2 and is accessed by the parties referred to in paragraph 6, letters b) and c) and in paragraph 7, letter b) shall be governed by the provisions issued by the Office for Industry and the Office of the Trust Register.

9 quater. If the information is accessed by a party referred to in paragraph 6, letter a) and paragraph 7, letter a) the Offices that keep the registers of beneficial owners shall not be required to inform the requested party thereof.

9 quinquies. Obtaining information from the registers referred to in this Article shall not exempt obliged entities from carrying out additional verifications on beneficial ownership according to a risk-based approach.

9 sexsies. The measures provided for in this Article shall also apply to other legal arrangements similar to trusts and shall regulate their modalities and forms through a specific delegated decree.

9 septies. The provisions of this article, do not apply to companies, associations, foundations and entities that are subject to insolvency proceedings referred to Law 15 November 1917 n. 17, and to the compulsory liquidation, as these are subject to the supervision and prior authorization of the Judicial Authority.

Art. 24
(Abstention obligations in case obliged entities are not able to meet due diligence requirements)

1. If the obliged entities are not able to meet the customer due diligence requirements provided for in Article 22, without prejudice to Article 23, paragraph 2, they shall abstain from establishing business relationships, from carrying out transactions on business relationships and from carrying out occasional transactions or professional activities and they shall interrupt already established business relationships. The impossibility to meet customer due diligence requirements shall entitle the obliged entities to terminate the business relationship. In any case, the obliged entities shall decide whether to send a suspicious transaction report to the Agency, if the relevant requirements are met.

2. The obliged entities that terminate the business relationship under the preceding paragraph shall ensure the traceability of reported assets or funds, or that are present on said relationship, according to the modalities provided by the Agency.

3. Without prejudice to what envisaged in the preceding paragraphs, if data and information relating to the beneficial owner provided in writing by the customer are inconsistent with the outcome of the identification or verification of the beneficial owner's identity carried out by the obliged party, the latter shall inform the Agency thereof in accordance with the modalities and timing it has established.

4. The requirements referred to in this Article shall also apply in relation to the measures envisaged by Article 23 ter.

5. The entities referred to in Article 20, paragraph 1 shall not be required to comply with the provision contained in the first paragraph while verifying the legal position of their customer or while performing their task of defending or representing that customer in judicial or administrative proceedings or in relation thereto, including advice on the possibility of instituting or avoiding proceedings.

Art. 25
(Risk-based approach)

1. Obliged entities shall apply customer due diligence measures to all new customers and to existing customers on the basis of the risk level of money laundering and terrorist financing.

2. In establishing the level of the customer due diligence measures, the obliged entities shall take account of the risk variables indicated by the Agency, the results of national assessment and the self-assessment of the risks of money laundering and terrorist financing.

3. Obliged entities shall be able to demonstrate that the measures adopted are proportionate to the risk level of money laundering and terrorist financing identified.

Art. 26

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(Simplified customer due diligence measures)

1. Where the national assessment or the self-assessment of the risks of money laundering and terrorist financing indicate a low risk of money laundering and terrorist financing, the obliged entity may apply simplified customer due diligence measures in terms of the extension and intensity of the obligations under Article 22.

2. Before applying the simplified customer due diligence measures, obliged entities shall ascertain that the business relationship, the occasional transaction or the professional service actually presents a low risk.

3. When assessing the risks of money laundering and terrorist financing relating to types of customers, geographic areas, and particular products, services, transactions or delivery channels, the obliged entities shall also consider the risk factors established by the Agency.

4. The Agency shall establish the simplified customer due diligence measures to be taken in circumstances presenting a low risk.

5. When applying simplified due diligence measures, the obliged entities shall in any case carry out sufficient monitoring to enable the detection of suspected money laundering or terrorist financing.

6. Obliged entities shall not apply simplified customer due diligence measures when there are suspicions of money laundering or terrorist financing, or in situations that pose a higher risk of money laundering or terrorist financing.

7. Obliged entities cannot apply simplified due diligence measures in cases where the customer is located or resident in the high-risk countries referred to in Article 16 undecies.

Art. 27

(Enhanced customer due diligence measures)

1. Obliged entities shall apply enhanced customer due diligence measures to manage and mitigate risks of money laundering and terrorist financing appropriately:
a) in the cases referred to in Articles 27 bis, 27 ter and 27 quinquies;
b) in cases of higher risks that have been identified in the national assessment referred to Article 16 bis;
c) in cases of higher risks that have been identified by obliged entities in the framework of the self-assessment of the risks referred to in Article 16 quinquies, as well as in cases when the risk profile is high;
d) in case of entities that are located or reside in the high-risk countries referred to in Article 16 undecies.

2. For the purposes of the application of enhanced customer due diligence measures, obliged entities shall examine the background and purpose of unusually large transactions or when there are doubts about the actual purpose of such transactions. In such cases, obliged entities shall increase the degree and nature of monitoring, in order to determine whether those transactions appear suspicious.

3. When assessing the risks of money laundering and terrorist financing relating to types of customers, geographic areas and particular products, services, transactions or delivery channels, obliged entities shall at least consider the high-risk factors established by the Agency.

3 bis. The Agency shall establish the enhanced customer due diligence measures to be taken in circumstances presenting higher risks.

Art. 27 bis

(Business relationships and transactions with politically exposed persons)

1. Obliged entities shall, in addition to the customer due diligence measures laid down in Article 22, have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person.

2. In case of business relationships with customers or beneficial owners who are politically exposed persons, the obliged entities shall:
i) obtain senior management approval for establishing or continuing business relationships with such persons;
ii) take adequate measures to establish the source of wealth and source of funds that are involved in business relationships with such persons;
iii) conduct enhanced, ongoing monitoring of those business relationships.

3. In case of occasional transactions or professional services with politically exposed persons, obliged entities shall take appropriate measures to establish the source of wealth and source of funds.

4. The provisions of this Article shall also apply to family members and persons known to be close associates of politically exposed persons.

4 bis. (paragraph deleted)

Art. 27 ter
(Life insurance contract or other investment-related insurance of politically exposed persons)

1. Obliged entities shall take reasonable measures to determine whether the beneficiaries of a life or other investment-related insurance and the beneficial owner of the beneficiary are politically exposed persons. Such measures shall be taken no later than at the time of the payout of the capital or return on capital or at the time of the assignment, in whole or in part, of the policy. Where there are high risks of money laundering and terrorist financing, in addition to applying the customer due diligence measures laid down in Article 22, obliged entities shall:
a) inform senior management before payout of the capital or return on capital;
b) conduct enhanced scrutiny of the entire business relationship with the policy holder and, in particular, of the links between the latter, the beneficiary and/or the respective beneficial owners;
b bis) consider in any case whether to send a suspicious transaction report to the Agency if the relevant requirements are met.

2. This Article shall also apply to family members and persons known to be close associates of politically exposed persons.

Art. 27 quater
(Duration of office for politically exposed persons)

1. Where politically exposed persons are no longer entrusted with the functions in Article 1 of the technical annex, obliged entities shall be required to take into account the risk related to such persons, their family members and persons known to be close associates of such persons and to apply, for at least 12 months, measures proportionate to the level of risk until they deem that such risk no longer exists.

Art. 27 quinquies
(Cross-border correspondent relationships)

1. With respect to cross-border correspondent relationships with foreign financial entities, in addition to the customer due diligence measures laid down in Article 22, financial entities shall:
a) gather sufficient information about the foreign financial entity to understand fully the nature of its business and to determine from publicly available information the reputation of the institution and the quality of supervision, whether it is subject to investigation of money laundering or terrorist financing or to any other regulatory action;
b) assess the AML/CFT controls carried out by the foreign financial entity;
c) obtain approval from senior management before establishing correspondent relationships;
d) establish and document the respective responsibilities with regard to prevention and combating of money laundering and terrorist financing.

2. Where the foreign entity allows the use of payable-through accounts, the financial entity shall be satisfied that the foreign financial entity has performed ongoing due diligence on the customers having direct access to such accounts, and that it is able to provide relevant customer due diligence data to the financial entity, upon request.

3. The Agency may indicate cases in which the fulfilment of the obligations under this Article is not required in relation to the low risk profile of the jurisdiction in which the foreign financial entity is located or operates.

Art. 28
(Prohibition to operate with shell banks)

1. It shall be prohibited to establish or maintain business relationships, including correspondent ones, with a shell bank.

2. Financial entities shall take appropriate measures to ensure that they do not engage in or continue correspondent relationships with foreign financial entities allowing a shell bank to use its relationships.

Art. 29
(Customer due diligence performed by third parties)

1. In order to fulfil the customer due diligence requirements laid down in Article 22, paragraph 1, letters a), b) and c), the obliged entities may rely on third parties.

2. "Third parties" means:
a) the financial entities referred to in Article 18, paragraph 1, letters a), b) and c);
b) the foreign financial entities that:
   1. shall apply customer due diligence, registration and record-keeping requirements that are consistent with those laid down in this Law and the Directive (EU) 2015/849;
   2. have their compliance with the requirements of Directive (EU) 2015/849 supervised in a manner consistent with Section 2 of Chapter VI;
c) the professionals referred to in Article 20, paragraph 1.

2 bis. Obliged entities shall obtain from the third parties relied upon the information referred to in paragraph 1 and shall also take adequate steps to ensure that third parties, also in case they have introduced the customer, provide, immediately, upon request, the relevant information and any document relating to the identification and verification of the identity of the customer and of the beneficial owner.

Art. 29 bis
(Liability of obliged entities, prohibitions and exclusions)

1. The ultimate responsibility for meeting customer due diligence requirements through third parties shall remain with the obliged entities.

2. Obliged entities shall assess whether the evidence gathered and the verifications carried out by third parties are appropriate and sufficient to fulfil the obligations envisaged by this Law and shall verify, within the limits of professional diligence, the veracity of the documents received. In case of doubts about the identity of the customer, of the executor and of the beneficial owner, obliged entities shall fulfil identification and customer due diligence requirements directly.

3. Obliged entities shall be prohibited from relying on third parties established in the high-risk countries referred to in Article 16 to meet customer due diligence requirements.

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4. The provisions of Article 29 and paragraphs 1 and 2 of this Article shall not apply to outsourcing or agency relationships where, on the basis of a contractual arrangement, the outsourcing service provider or agent is to be regarded as permanently part of the obliged entity.

CHAPTER III
ADDITIONAL MEASURES

Art. 30
(Prohibition to keep anonymous accounts or accounts in fictitious names and to use national payable-through accounts)

1. Financial institutions shall be prohibited from keeping anonymous accounts or savings passbooks or in fictitious names, or from issuing bearer passbooks or otherwise from using relationships that do not allow the identification of the customer and the beneficial owner.

2. It shall be prohibited to use any form of anonymous accounts or passbooks or in a fictitious name opened abroad.

3. In case of national payable-through accounts, the financial institution shall be satisfied that its counterpart has performed ongoing due diligence on the customers having direct access to such accounts, and that it is able to provide relevant customer due diligence data to the financial institution upon request.

Art. 31
(Limit on the use of cash and bearer securities)

1. The transfer between different parties of cash and bearer securities, when the value of the transaction, even fractioned, is equal to or higher than EUR 10,000, shall be exclusively carried out through an entity authorised to exercise the reserved activities mentioned in letter A), of Annex 1 to Law 165 of 17 November 2005 and in Article 18, paragraph 1, letter b).

2. Cheques drawn or negotiated on San Marino banks or issued by such banks, each for an amount equal to or exceeding that specified in the preceding paragraph, shall bear the name and surname or the business name of the beneficiary and the non-transferable clause.

2 bis. In the case of payment of premiums for life insurance contracts, including temporary death insurance policies, as well as in case of benefits in the form of settlements, surrenders or other payments due under insurance contracts by insurance companies, including through insurance intermediaries, the use of cash shall not be permitted.

Art. 32
(Reporting requirements to the Agency)

1. Obliged entities that discover violations of the provisions referred to in Articles 30 and 31 in the exercise of their activities shall immediately inform the Agency thereof.

Art. 33
(repealed)

Art. 33 bis
(Cooperation of obliged entities with foreign counterparts)

1. When an obliged entity - while carrying out its typical activity and with a view to establishing or maintaining a business relationship or conducting an occasional transaction or providing a professional service - establishes relationships with a foreign entity subject to requirements equivalent to those laid down in Title III of this Law, it shall be obliged to supply, upon request of the foreign entity containing an explicit reference to the need to fulfil the customer due diligence requirements imposed by its national legislation, all information requested and necessary to meet such obligations.

CHAPTER IV
REGISTRATION AND REPORTING REQUIREMENTS

Art. 34
(Information and record keeping and registration requirements)

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

2. Obliged entities shall register and keep the supporting evidence and records of business relationships, relevant transactions, occasional transactions and services provided, correspondence and results of every analysis carried out. In particular, they shall register and keep original documents or copies having the same evidentiary effects for a period of at least five years following the carrying out of the transaction or the provision of the service.

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

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

5. In case of financial entities, the keeping and registration requirements referred to in paragraphs 1 and 2 above shall apply to all transactions, either national or transnational, relating to existing or terminated business relationships, as well as to occasional transactions.

6. In order to ensure effective controls over the registration requirements and monitoring of the correct fulfilment of due diligence requirements, obliged entities shall ensure that the banking transactions concerning professional or business activities are carried out through bank accounts different from those used for personal purposes or for any other purpose different from professional or business activities.

Art. 34 bis
(Management of registrations and documents concerning financial entities that have ceased to carry out reserved activities)

1. Following withdrawal, waiver or lapse of the authorisation to carry out a reserved activity, the financial entity shall, even if in ordinary or compulsory administrative winding-up, appoint a person responsible for keeping, for the purposes of this Law, documents and electronic archives for at least five years. In such cases, the retention period shall start on the date of cancellation from the Register of Authorised Parties pursuant to Law no. 165 of 17 November 2005 and subsequent amendments and integrations. In cases of transactions for en bloc disposal of assets and liabilities, pursuant to Article 52 of Law no. 165 of 17 November 2005 or other special laws, the retention period shall start on the date on which the en bloc sale takes effect.

2. In case of company striking off, the requirements for the keeping of documents and electronic archives shall apply until expiry of the time limit referred to in Article 34.

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

4. The remuneration due to the person referred to in paragraph 1 above for performing such tasks shall be paid by the obliged entity. The obliged entity shall provide the above-mentioned person with appropriate premises to keep the documents and electronic and hard-copy archives located in the Republic of San Marino.

5. The functions performed by the above-mentioned person shall be compatible with those of liquidator or special administrator.

Art. 34 ter
(IT tools)

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

Art. 35
(Anti-money laundering electronic archive)

1. The financial entities authorised to carry out the reserved activities referred to in letter A), of Annex 1 to Law 165 of 17 November 2005, and in Article 18, paragraph 1, letter b) shall establish an anti-money laundering electronic archive.

2. The anti-money laundering electronic archive shall be established and managed according to uniform criteria that are suitable to ensure clarity, completeness, as well as timely and easy access to information. In addition, the archive shall be kept in such a way as to ensure the chronological storage of the information amended or supplemented and the possibility of inferring supplemented information.

3. The establishment of the archive referred to in paragraph 1 shall be optional in case the basic computer system used by the financial entities ensures compliance with the technical specifications laid down for the establishment and management of the archive.

4. The Agency shall discipline the characteristics and keeping of the anti-money electronic archive by issuing instructions.

Art. 36
(Reporting requirements)

1. Obliged entities shall promptly send a report to the Agency when they know, have reasonable grounds to suspect or suspect that assets and funds involved in a transaction, business relationship or professional service, regardless of their amount, may be related to money laundering, be proceeds of a criminal activity, be used to commit it or be related to terrorism or terrorist financing. The suspicion shall be based on the nature, characteristics, size of the transactions, business relationship or professional service, also in relation to the economic capacity and activity carried out by the customer to which the above is referred, or on any other circumstances known.

2. Obliged entities, when they know or have reasonable grounds to suspect that the assets or funds are related to money laundering, are proceeds of a criminal activity, may be used to commit it or are related to terrorism or terrorist financing, shall refrain from carrying out transactions involving such assets or funds, fulfil the obligations envisaged by paragraph 1 and comply with the specific requirements established by the Agency.

3. Refraining from carrying out transactions under paragraph 2 shall not give rise to any civil and contractual liability towards customers or third parties. Where refraining from such carrying out is impossible since the transaction cannot be postponed on account of its nature or is likely to frustrate efforts to pursue or identify the

beneficiaries of the transaction, obliged entities shall inform the Agency immediately after carrying out the transaction and adopt any measure necessary to identify the destination of the assets or funds involved in the transaction.

4. If the obliged entity makes an oral report, it shall subsequently forward a written report to the Agency without delay providing all supporting data, information and documents necessary to conduct the financial analysis.

4 bis. Reporting requirements shall also apply to attempted or proposed transactions, including professional activities requested but not carried out.

4 ter. The Agency shall issue and update periodically anomaly indexes, in order to facilitate the identification of reported transactions, persons, assets or funds under paragraph 1.

Art. 36 bis
(How to fulfil reporting requirements)

1. Obliged entities shall report to the Agency through the AML/CFT officer.

2. The reporting requirements under Article 36, paragraph 1 shall be a responsibility also of directors, employees, persons responsible for the outsourced functions and auditors, who shall fulfil them according to the procedures laid down by this Article and Article 40 ter.

3. For financial entities referred to in Article 18, the head of the branch, office, other operational or organisational unit or structure of the obliged entity or of the unit responsible for customer relationship management and administration, the person responsible for the outsourced function and in general the employee of the obliged entity shall be required to report promptly, in accordance with Article 36 to the AML/CFT officer or, if absent, to his substitute or to the legal representative of the financial entity.

4. For non-financial entities in Articles 19 and entities in Article 20, the employee or anyone in charge of customer relationship management shall be required to report promptly, in accordance with Article 36, to the AML/CFT officer or, if absent, to his substitute or the legal representative or owner of the sole proprietorship or to the professional.

Art. 37
(Reporting power)

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

Art. 38
(Protection of the defender's professional secrecy)

1. The professionals referred to in Article 20 may invoke professional secrecy against the judicial authority, the Agency and the police authority, with respect to the information they acquire while defending and representing their client during judicial proceedings or in relation to such proceedings, including advice on the possibility that proceedings are commenced or avoided, where such information is received or obtained before, during or after such proceedings.

2. In the cases provided in the preceding paragraph, the professionals mentioned in Article 20 shall not be subject to the reporting requirements under Article 36.

3. Professional secrecy cannot be invoked against the judicial authority, the Agency and the police authority in the exercise of their functions of preventing and combating money laundering and terrorist financing, except for the case envisaged in the first paragraph.

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4. Official secrecy cannot be invoked against the judicial authority, the Agency and the police authority in the exercise of their functions of preventing and combating money laundering and terrorist financing.

5. Professional secrecy and official secrecy cannot be invoked even when the data and information are necessary for the purposes of investigating the criminal offences and administrative violations envisaged by this Law, except for the cases referred to in paragraph 1.

Art. 39
(Exemption from liability)

1. Disclosure of information in good faith by an obliged entity or by an employee or director of such an obliged entity in accordance with Articles 36 and 37 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors or employees in liability of any kind.

Art. 40
(Confidentiality of the reporting person's identity)

1. Obliged entities shall adopt adequate measures to ensure the utmost confidentiality of the identity of the natural person who has detected what reported in accordance with Article 36.

2. The acts and documents related to the reports shall be kept under the responsibility of the AML/CFT officer.

3. The Agency shall adopt appropriate measures to guarantee the confidentiality of the identity of the natural person detecting the reported transaction, person, fact or funds pursuant to Article 36. Requests for information to the obliged entity, requests for further investigation, as well as exchanges of information relating to reports shall be made through appropriate procedures that guarantee the maximum confidentiality of the identity of the person involved.

4. In case of communication, complaint or report to the judicial authority, the identity of the natural person who detected the suspicious transaction, even if known, shall not be mentioned.

5. The identity of the natural person who has detected the reported transaction, person, fact or funds under Article 36 may be revealed only when the judicial authority, by reasoned decree, declares it essential for the purposes of investigating the criminal offences prosecuted.

6. The identity of the reporting person shall be kept confidential even if the report is transmitted to the judicial authority in accordance with Article 7 or in the event of a complaint by another person. In any case, the name of the reporting person shall not be mentioned in the documents relating to the proceedings, unless the judicial authority, by means of a reasoned decision, orders the disclosure of the name because it is essential to the investigation of the criminal offences being prosecuted. If a document obtained as a result of seizure or in another way indicates the identity of the reporting person, the judicial authority shall take the necessary precautions to ensure confidentiality, also by partially or totally deleting the name.

Art. 40 bis
(Prohibition of disclosure)

1. Obliged entities and their directors and employees, as well as anyone who is otherwise aware of it, shall be prohibited from disclosing to the customer concerned or to other third parties, except in the cases provided for in this Law, the fact that a report has been or will be transmitted under Articles 36 and 36 bis or that a financing analysis or investigation related to money laundering, terrorist or a predicate offence is being, or may be, carried out.

2. The prohibition laid down in paragraph 1 shall not prevent the disclosure of the content of a report between financial entities or between those entities and their branches and majority-owned subsidiaries located abroad,

provided that those branches and majority-owned subsidiaries located abroad comply with the group-wide policies and procedures, including procedures for sharing information within the group and that the group-wide policies and procedures comply with the requirements laid down on the prevention and combating of money laundering or terrorist financing.

3. The prohibition laid down in paragraph 1 shall not prevent the disclosure of the content of a report between the obliged entities referred to in Article 20, who perform their professional activities in an associated form, as employees or collaborators, in countries applying requirements equivalent to those envisaged by this Law.

4. For the obliged entities referred to in Article 18 and Article 20, paragraph 1 in cases relating to the same customer and the same transaction or professional activity involving two or more obliged entities, the prohibition laid down in paragraph 1 shall not prevent disclosure of the content of a report between the relevant financial entities or between the relevant professionals, provided that they are authorised to operate or qualified in the Republic of San Marino or in a country imposing requirements equivalent to those envisaged by this Law. The information exchanged shall be used exclusively for the purposes of the prevention of money laundering and terrorist financing.

5. Any attempt by the obliged entities to dissuade a customer from engaging in illegal activity shall not constitute a violation of the prohibition of disclosure.

6. Where the obliged entities notify the blocking or suspension order issued by the Agency to the party concerned, that shall not constitute a violation of the obligation of secrecy.

7. Notwithstanding paragraphs 2, 3 and 4, the Agency can prohibit disclosures when these could endanger the success of the financial analysis or the effective enforcement of the measures blocking or suspending transactions.

CHAPTER IV bis

OBLIGATIONS TO REPORT AND DISCLOSE VIOLATIONS

Art. 40 ter
(Reporting requirements of the supervisory bodies of obligated entities)

1. The members of the board of auditors, of the monitoring committee and of any other management control body at the obliged entities shall monitor compliance with the provisions of this Law and shall be required:
a) to report without delay to the AML/CFT officer the suspicious transactions, of which they have become aware in the performance of their functions;
b) to disclose without delay to the Agency the facts that can be considered serious, repeated, systematic or multiple violations of the provisions of this Law and of the instructions and circulars of the Agency, of which they become aware in the performance of their functions.

Art. 40 quater
(Objective reports)

1. Taking into account the national assessment of the risks of money laundering and terrorist financing, the level of cooperation of the categories of obliged entities or the need to perform specific analyses of any phenomena or types of money laundering or terrorist financing, the Agency may request the obliged entities to report, on a regular basis, data and information identified on the basis of objective criteria and concerning transactions that present a risk of money laundering or terrorist financing.

2. The data and information shall be used by the Agency to understand the risks of money laundering or terrorist financing, to carry out financial analyses, to adopt a risk-based supervisory approach or for any other function entrusted to the Agency.

3. The transmission of an objective report shall not exclude the reporting requirement referred to in Article 36 concerning the same transaction. If, in the light of assessments and in-depth analyses carried out by the obliged entity, the objective report is characterised by suspicion, such obliged entity shall be required to report pursuant to Article 36.

4. The Agency may, also by means of ad hoc circulars, identify the transactions, data and information referred to in paragraph 1 and define the relevant transmission modalities.

Art. 40 quinquies
(Internal mechanisms to report violations)

1. Obliged entities shall adopt procedures that employees or persons in a comparable position are required to follow to internally report potential or actual violations of anti-money laundering and counter-terrorist financing provisions.

2. The procedures referred to in paragraph 1 shall guarantee:
a) the protection of the confidentiality of the identity of both the person who reports the violations and the natural person who is allegedly responsible for the violations;
b) the protection of the person who reports retaliatory, discriminatory or otherwise detrimental conducts subsequent to the reporting;
c) the development of a specific, independent and anonymous reporting channel, proportionate to the nature and size of the obliged entity.

3. The reporting referred to in this Article shall not constitute a breach of the obligations arising from the contractual relationship with the obliged entity.

Art. 40 sexies
(Mechanisms to report violations to the Agency)

1. Anyone can report to the Agency potential or actual violations of the provisions of this Law.

2. The Agency shall receive and follow up the reports in such a way as to guarantee the appropriate protection of the employees of obliged entities, of persons in a comparable position or third parties, other than the obliged entities, who report violations. In particular, the Agency shall ensure that the obtaining and keeping of personal information concerning both the person reporting the violations and the natural person who is allegedly responsible for the violations shall be carried out in accordance with the national legislation.
The person reporting the violations shall enjoy the same protections granted to persons who make reports under Articles 36 and 37 of this Law.

CHAPTER V
PROCEDURES, CONTROLS AND STAFF TRAINING

Art. 41
(Control obligations)

1. The obliged entities referred to in Article 17 that carry out the activities subject to the obligations set forth in this Law, individually or as associates, as well as legal representatives and those persons that perform management, administration and control functions of the obliged entities organised as incorporated businesses shall, according to their respective tasks and responsibilities:
a) comply with the obligations set forth in this Law;
b) establish and verify the fulfilment of said obligations by employees and collaborators.

Art. 42

(Functions and powers of AML/CFT officers)

1. Obliged entities shall appoint an AML/CFT officer in charge of receiving internal reports, further analysing such reports and forwarding them to the Agency, in case he considers that they are well-grounded on the basis of all elements in his possession, also inferred from other sources. The reports shall be forwarded to the Agency without the name of the natural person who has detected the suspicious transaction in accordance with Article 36.

2. The instrument of appointment of the AML/CFT officer shall include the indication and assessment of the professional requirements and of the powers assigned. The instrument of appointment shall be transmitted to the Agency.

3. Until the appointment of the AML/CFT officer, all tasks and responsibilities related to said function shall be assigned to the legal representative. In case the AML/CFT officer is temporarily absent, all tasks and responsibilities related to said function may be assigned to a substitute. The substitute shall be appointed according to what envisaged for the AML/CFT officer. In case of absence or impediment of both the AML/CFT officer and his substitute, if appointed, all tasks and responsibilities related to said function shall be assigned to the legal representative of the obliged entity or to the owner of the sole proprietorship or to the professional.

4. The AML/CFT officer shall seek and obtain information, also through directors, employees and collaborators who, at any title, come into contact with the customers or, in any case, know about the relationships with the customers or the execution of transactions on behalf of said customers.

5. Even in absence of internal reports, the AML/CFT officer shall analyse the transactions carried out, seek and obtain information and, in the cases set forth in Article 36, forward the report to the Agency.

5 bis. The AML/CFT officer shall have adequate professional skills and shall be given appropriate powers to carry out the functions referred to in the previous paragraph in an autonomous and independent way, including the power to access all information or documents without authorisation. The AML/CFT officer shall be part of the staff to the governing body, the owner of the sole proprietorship or the professional as obliged entities.

6. The Agency shall regulate, by means of its instructions, the appointment procedures, requirements, functions and tasks, even additional, of the AML/CFT officer.

Art. 43
(repealed)

Art. 43 bis
(Replacement of the AML/CFT officer)

1. The Agency may order an obliged entity to replace its AML/CFT officer if the latter is considered not to sufficiently meet the requirements of good repute or not to have sufficient professional skills.

Art. 44
(Internal policies, procedures and controls)

1. Obliged entities shall adopt internal policies, procedures and controls in compliance with the requirements established by law and with the instructions and circulars issued by the Agency, taking into account the results of the self-assessment procedures referred to in Article 16 quinquies and the risk mitigating measures referred to in Article 16 sexies of this Law.

2. Obliged entities shall identify, analyse and assess ML/TF risks that may arise in relation to the development of new products, practices, delivery mechanisms and the use of developing technologies for both new and pre-existing products. In case of financial entities, this assessment shall be made before using or making the products available and shall be accompanied by appropriate measures to manage and mitigate these risks.

3. Obliged entities shall be equipped with IT or telematic tools necessary to guarantee that reports are sent to the Agency in a prompt and confidential manner. The reports sent to the Agency shall be accessible only to the obliged entities.

4. The financial entities shall extend the requirements referred to in this Article to foreign branches.

Art. 44 bis
(Training requirements)

1. Obliged entities shall inform their employees and collaborators about their requirements under this Law and the instructions and circulars issued by the Agency.

2. Obliged entities shall ensure the organisation of ongoing training programmes aimed at the correct application of the provisions contained in this Law. These programmes shall include in particular information on indicators, trends and schemes of money laundering and terrorist financing, help directors and employees recognise suspicious transactions and instruct them as to how to proceed in such cases.

3. The training requirements referred to in paragraphs 1 and 2 shall also apply to sole proprietors, directors or legal representatives of companies falling within the categories of non-financial entities referred to in Article 19.

4. The training requirements referred to in paragraphs 1 and 2 shall also apply to the professionals referred to in Article 20.

Article 44 ter
(Staff recruitment)

1. Obliged entities shall adopt rigorous screening procedures when hiring employees and collaborators, taking into account their role, functions or tasks. Obliged entities shall also adopt procedures imposing controls subsequent to hiring, which shall be repeated during the employment relationship.

Art. 44 quater
(Requirements for electronic money issuers and payment service providers)

1. Foreign financial entities that carry out a business activity as referred to in letters I) or J) of Annex 1 to Law no. 165 of 17 November 2005, which are established in the Republic of San Marino in forms other than a branch and the main office of which is located abroad, shall appoint a central contact point to ensure compliance with the AML/CFT legislation on behalf of the appointing party and to facilitate supervision by the Agency, also by providing the latter, upon request, with documents and information.

Art. 45
(Requirements for obliged entities belonging to groups, for foreign branches and subsidiaries)

1. Financial entities that are part of a group shall adopt group-wide policies and procedures, including policies and procedures for sharing information within the group for AML/CFT purposes. Those policies and procedures shall be implemented effectively at the level of branches and majority-owned subsidiaries located abroad.

2. If the obliged entities operate establishments in a SEPA country, they shall verify that these establishments comply with foreign provisions transposing Directive (EU) 2015/849.

3. Where obliged entities have branches or majority-owned subsidiaries located in countries where the AML/CFT requirements are less strict than those of the Republic of San Marino, their branches and majority-owned subsidiaries shall implement the requirements envisaged by this Law, to the extent that the country's law so allows.

4. In the case referred to in the preceding paragraph, where a country's law does not permit the implementation of the policies and procedures required under paragraph 1, obliged entities shall ensure that branches and majority-owned subsidiaries in that country apply additional measures to effectively handle the risk of money laundering and terrorist financing and inform the Agency thereof.

5. If the Agency deems that the additional measures adopted by the obliged entities referred to in paragraph 4 are not sufficient, it shall exercise additional supervisory actions, including requiring that the group does not establish or that it terminates business relationships, and does not undertake transactions and, where necessary, requesting the group to close down its operations in the country.

6. The financial entities that are part of a group with branches and majority-owned subsidiaries located abroad shall adopt policies and procedures for the sharing of information on customer due diligence requirements and AML/CFT risk management. They shall also ensure that the branches and majority-owned subsidiaries provide information on business relationships, transactions or customers that is necessary to perform the compliance function or to counter money laundering or terrorist financing.

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

Art. 45 bis
(repealed)

Art. 46
(repealed)

Art. 47
(repealed)

Art. 47 bis
(repealed)

Art. 47 ter
(repealed)

Art. 48
(repealed)

Art. 49
(repealed)

Art. 50
(repealed)

TITLE V
POLICE STAFF

CHAPTER I
SECONDMENT AND TRAINING OF POLICE STAFF

Art. 51
(Assignment of police staff)

1. For the effective fulfilment of the duties established by law and international obligations, upon request of the Director and having obtained the opinion of the Congress of State, police officers with specific attitude and training 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 staff shall be selected by the Director of the Agency, in agreement with the investigating judges and the Commanders of the law enforcement authorities, taking into consideration their rank, educational qualification and experience in the prevention and combating of financial crimes.

3. The Commanders of the law enforcement authorities shall guarantee the Agency an adequate number of qualified officers for the fulfilment of the duties envisaged by this Law.

4. Police officers assigned to the Agency shall be exempted from the duties and obligations deriving from the regulations of their Corps not falling within judicial police functions, except for extraordinary needs to be notified to the Agency.

Art. 52
(Training of police staff)

1. The police corps shall ensure the training of their staff on financial investigations and, to this end, promote regular education courses.

TITLE VI
SANCTIONS

CHAPTER I
CRIMINAL SANCTIONS

Art. 53
(Violation of secrecy regarding reports)

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

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

Art. 53 bis
(Violation of secrecy regarding investigations)

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

2. If a blocking or seizure order has already been executed, financial entities may inform the customer of the execution of the order, unless the judicial authority has imposed limitations in this regard.

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Art. 54
(Omitted or false declarations regarding customers)

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

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

Art. 55
(Non-compliance with reporting requirements)

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

Art. 56
(Actions intended to prevent reporting)

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

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

Art. 57
(Hindering the functions of the Agency)

1. Unless the fact constitutes a more serious crime, the punishment of second-degree imprisonment and disqualification shall be imposed on anyone who:
a) without justified reason, fails to comply with, delays or hinders the provision of documents, the issuance of information, the execution of an order, request or measure issued by the Agency under Article 5.
b) being requested by the Agency to provide data or information for the purpose of a financial investigation or analysis or in the course of an inspection, makes false declarations or hides, in whole or in part, what he knows about facts, documents and information for which he has been summoned or on which he has reported to the Agency orally or in writing.
c) declares or attests false information in acts or documents intended for or requested by the Agency, or provides the Agency with false documents. In case of acts or documents to be provided to the judicial authority, third-degree imprisonment shall be applied.

2. If the facts referred to in the preceding paragraph are committed in the exercise of the functions of director, attorney, auditor, actuary, liquidator, special administrator at obliged entities under this Law, third-degree fine and disqualification from the functions of director, attorney, auditor, actuary, liquidator, special administrator at a company or other entity having legal personality shall also be applied.

Art. 58

(Violation of reporting and record-keeping requirements by foreign professionals)

The foreign professional referred to in Article 20, paragraph 2 who fails to fulfil reporting and record-keeping requirements referred to in Article 20, paragraph 3 shall be subject to the punishment envisaged by Article 385 of the Criminal Code.

Art. 59
(Omitted or false information to the Register of beneficial owners)

1. Unless the fact constitutes a more serious crime, second-degree imprisonment or daily fine shall be applied to anyone who, in the communication under Article 23 quater, paragraph 3, intentionally fails to report, or reports false information on, a beneficial owner to the Register.

Art. 60
(repealed)

Art. 60-bis
(Non-compliance with or delay in implementing the blocking provision)

1. Anyone failing to comply with or delaying the provision with which the Agency orders the blocking referred to in Article 5, paragraph 1, letter d) of this Law shall be punished with first-degree imprisonment or second-degree daily fine. A pecuniary administrative sanction from EUR 2,000.00 to EUR 40,000.00 and third-degree disqualification shall also apply.

2. If violations of the obligations are perpetrated by using fraudulent means, the punishments shall be increased by one degree and the pecuniary sanction shall be doubled.

CHAPTER II
ADMINISTRATIVE VIOLATIONS

Art. 61
(Violation of customer due diligence requirements)

1. The violation of the customer due diligence requirements established by this Law shall be punished with a pecuniary administrative sanction from EUR 5,000.00 to EUR 70,000.00.

2. If the violation of the customer due diligence requirements is perpetrated by using fraudulent means, the pecuniary administrative sanction shall be doubled.

3. The violation of the abstention requirements set forth in Article 24 shall be punished with a pecuniary administrative sanction from EUR 5,000.00 to EUR 80,000.00.

4. Without prejudice to Article 54, the violation of the obligations to provide information necessary to comply with customer due diligence requirements shall be punished with a pecuniary administrative sanction from EUR 5,000.00 to EUR 80,000.00.

5. If the violation referred to in the paragraphs above hinders, delays or prevents the control by the supervisory authority, the fine referred to in Article 84 of the Criminal Code shall be applied in addition to the sanctions envisaged in this Article.

Art. 62
(Violation of registration and record-keeping requirements)

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

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

Art. 62-bis
(Violation of the rules on self-assessment and risk mitigation)

1. The violation of self-assessment or risk mitigation requirements set forth in Article 16 quinquies and Article 16 sexies shall be punished with a pecuniary administrative sanction from EUR 5,000.00 to EUR 80,000.00.

Art. 62-ter
(Violation of the prohibition to operate with shell banks)

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

Art. 63
(Violation of the prohibition to keep anonymous accounts and violations of the limits on the use of cash 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 from EUR 2,000 to EUR 50,000.

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.

Art. 64
(repealed)

Art. 65
(repealed)

Art. 65 bis
(Violations of monitoring requirements)

1. Unless the fact constitutes a crime, anyone who, without justified reason, fails to comply with, delays or hinders the execution of a monitoring order under Article 5, paragraph 1, letter g) shall be punished with a pecuniary administrative sanction from EUR 1,000.00 to EUR 50,000.00.

Art. 65 ter
(Violation of the reporting requirement referred to in Article 23 quater)

1. The violation of the reporting requirement set forth in Article 23 quater shall be punished with a pecuniary administrative sanction from EUR 5,000.00 to EUR 10,000.

2. The sanctions referred to in the preceding paragraph shall be applied by the Offices that keep the registers of beneficial owners.

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Art. 65 quater
(Violation of the registration requirement with the Agency)

1. The violation of the requirement set forth in Article 17, paragraph 5 shall be punished with a pecuniary administrative sanction from EUR 5,000 to EUR 10,000.

Art. 66
(Other violations)

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

Art. 67
(Violations of instructions and circulars)

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

Art. 67 bis
(Sanction amounts in case of economic advantage from the violation)

1. In the event that serious, repeated, systematic or multiple violations determine an economic advantage, by way of derogation from what envisaged by law for a single violation, the maximum sanction amount envisaged by this Chapter:
a) shall be raised up to twice the amount of the advantage obtained, where such advantage is determined or determinable;
b) shall be raised up to a maximum of one million Euro, where such advantage is not determined or determinable.

2. If the obliged entity has obtained an economic advantage from the violations of this Law, by way of derogation from what envisaged by law for a single violation, the amount of the administrative pecuniary sanction cannot be less than the advantage obtained.

Art. 67 ter
(Other administrative sanctions)

1. For the violations referred to in this Title, characterised by scarce offensiveness or danger, according to the criteria set forth in Article 72, paragraph 1, the Agency, as an alternative to the pecuniary administrative sanction, shall have the power to apply:
a) a sanction consisting of an order to eliminate the violations and to refrain from repeating them, with possible indication of the measures to be adopted and of the deadline for their enforcement;
b) a sanction consisting of a public statement concerning the violation committed and the person responsible.

2. In case of serious, repeated, systematic or multiple violations referred to in this Chapter, or presenting a combination of such characteristics according to the criteria set forth in Article 72, paragraph 1, in addition to the pecuniary administrative sanction, the Agency shall have the power to apply:
a) a sanction consisting in a temporary ban, for a period of not less than six months and not more than three years, against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities;
b) a sanction consisting in the withdrawal or suspension of the authorisation or qualification to operate for a period of not less than six months and not more than three years.

3. The sanctions referred to in paragraph 2 shall be applied after obtaining the timely opinion of the Central Bank when involving the obliged entities referred to in Article 18 of this Law and of the relevant professional association when involving the professionals referred to in Article 20. In case of professionals who are not members of a professional association of San Marino, the opinion of the latter shall be heard.

CHAPTER III
LIABILITY FOR ADMINISTRATIVE VIOLATIONS

Art. 68
(Subjective element for administrative violations)

1. In the administrative violations envisaged by this Law, anyone shall be liable for his own actions or omissions, consciously and voluntarily committed, whether wilful or negligent.

Art. 69
(Complicity of persons)

1. Where several persons participate in administrative violations, each of them shall be subject to the sanction applicable to such violation.

Art. 70
(Joint and several liability)

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

2. If the violation is committed by the representative, members of the board of directors or auditors, a consultant performing outsourced control activities with AML expertise, a collaborator or an employee of a legal person or entity without legal personality, of a sole proprietor or professional in the exercise of their functions or duties, the legal person, entity, entrepreneur or professional shall be held jointly and severally liable with the perpetrator of the violation for the payment of the amount due.

3. In the cases envisaged in the preceding paragraphs, anyone held liable for the payment shall be required to claim compensation from the perpetrator of the violation.

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

Art. 70 bis
(Liability of legal persons)

1. Obliged entities other than natural persons, in case of serious, repeated, systematic or multiple violations referred to in the preceding Chapter II, or presenting a combination of such characteristics, shall be held liable for the violations committed for the benefit of the obliged entity by anyone acting individually or as part of a body of that legal person and having a leading position within the legal person based on any of the following:
a) power to represent the legal person;
b) authority to take decisions on behalf of the legal person; or
c) authority to exercise control within the legal person.

1 bis. If any of the persons referred to in paragraph 1 fails to exercise supervision or control, obliged entities other than natural persons shall be held liable.

2. In the case referred to in paragraph, by way of derogation from the limits envisaged by law for individual violations, the administrative pecuniary sanction of no less than EUR 30,000 shall apply.

3. Without prejudice to the provisions of the preceding paragraphs, and by way of derogation from the limits envisaged by law for individual violations, the administrative pecuniary sanction of no less than EUR 10,000 shall apply to those performing administrative, management and control functions and to the staff of the obliged entity that, by failing to fulfil, in whole or in part, the tasks directly or indirectly related to their function or office, have facilitated or otherwise made the alleged violations possible, or have considerably affected the exposure of the obliged entity to money laundering or terrorist financing risks. If the economic advantage obtained by the obliged entity is higher than EUR 5,000,000, the administrative pecuniary sanction shall be increased up to twice the amount of the advantage obtained, where such amount is determined or determinable.

Art. 71
(Multiple violations of provisions envisaging administrative sanctions)

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

Art. 72
(Criteria for the application of pecuniary administrative sanctions and sanction procedure)

1. The Agency shall apply the sanctions provided for in this Law in accordance with the principle of proportionality and considering any relevant circumstance. In particular, in determining the level of each sanction between the minimum and maximum amount, or in applying the administrative measures under Article 67 ter, the Agency shall take account of the following:
a) the gravity and the duration of the violation;
b) the degree of responsibility of the natural or legal person held responsible;
c) the financial strength of the natural or legal person held responsible;
d) the benefit derived from the violation by the natural or legal person held responsible, insofar as it can be determined;
e) the losses to third parties caused by the violation, insofar as they can be determined;
f) the level of cooperation of the natural or legal person held responsible with the competent authority;
g) previous violations by the natural or legal person held responsible.

2. If they have not participated in the commission of the violation, the following persons shall not be subject to any sanctions:
a) the director or the auditor who has identified the violation deriving from a collective decision, provided that the findings are included in the corporate books or records and an official and timely report is made to the Agency;
b) the other punishable persons who, having identified the violation in the exercise of their functions, have submitted a formal and timely report to the Agency;
c) the persons who have reported pursuant to Articles 40 ter and 40 sexies.

3. Specific actions or omissions not considered as violations in previous inspections by the Agency shall not be subject to sanctions, without prejudice to the subsequent acquisition of new documents or information referring to the actions or omissions mentioned above.

4. The sanction procedure shall:
a) be initiated by the Agency, within 9 months following the identification of the violations, by transmitting a notice of the alleged violations to the persons concerned, in which reference is made to the inspection, supervisory activity, unmet deadline or documents acquired from which the alleged violations have resulted;

b) terminate - account taken of any counterargument submitted by the persons concerned within 30 days, which might be extended by the Agency - no later than 90 days following the date on which the procedure is initiated, i.e. following the notification above with the filing of the case or the application of the administrative sanction through a reasoned measure containing the payment order. In case of extension for the submission of counterarguments, the 90-day deadline shall be extended by the number of days granted.

5. The person sanctioned shall pay the administrative sanction to the Agency within 60 days following the notification of the order.

6. Voluntary settlement may be exercised by the perpetrator of the violation through payment of an amount equivalent to half the sanction applied.

7. An appeal against the sanction may be lodged through judicial procedure before the Administrative Judge according to the procedures and time-limits referred to in Title II of Law no. 68 of 28 June 1989, without prejudice to the possibility for the Judge to derogate from Article 18, paragraph 4 of the same Law in the context of appeals against sanctions imposed by the Agency.

8. The lodging of an appeal through judicial procedure within the meaning of paragraph 7 above shall suspend the sanction, which therefore becomes effective and enforceable with the final judgement dismissing the appeal.

9. After the expiry of the payment deadline, if neither the sanctioned person nor the jointly and severally liable legal person have paid the sanction, the Agency shall apply the compulsory procedure under Law no. 70 of 25 May 2004 to collect the amounts. Pecuniary administrative sanctions shall be collected in accordance with the same procedure envisaged for the collection of taxes, duties, charges, sanctions and any other revenue due to the State, public entities and the autonomous State corporations.

10. The Agency shall transfer to the State the amounts collected as payments of sanctions, excluding any lawyers' fees incurred to challenge the appeals referred to in paragraph 7 above. Such amounts shall be allocated to a specific chapter of the State budget.

11. Pecuniary administrative sanctions specified in this Law shall be included in the list annually drafted by the Administrative Judge of Appeal under Article 32 of Law no. 68 of 28 June 1989.

Art. 73
(Publication of sanctions)

1. Once they become final, the orders imposing sanctions or other administrative measures for violation of the provisions referred to in Chapter II shall be published by the Agency on its official website. The publication shall mention the violation committed, the sanction imposed and the identity of the persons sanctioned.

2. In applying a sanction or other administrative measures for violation of the provisions referred to in Chapter II, the Agency may order that the personal data of the persons sanctioned be not published on the official website, where their publication is considered disproportionate or where publication jeopardises the stability of the financial system. The Agency cannot grant the benefit of non-publication in respect of a person that has already been held responsible for violations of the provisions of this Law during the preceding five years. The benefit of not-publication shall not be applied if the person fails to pay the administrative pecuniary sanction and to comply with the other sanctions and administrative measures within the deadline prescribed by law.

3. The Agency may also decide to suspend the publication referred to in paragraph 1 in order not to jeopardise a financial analysis or an ongoing investigation until the reasons for the suspension cease to apply

4. Information published in accordance with this Article shall remain on the official website of the Agency for a period of five years after publication.

Art. 74

(Application of sanctions)

1. The Agency shall detect the administrative violations and apply the sanctions set forth in this Law according to the criteria and procedures described hereunder.

2. The approach for the application of sanctions shall be:
a) dissuasive, in order to discourage the violation of rules and the repetition of the unusual conduct;
b) proportional, so that the amount of the sanctions is consistent with the seriousness of violations;
c) objective, in order to ensure equal treatment when judging the various violations;
d) transparent in respect of the sanctioned person, whose possible counterarguments may supplement the evidence acquired through on-site and off-site inspections.

3. In compliance with the procedure described in the paragraphs hereunder, the Agency shall establish the violations, carry out the investigation and apply sanctions, or it shall inform the parties concerned that it terminated the sanction procedure initiated against them.

4. The Agency's sanction procedure shall involve the following steps:
a) notification of the violations established;
b) submission of counterarguments and any personal interviews;
c) assessment of the elements acquired during investigation;
d) proposal to the Agency's Director or Deputy Director to impose the sanction or to file the case;
e) adoption of the sanction or filing of the case by the Agency's Director or Deputy Director;
f) notification of the sanction order;
g) possible publication of the sanction order.

5. To calculate the time-limit referred to in Article 72, paragraph 4, letter a) above, the violations shall be established on the date on which:
a) the inspection results are notified to the obliged entities by hand delivery to the parties concerned or by sending the relevant report;
b) the Agency receives the documents, whether in hard-copy or electronic form, from which the violation results.

6. The alleged violations shall be notified in accordance with Article 17, paragraphs 1 and 2 of Law no. 100 of 29 July 2013. Persons residing abroad may have an address for service in the Republic of San Marino when they take office or when are hired as employees or when a consultancy or collaboration relation starts and shall promptly notify the Agency thereof. In the absence of the aforesaid communication, any notification shall be deemed validly made at the address for service of the obliged party.

7. In addition to the formal elements that qualify the notice of the violations as the document initiating the administrative sanction procedure, such notice shall include:
a) a reference to the inspection, supervisory activity, unmet deadline or documents acquired, from which the alleged violation has resulted;
b) the date on which the assessment of the violation has terminated under paragraph 5 above;
c) a description of the act or omission constituting the violation, with indication of the time of the alleged violation in relation to the office held and the relevant duration;
d) an indication of the provisions violated and the relevant sanctions;
e) the invitation made to the parties charged with the violations and to the legal person held jointly and severally liable to transmit to the Agency any counterargument within 30 calendar days following the notification;
f) an indication of the possibility for the parties charged with the violations to request a personal hearing within the same time-limit for the presentation of counterarguments, either as established originally or extended in compliance with paragraph 9 hereunder;
g) the time-limit for the conclusion of the administrative procedure under Article 72, paragraph 4, letter b) above.

8. The notice of the alleged violations, as described and notified above, may be an integral part of the inspection report by means of which the alleged violations are established.

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9. Anyone subject to a sanction, including legal persons held jointly and severally liable, shall be entitled to submit counterarguments, in line with the principle of defence referred to in Article 15 of the Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order. This right may be exercised within 30 days of notification of the alleged violations. The parties concerned may request, by submitting and signing a duly motivated request, an extension not exceeding 30 days, which may be granted, according to proportionality criteria, also in relation to the operational characteristics and size of the obliged entity and the complexity of the alleged violations. Failure to submit documents for defence purposes shall not prejudice the subsequent stages of the sanction procedure. Counterarguments may be submitted individually or be signed by all parties concerned, including the legal representative of the relevant legal person, or by some of them. The parties concerned may also specify in the counterarguments the address to which subsequent communications concerning the sanction procedure may be sent. In order to ensure cost-effectiveness of the administrative action, counterarguments shall be concise, reflecting the order of the alleged violations and enclosing only documents:
a) that are relevant to the alleged facts and to the counterarguments;
b) that are not already known by the Agency;
c) that are in order and mentioned in a list.
10. The investigation shall consist in the assessment of the elements available so as to propose to the Director or Deputy Director to impose a sanction or to file the case. The Agency shall:
a) maintain all acts and documents used during the sanction procedure;
b) verify the correctness of the adversarial procedure involving the parties charged with the violations and ensure that the latter can take part in the administrative procedure in the form and limits required by law;
c) analyse all evidence acquired during investigations and filed with the records of the sanction procedure. On the basis of the counterarguments and documents submitted by the parties concerned and of all information collected, the Agency shall also carefully assess the alleged violations, the seriousness thereof and the personal liability, in accordance with the criteria set forth in the preceding Article 72, paragraph 1.

11. Following a proposal by those who conducted the investigation within the Agency, the Director or the Deputy Director shall adopt the sanction or file the case. The measure shall be adopted within 60 days of expiry of the time-limit, either as established originally or extended, for the submission of counterarguments by the party notified of the alleged violations.

12. Also the filing of the case shall be notified to the parties concerned.

13. The sanction measure shall indicate:
a) the notice of the alleged violation referred to in the preceding paragraph 7, which shall be enclosed;
b) the reasons for the measure, also by expressly indicating the assessments concerning possible counterarguments submitted by the parties subject to the measure;
c) the amount of the sanction to be paid and the relevant payment modalities;
d) the criteria adopted for the determination of the applicable sanction under the preceding Article 72, paragraph 1;
e) the time-limit for appeal and the competent Authority before which the appeal may be lodged.

14. The sanction measure shall be notified in compliance with paragraph 6 above regarding alleged violations.

15. After its notification, the measure may be published in compliance with the preceding Article 73, also in the specific section of the website and in the Official Bulletin - Administrative Part and Insertions. A specific provision in the measure shall indicate whether the sanction measure shall be published or not.

16. In case of voluntary settlement within the time-limit referred to in Article 72, paragraph 5 a reduced amount may be paid. The compulsory collection procedure referred to in Article72, paragraph 9 above shall start not earlier than six months from the notification of the sanction and shall double the original amount of the sanction. In case of administrative appeals, the six-month time-limit shall run from the date of conclusion of the judicial proceedings.

17. In case of establishment of the violation of Article 31, Article 17, paragraph 5 and Article 23 quater and of the rules set forth in Delegated Decree no. 74 of 19 June 2009 and subsequent amendments, the Agency or

another office applying the sanction shall directly adopt the sanction measure falling within its responsibility, that is to say without previously notifying the alleged violations and the relevant period for the submission of counterarguments. However, the sanction measure shall specify any information that would have been included in the notification of the alleged violations, without prejudice to the possibility of submitting an administrative appeal through judicial procedure under Article 72, paragraph 7.

Art. 74 bis
(Procedural legitimacy)

1. The procedural legitimacy for administrative appeals against the measures issued by the Agency falls within the responsibility of its Director and, in case of absence or impediment of the latter, of its Deputy Director.

CHAPTER IV
INVALIDITY OF ACTS CONCERNING THE DISPOSAL OF ASSETS SUBJECT TO CONFISCATION

Art. 75
(Nullity of acts concerning the disposal of assets subject to confiscation)

1. Any act – performed at any title – concerning the disposal of assets, funds or resources that constitute, directly or indirectly, the price, product or profit of a criminal offence shall be null if the person who has received such assets, funds or resources knew or should have known that they derived from a criminal offence.

2. The Government Syndics shall sue the transferor, the transferee and any successors in title, who shall be jointly sentenced to transfer the assets, funds or economic resources to the State, or, if this is not possible, to pay an equivalent amount.

3. It shall be a responsibility of the transferee and any successors in title to demonstrate their good faith in conformity with the first paragraph of this Article.

4. Any other reciprocal action performed between the transferor, the transferee and any successors in title shall not be affected.

5. All actions to be performed by the victim of the criminal offence, from which the assets, funds or resources derive, shall not be affected.

6. The provisions referred to above shall apply by way of derogation from the general rules concerning contractual invalidity, with a view to preventing and combating money laundering and terrorist financing in a more effective way.

7. In conformity with the aim referred to in the preceding paragraph, the judge shall, upon request of the interested party, give effect to the foreign measure which, in the framework of non-criminal proceedings aimed at confiscating the assets, funds or resources envisaged in paragraph 1 above, identifies such assets, funds or resources and shall order precautionary measures for their preservation. The judge shall verify the authenticity and enforceability of the foreign measure and that its enforcement is not contrary to public order. The requested acts shall not prejudice the Republic's sovereignty, security and other essential interests. As for all aspects not covered, the procedural rules concerning civil judgements shall apply.

TITLE VII
AMENDMENTS TO THE LEGISLATION IN FORCE

CHAPTER I
INTEGRATIONS AND AMENDMENTS CONSEQUENT ON INTERNATIONAL CONVENTIONS

Art. 76

(Criminal jurisdiction, extradition and confiscation)

1. In Article 6, paragraph 1 of the Criminal Code, "337 ter," shall be added after "337 bis", introduced by Article 2 of Law no. 28 of 26 February 2004, and "374 ter" shall be added after "347,".

2. In Article 8, paragraph 3 of the Criminal Code, the sentence starting with "In no case....", introduced by Article 3 of Law no. 28 of 26 February 2004, shall be amended as follows: "In no case shall the crimes set forth in Articles 337 bis, 337 ter, as well as terrorist offences or criminal offences committed for the purpose of terrorism or subversion of the constitutional order be regarded as political offences".

3. In Article 140 of the Criminal Code, the following paragraph shall be added: "6. Payment of the sum set forth in Article 147, paragraph 3".

4. Article 147, paragraph 3 of the Criminal Code shall be replaced by the following:
"In case of conviction, the confiscation of the instrumentalities that served or were destined to commit the crimes 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 crimes for the purpose of terrorism or subversion of the constitutional order, as well as of the things being the price, product or profit thereof shall always be mandatory.
Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money corresponding to the value of the instrumentalities and things referred above.".

Art. 77
(Crimes against property)

1. Article 199 of the Criminal Code shall be replaced by the following:
"*Sale of stolen property* – Apart from cases of complicity to commit an offence, anyone who buys or receives things knowing that these are proceeds of crime, shall be punished by terms of second-degree imprisonment and daily fine and third-degree disqualification from public offices and political rights.
Where a bankruptcy procedure is initiated, the same punishment shall apply to anyone who, for profit, intervenes to make others buy or receive things that are proceeds of crime, or receives things owned by natural persons or companies knowing that such persons or companies are insolvent or buys such things at a much lower price.".

2. After the fourth paragraph of Article 199 bis of the Criminal Code, the following paragraphs shall be introduced: "Anyone who commits the crimes set forth in this Article shall be punished by terms of fourth-degree imprisonment, second-degree daily fine and third-degree disqualification from public offices and political rights.
The punishments may be decreased by one degree based on the corresponding amount of money or assets and on the nature of the transactions carried out. The punishments may be increased by one degree when the facts have been committed in the exercise of a commercial or professional activity subject to the authorisation or qualification by the competent public authorities.
The judge shall apply the punishment corresponding to that imposed for the predicate offence, if this is less serious."

3. The first paragraph of Article 207 of the Criminal Code shall be replaced by the following:
"Anyone who makes others give or promise, in return for a loan of property, exorbitant interest rates or other advantages for himself or intervenes to make others give or promise to other people the aforementioned interests or advantages, shall be punished with third-degree imprisonment, second-degree daily fine and third-degree disqualification from public offices and political rights.".

4. In Article 207, paragraph 2 of the Criminal Code, the terms "by the Office of Banking Supervision" shall be replaced by the following: "by the Central Bank of the Republic of San Marino."

5. After the third paragraph of Article 207 of the Criminal Code, the following paragraph shall added:
"The punishments may be decreased by one degree based on the amount of money or the amount of the interests. The punishments may be increased by one degree when the facts have been committed in the exercise

of a commercial or professional activity subject to the authorisation or qualification by the competent public authorities or if the offender is a usurer.".

Art. 78
(Terrorist offences)

1. The first paragraph of Article 337 bis of the Criminal Code shall be replaced by the following:
"Anyone promoting, establishing, organising 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 of the Republic, 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 shall be added:
"Article 337 ter. *Financing of terrorism* – Anyone who, by any means, even through another person, receives, collects, holds, gives, transfers or conceals assets intended to be used, in whole or in part, to carry out one or more terrorist acts or to economically support terrorists or terrorist groups, or provides them with a financial service or related services, shall be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights.".

Art. 79
(Crimes against the public administration)

1. The first paragraph of Article 373 of the Criminal Code shall be replaced by the following:

"A public official who receives any undue advantage for himself or for others, or accepts the promise of the advantages for omitting or delaying or for having omitted or delayed an act of his office, or for carrying out or having carried out an act contrary to his official duties, shall be punished by terms of fourth-degree imprisonment and fourth-degree disqualification from public offices and political rights, as well as third-degree daily fine.".

2. After Article 374 of the Criminal Code the following articles shall be added:
"374 bis. *Incitement to corruption* – Anyone who offers or promises any undue advantage to a public official, or public employee who is not a public official, to make him omit or delay an act of his office, or to carry out an act contrary to his duties, shall be punished, when the offer or promise has not been accepted, by terms of third-degree imprisonment and disqualification from public offices and political rights, as well as second-degree daily fine.
If the offer or promise is aimed at making a public official, or public employee who is not a public official, carry out an act of his office, when the offer or promise has not been accepted, third-degree arrest and second-degree daily fine shall be applied. The punishment referred to in the first paragraph shall be applied to the public official, or public employee who is not a public official, who demands a promise or any advantage from a private individual for the purposes in Article 373.
The punishment set forth in the second paragraph shall be applied to the public official, or public employee who is not a public official, who demands a promise or any advantage from a private individual for the purposes in Article 374.".
"374 ter. *Embezzlement, extortion, corruption and incitement to corruption of officials from foreign States or international public organisations* – The provisions of Articles 371, 372, 373,paragraphs 1, 2 and 3, 374, paragraph 1, and 374 bis, paragraphs 3 and 4 shall also apply to anyone exercising functions or activities corresponding to those of a public official, or public employee who is not a public official, in foreign States or international public organisations, as well as officials and agents recruited by contract in foreign States or international public organisations.
The provisions of Articles 373, paragraph 4, 374, paragraph 2, 374 bis, paragraphs 1 and 2 shall apply even if the advantage has been given, offered or promised to the persons specified in the first paragraph of this Article.".

Art. 80
(Insider trading)

1. Paragraph 4 of Article 305 bis of the Criminal Code shall be replaced by the following:
"Without prejudice to Article 147, in case of conviction the confiscation of the instrumentalities, including financial ones, that were used to commit the crime shall always be mandatory, except where they belong to a person not involved in the crime.".

CHAPTER II
PROVISIONS ON THE EXTRADITION AND TRANSFER OF PRISONERS OR PERSONS IN PRE-TRIAL DETENTION

Art. 81
(Extradition for terrorist offences)

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

Art. 82
(Transfer of a person abroad)

1. Failing specific international treaties, where a foreign judicial authority, in order to carry out procedural acts related to crimes of association for the purpose of terrorism, terrorist financing, or any other crime perpetrated for terrorist purposes, requests the presence of a person in pre-trial detention or serving imprisonment as ordered by San Marino judicial authority, the judge may authorise the transfer of said person provided that:
a) the person to be transferred freely gives his informed consent;
b) the requesting State adopts the measures deemed most appropriate by San Marino judicial authority for the transfer;
c) the State to which the person is transferred commits itself to keeping the person transferred in detention, unless otherwise requested or authorised by San Marino judicial authority;
d) the State to which the person is transferred commits itself to returning the person without delay, as previously agreed between the requesting authority and the San Marino authority;
e) the State to which the person is transferred commits itself not to making the subsequent return of the person transferred subject to the starting of an extradition procedure;
f) the State to which the person is transferred does not prosecute, place said person in detention or order any other restriction of his personal liberty in respect of convictions imposed before his transfer, unless this is authorised by San Marino judicial authority;
g) the State to which the person is transferred does not envisage the death penalty in its legal system.

2. San Marino judicial authority shall take into account the detention period in the State to which the person is transferred to determine the punishment to be served in the Republic.

CHAPTER III
AMENDMENTS TO THE LAW ON FOREIGNERS

Art. 83
(repealed)

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CHAPTER IV
AMENDMENTS TO PROVISIONS REGARDING POWERS AND FUNCTIONS RELATED TO COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING

Art. 84
(Special investigative measures and combating of terrorist financing)

1. In Article 15, paragraph 1 of Law no. 28 of 26 February 2004, "337 ter" is added after "337 bis".

2. Article 17 of Law no. 28 of 26 February 2004 shall be 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 authorisation of the Law Commissioner - which shall report directly to the Central Bank. Whenever the Central Bank identifies facts that might constitute a criminal offence, it shall report them to the Single Court.".

Art. 85
(Amendments to the Statutes of the Central Bank)

1. In Article 12, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, "and combating money laundering" shall be deleted.

2. In Article 15, paragraph 2 of Law no. 96 of 29 June 2005 and subsequent amendments, "and as an anti-money laundering unit" shall be deleted.

3. In Article 16, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, "and its anti-money laundering functions" shall be deleted.

4. In Article 29, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, after "subject to criminal sanctions", the sentence "and to the Financial Intelligence Agency in the exercise of its function of prevention and combating of money laundering and terrorist financing" shall be added.

5. In Article 30, paragraph 3 of Law no. 96 of 29 June 2005 and subsequent amendments, "and to the anti-money laundering unit" shall be deleted.

6. In Article 33, paragraph 1 of Law no. 96 of 29 June 2005 and subsequent amendments, the paragraph "e. the anti-money laundering unit" shall be deleted.

7. Article 48, paragraph 2 of Law no. 96 of 29 June 2005 and subsequent amendments shall be replaced by the following:
"The Credit and Savings Committee shall be entrusted with the functions of directing and guiding the supervision over banking, financial and insurance activities and promoting national and international cooperation to effectively prevent and combat money laundering and terrorist financing.".

8. After paragraph 3 of Article 48 of Law no. 96 of 29 June 2005 and subsequent amendments, the following paragraphs shall be added:
"4. For the purpose of promoting national and international cooperation to effectively combat money laundering and terrorist financing, the Credit and Savings Committee shall meet on a regular basis.
5. A Magistrate appointed by the Judicial Council during an ordinary sitting, the Director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the police forces shall attend the meetings referred to in the previous paragraph.
6. The President of the Committee, according to the items on the agenda, can invite representatives of professional associations, public administrations and the obliged entities envisaged by the Law on the prevention and combating of money laundering and terrorist financing to take part in such meetings.".

Art. 86
(Amendments to the Law on companies and banking, financial and insurance services)

1. Article 36, paragraph 5, letter b) of Law no. 165 of 17 November 2005 shall be replaced by the following: "to the supervisory authority in the exercise of its functions of supervision, and to the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing."

CHAPTER V
AMENDMENTS TO THE COMPANY LAW

Art. 87
(repealed)

Art. 88
(repealed)

TITLE VIII
TRANSITIONAL AND FINAL PROVISIONS

Art. 89
(Repealed)

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

Art. 90
(Delegated Decree)

1. The following shall be regulated by delegated decree:
a) custody, administration and management of economic resources that are subject to freezing measures;
b) control on cross-border transportation of cash and similar instruments;
c) procedures for closing bearer passbooks that have not been converted within the time-limits set forth in Article 31.

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

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

Art. 91
(Delegated decree regulating the Agency)

1. Within one month from the publication of this Law, the Congress of State shall regulate by means of a delegated decree:
a) the requirements of professional competence, independence and good repute referred to in Article 3, as well as the cases of non-compatibility;
b) the legal status and remuneration of the Agency's staff;
c) the functions of the Director and Deputy Director of the Agency;

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d) the organisational, functional and financial structure of the Agency.

Art. 92
(Beginning of the operations of the Agency)

1. The Director of the Agency, appointed pursuant to Article 3, shall inform the Congress of State, through the Ministry of Finance and Budget, when the Agency begins to operate.

Art. 93
(Transfer of functions regarding financial analysis activities)

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

2. Until the communication referred to in Article 92 is made, the functions and powers assigned to the Agency by this Law shall be exercised by the Central Bank.

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

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

5. The Central Bank shall continue to conduct financial analysis with respect to the suspicious transaction reports received before the communication referred to in Article 92, in accordance with the provisions set forth in this Law and consistently with the organisational structure of the Central Bank. For analyses still ongoing on that date, the Central Bank may use the computer tools 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 said communication. To this end, the Central Bank shall transmit a copy of the relevant documents to the Agency.

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

8. Until the recruitment of its staff is completed, the Agency shall rely on the employees and officials of the Central Bank, as 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.

Art. 94
(Technical Annex)

1. For the purposes of identifying the persons referred to in Article 1, paragraph 1, letter n), as well as the "assets" or "funds" referred to in Article 1, paragraph 1, letter e), reference shall be made to the provisions contained in the Annex to this Law.

2. The Annex referred to in the preceding paragraph may be modified or supplemented by means of a delegated decree.

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Art. 95
(Timing of compliance and instructions)

1. Obliged entities shall be required to fulfil customer due diligence, registration and reporting obligations starting from the entry into force of this Law.

2. Within six months from the communication referred to in Article 92, the Agency shall issue the following instructions:
a) on the procedures for the fulfilment of the requirements referred to in Article 22, paragraph 1, letter b);
b) on risk-assessment and additional assessments referred to in Article 25;
c) on the identification carried out through third parties and on the procedures for the transmission of documents and information referred to in Article 29;
d) on the information that shall be acquired in case of transfer of funds pursuant to Article 33;
e) on the types of suspicious transactions and on the procedures for analysing the transactions referred to in Article 36;
f) on the data and information that shall be recorded and kept according to Article 34, paragraph 1.

3. Without prejudice to Article 25, the obliged entities shall be required to meet the requirements referred to in the preceding paragraph according to the procedures set forth in the instructions issued by the Agency.

4. The provisions referred to in the preceding paragraphs shall also apply to occasional transactions and professional activities being carried out on the date of entry into force of this Law, as well as to relationships existing on that date.

5. (paragraph deleted)

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

Art.95 bis
(Extinction of the right to reimbursement relative to relationships for which customer due diligence requirements have not been fulfilled and to bearer passbooks)

1. Relationships with respect to which customer due diligence requirements have not been fulfilled as of 31 March 2014 shall be closed *ex lege* from 1 April 2014.

2. By 15 April 2014, obliged entities shall inform the Financial Intelligence Agency of all existing relationships with respect to which customer due diligence requirements could not be fulfilled as of 31 March 2014.

3. Partially derogating from the provisions of Decree-Law no. 136 of 22 September 2009 and of Article 6 of Delegated Decree no. 136 of 31 October 2008, the right to reimbursement of the sums deriving from the closure *ex lege* of the relationships referred to in the first paragraph and of bearer passbooks that were not closed or converted into registered accounts within the time-limits set by the above-mentioned Decree-Law shall extinguish as follows:
- on 1 April 2014, with respect to bearer passbooks;
- on 1 July 2014, with respect to other banking relationships.

4. Transactions referring to the relationships mentioned in paragraph 1 shall not be carried out until obliged entities have fulfilled customer due diligence requirements.

5. A specific regulation shall set the criteria, procedures and timing of the transfer to the Guarantee Fund for Depositors of the sums present in the accounts and passbooks indicated in paragraphs 1 and 3. The same regulation shall also govern further effects deriving from the closure of the relationships and the extinction of the rights specified in the preceding paragraphs.

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Art. 96
(Entry into force)

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

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TECHNICAL ANNEX

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

1. "Politically exposed persons" means any individual who is or has been entrusted with prominent public functions, including those mentioned hereunder, even if differently named:
a) heads of State, heads of Government, ministers and deputy or assistant ministers;
b) members of Parliament or of similar legislative bodies;
c) prominent members of political parties;
c) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;
d) members of courts of auditors or of the boards of central banks;
f) ambassadors, consuls, chargés d'affaires and high-ranking officers in the armed forces with the minimum rank of colonel;
g) members of the administrative, management or supervisory bodies, if any, of State-owned enterprises and of companies participated by the State, either as a majority or sole shareholder.
h) directors, deputy directors and members of the board or equivalent function of an international organisation.

2. The definition in paragraph 1 of this Article shall not cover natural persons holding middle-ranking or more junior positions.

3. “Family members of a politically exposed person” shall include the following:
a) the spouse, or a person considered to be equivalent to a spouse;
b) the children and their spouses, or persons considered to be equivalent to a spouse;
c) the parents;

4. “Persons known to be close associates of politically exposed persons” means the following:
a) natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;
b) natural persons who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the de facto benefit of a politically exposed person.

4 bis The Department of Finance and Budget shall coordinate the publication and updating of a list indicating exactly the functions which, in accordance with national legislative, regulatory and administrative provisions, shall be considered prominent public offices for the purposes of this Article. Publication and updating shall take place after consultation with the Technical Commission for National Coordination.

Art. 1 bis
(Criteria for determining the beneficial ownership of customers other than natural persons)

1. In case the customer is a company with share capital, the following shall be considered as beneficial owner:
a) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares, units or instruments granting voting rights or through control via other means;
b) if, after having exhausted all possible means no person under letter (a is identified as beneficial owner, or if there is any doubt that the person identified is the beneficial owner, the natural person(s) who hold the position of administrative or managing official(s) of the legal entity.

2. The shareholding referred to in paragraph 1, letter a) shall be considered significant when its percentage is higher than 25%.

3. The provisions of paragraph 1 shall not apply to companies listed on a regulated market that are subject to reporting requirements, which ensure adequate transparency of information on ownership structure and beneficial ownership.

4. The provisions of paragraph 1 shall also apply in the event that the significant shareholding is held, in whole or in part, through bearer shares in foreign companies.

5. If the customer is a foundation or similar entity with or without legal personality, the following shall be considered as beneficial owners:
a) the founders, if alive;
b) the beneficiaries, when identified or easily identifiable;
c) the owners discharging managerial or administrative responsibilities.
6. In case the customer is a trust, the beneficial owners shall be:
a) the settlor(s);
b) the trustee(s);
c) the protector(s), if any;
d) the beneficiaries, or where the persons benefiting from the trust have yet to be determined, the category of persons in whose main interest the trust is set up or operates;
e) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means.

7. In the case of beneficiaries of trusts or similar legal entities that are designated by characteristics or by class, the obliged entity shall obtain the information concerning those beneficiaries which it deems sufficient to establish their identity at the time of payment or at the time when they exercise the rights they have been conferred upon.

8. If the customer is a legal arrangement similar to the trust, the beneficial owners shall be the natural persons holding equivalent or similar positions to those referred to in paragraph 6.

Art. 2
(repealed)

Art. 3
(Data and information useful to national assessment of the risks of money laundering and terrorist financing)

1. The data, information, documents and statistics referred to in Article 16 ter shall include at least the following:
a) data measuring the size and importance of the different sectors which fall within the scope of this Law, including the number of natural persons and entities, and economic importance of each sector;
b) data measuring the reporting, investigation and judicial phases of the national AML/CFT regime, including the number of suspicious transaction reports made to the Agency, the follow-up given to those reports and, on an annual basis, the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences, the types of predicate offences, where such information is available, and the value in Euro of property that has been frozen, seized or confiscated;
c) if available, data identifying the number and percentage of reports resulting in further investigation, together with the annual report of the Agency to obliged parties detailing the usefulness and follow-up of the reports they presented;
d) data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the Agency, broken down by counterpart country;
e) the human resources allocated to the Agency to carry out the tasks referred to in Article 4 of this Law;
f) the number of on-site and off-site supervisory actions, the number of violations detected on the basis of the supervisory actions and the administrative sanctions applied by the Agency.

Art. 4

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(Precious metals or stones referred to in Article 19 paragraph 1, letter f)

The following shall be considered precious items:

a) precious stones;
b) precious metals such as, but not limited to, gold, silver, platinum, palladium, titanium and any other precious metals identified by sector-specific legal provisions;
c) objects and jewels made from precious metals and/or stones (not including costume jewellery and small silver objects);
d) gold coins;
e) watches of high standing, although the component of precious metal or precious stones is not predominant or even non-existent, the amount of which is higher that EUR 2,000;
f) additional objects as defined by legal provisions issued by the Agency.

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