

Law of the Republic of Azerbaijan

On the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism

This law is aimed at creating a legal mechanism to detect and prevent the offenses related to the legalization of criminally obtained funds or other property and the financing of terrorism, establishment a regime that excludes the use of the financial system for the purposes of the legalization of criminally obtained funds or other property and the financing of terrorism, and to protect the interests of the state and public.

Section I. General provisions

Article 1. Basic definitions

1.0. The definitions used in this Law shall have the following meanings:

1.0.1. criminally obtained funds or other property - funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offence provided by the Criminal Code of the Republic of Azerbaijan;

1.0.2. legalization of funds or other property, knowing that such funds or other property are the proceeds of crime - conversion or transfer of funds or other property, knowing that such funds or other property are the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the funds or other property or of helping any person who is involved in the commission of any crime to evade the legal consequences of his or her action, or accomplishment of financial transactions or other deals for the same purposes by using funds or other property, knowing that such funds or other property is the proceeds of crime; or the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to funds or other property, knowing that such funds or other property are the proceeds of crime;

1.0.3. transactions with funds or other property - transactions aimed at acquisition, exercising, change or termination of civil rights to the funds or other property as a result of transactions with them;

1.0.4. financing of terrorism - wilful collection or provision funds or other property regardless of the source of their receipt, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to finance the preparation, organization or commission of acts provided for in Articles 102, 214, 214-2, 214-3, 215, 219, 219-1, 219-2, 226, 227, 227-1, 270-1, 277, 278, 279, 280, 282 and 283-1 of the Criminal Code of the Republic of Azerbaijan, by a person or group (gang, organization) or for a terrorist or terrorist group (gang, about organization).

1.0.5. financial monitoring authority - a structure established by the relevant executive authority;

1.0.6. monitoring - measures of control carried out by the financial monitoring organ, based on the information on transactions with the funds or other property received from the monitoring entities, other persons involved in monitoring, the supervision authorities, or other known sources;

1.0.7. monitoring entities - persons defined in the article 4 of this Law and obligated to implement the measures stipulated by this Law for the purposes of preventing the legalization of criminally obtained funds or other property and the financing of terrorism;

1.0.8. other persons participating in the monitoring - individuals and legal entities engaged in the purchase and sale of precious stones, precious metals, including jewelry and other household items made of precious stones and precious metals, individuals or legal entities that provide intermediary services for sale and purchase of real estate, organizers of lotteries and sports betting operators, lawyers, notaries, persons providing legal services, consulting services in accountancy and taxation, audit services, that carry out the measures provided for in this Law in order to prevent the legalization of criminally obtained funds or other property and the financing of terrorism;

1.0.9. supervision authorities - the designated competent authorities responsible for ensuring compliance by monitoring entities and other persons involved in monitoring with requirements ~~of the articles 9-12~~ of this Law;

1.0.10. internal control system - the complex internal supervision measures in the sphere on preventing the legalization of criminally obtained funds or other property and the financing of terrorism as defined by the article 12 of this Law, carried out by the monitoring entities and other persons involved in monitoring ~~which are legal entities~~;

1.0.11. customer - any individual or legal person *permanently or occasionally* using the services of the monitoring entities or other persons involved in monitoring the persons, that concern the transactions with the funds or other property;

1.0.12. beneficial owner is an individual or legal entity who ultimately receives economic or other benefits from transactions in connection with money or other property, including the current owner of the legal entity for which benefit the

transaction is being made or the individual who controls the customer and (or) the individual or legal entity on whose behalf the financial transactions or other transactions are carried out;

1.0.13. currency values - cash foreign currency, securities the value or nominal of which is expressed in foreign currency, precious stones, precious metals, as well as the jewellery or other goods made of the precious stones or precious metals;

1.0.14. politically exposed persons of foreign country - individuals who are or have been entrusted with prominent public functions in a foreign country (Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials), as well as their family members or close associates;

1.0.15. assets - regardless of the method of acquisition, any types of tangible and intangible property, movable or immovable property, postal mail, bank loans, letters of credit, traveler's checks, bank checks, bonds, bills of exchange, shares and other securities, as well as legal documents or acts, prepared in electronic or any other form and confirming the rights for such assets;

1.0.16. asset freezing - prohibition of conversion, transfer of assets, management or conduct of financial transactions in any form or other transactions with them resulting in a change in the amount, sum, location, nature, purpose of assets and possession and ownership in respect of those assets;

1.0.17. persons to whom sanctions should be applied in the framework of combating the financing of terrorism - individuals or legal entities, the list of which is approved in accordance with the procedure established by the relevant executive authority, and to which sanctions should be applied in the framework of combating the financing of terrorism in accordance with the legislation and international treaties of the Republic of Azerbaijan, as well as relevant resolutions of the United Nations Security Council;

1.0.18. business relations - professional relations, formed by monitoring participants and other persons involved in monitoring with their clients during the course of their professional activities, based on mutual rights and duties, that are not a one-off event.

Article 2. Scope of application of this Law

2.1. For the purposes to detect and prevent the acts targeted to the legalization of criminally obtained funds or other property and the financing of terrorism, this Law regulates the relations of the citizens of the Republic of Azerbaijan, foreigners, stateless persons, legal entities carrying out transactions with the funds and other property, as well as the activity of supervision authorities empowered to supervise execution of transactions with funds or other property on the territory of the Republic of Azerbaijan.

2.2. This Law shall apply to the activities related to legalization of the criminally obtained funds or other property and the financing of terrorism outside the jurisdiction of the Republic

of Azerbaijan in accordance with the international instruments to which the Republic of Azerbaijan is a party.

2.3. Relations in the field of prevention of the legalization of criminally obtained funds or other property and the financing of terrorism in the Alat Free Economic Zone are regulated in accordance with the requirements of the Law of the Republic of Azerbaijan “On the Alat Free Economic Zone”.

Section II. Prevention of the legalization of criminally obtained funds or other property and the financing of terrorism

Article 3. Measures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism

3.0. Measures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism include:

3.0.1. monitoring;

3.0.2. preparation and application of the internal control system by the monitoring entities and other persons involved in monitoring ~~which are legal entities~~;

3.0.3. prohibition of informing the customer or any other person on the measures implemented against the legalization of criminally obtained funds or other property and the financing of terrorism;

3.0.4. other measures as defined by the laws of the Republic of Azerbaijan and the international instruments to which the Republic of Azerbaijan is a party.

Article 4. Monitoring entities

4.1. Monitoring entities are the following:

4.1.1. credit institutions;

4.1.2. insurers, reinsurers, insurance intermediaries;

4.1.3. *investment companies*;

4.1.4. *legal entities* providing leasing services;

4.1.5. institutions and other organizations providing post services that are engaged in transfers of the funds;

4.1.6. pawnshops;

4.1.7. investment funds *and managers of these funds*;

~~4.0.8. individual and legal entities engaged in buying and selling of precious stones, precious metals, as well as the jewellery or the other goods made of precious stones and precious metals;~~

4.1.9. non-governmental organizations, branches or representative offices of non-governmental organizations of foreign countries in the Republic of Azerbaijan or religious organizations parts of activities of which consist of receiving, collecting, delivering or transferring the funds;

~~4.0.10. lottery organizer;~~

~~4.0.11. individual and legal entities providing intermediary services on the buying and selling of real estate.~~

4.1.12. persons, obtained a license for currency exchange activities.

4.2. Persons involved in crime cannot own a significant share in the monitoring participants or be the beneficial owner of such a share, and also perform managerial functions in the monitoring participants, including holding positions in the Board, Supervisory Board or Audit Committee.

Article 5. Other persons involved in monitoring

5.1. Other persons involved in monitoring apply the requirements of Articles 9-11 and 12-1 of this Law in the following order:

5.1.1. individuals or legal entities engaged in the purchase and sale of precious stones, precious metals, including jewelry and other household items made of precious stones and precious metals, organizers of lotteries and sports betting operators - when carrying out cash transactions in the amount provided for in Article 9.2.2 of this Law;

5.1.2. individuals or legal entities that provide intermediary services for the purchase and sale of real estate - in the conduct of transactions for the purchase and sale of real property;

5.1.3. notaries, lawyers, persons providing legal services, consulting services for accountancy and taxes, audit services, - in the following operations:

5.1.3.1. operations for the purchase and sale of real estate;

5.1.3.2. operations for the management of monetary funds, securities or other property of the client;

5.1.3.3. operations for the management of bank accounts or securities accounts of the client;

5.1.3.4. operations for the establishment of legal entities, the provision and management of their activities, the organization of collection of funds for these purposes, as well as the purchase and sale of legal entities.

5.2. *Other persons involved in monitoring*, that submitted information to the financial monitoring organ shall not disclose it.

5.3. The provisions of the article 5.1 of this Law shall not apply to the information that is considered as professional secrecy or legal professional privilege.

5.4. *Other persons involved in monitoring shall establish and maintain internal control system against the legalization of criminally obtained funds or other property and the financing of terrorism as defined by the article 12 of this Law.*

Article 6. Supervision authorities

6.1. Supervision authorities are the following bodies:

6.1.1. for credit organizations, legal entities providing leasing services, investment companies, investment funds and managers of these funds, insurers, reinsurers and insurance intermediaries, enterprises providing postal services and engaged in money transfers, ~~organizers of lottery and sports lotteries~~, persons licensed to currency exchange activities - the Central Bank of the Republic of Azerbaijan;

6.1.1-1. for pawnshops and individuals and legal entities providing intermediary services for the purchase and sale of real estate - a financial monitoring body;

6.1.1-2. for lottery organizers and sports betting operators - a body (structure), established by the relevant executive authority;

~~6.1.2. relevant executive authority carrying out supervision over the securities market – for brokers, who are the professional participants of the securities market, persons engaged in the *asset management* activity, lottery organizers and investment funds;~~

6.1.3. relevant executive authority - for ~~insurers, reinsurers and insurance intermediaries~~, individuals and legal entities that engaged in buying and selling of precious stones, precious metals, as well as the jewellery or the other goods made of precious stones or precious metals;

~~6.1.4. relevant executive authority that supervises over the institutions providing post services – for the institutions providing post services;~~

6.1.5. relevant executive authorities - for non-governmental organizations, *branches or representative offices of non-governmental organizations of foreign countries in the Republic of Azerbaijan* or religious organizations part of activities of which concerns receipt, collection, deliver or transfer of funds;

6.1.6. relevant executive authority - for the notaries and other persons providing *legal services, consulting services for accountancy and taxes*;

6.1.7. Bar of Lawyers of the Republic of Azerbaijan within the framework of competence - for the lawyers;

6.1.8. Chamber of Auditors of the Republic of Azerbaijan within the framework of competence - for the persons providing audit services.

~~6.2. If a supervision authority is not envisaged for any monitoring entity and other persons involved in monitoring, the supervision over the compliance with the requirements of this Law shall be carried out by the financial monitoring organ.~~

6.3. If the supervision authorities detect incompliance with the requirements of the articles 9-12 of this Law by the monitoring entities and other persons involved in monitoring, supervision authorities shall impose administrative penalty or implement other measures as provided by the legislation in respect to the monitoring entity and other persons involved in monitoring, and shall inform the financial monitoring organ about that.

6.4. Violation of the requirements of this Law by the monitoring entities and other persons involved in monitoring, operating under a license may cause revocation (annulling) of a license in accordance with the legislation of the Republic of Azerbaijan, or undertaking other measures stipulated in the legislation of the Republic of Azerbaijan.

6.5. The procedure for exercising supervision over compliance with the requirements of Articles 9-12 of this Law by the organizations provided for in Article 4.1.9 of this Law, shall be established by the relevant executive authority.

6.6. The risks of legalization of money or other property, obtained by criminal means, the financing of terrorism, are assessed by the supervisory authorities with respect to the monitoring participants and other persons, involved in the monitoring, once a year, and supervisory checks are conducted in accordance with the identified risks.

6.7. The supervisory authorities, for the purposes provided for in Article 6.6 of this Law, use statistical data, provided by the body (organization), established by the relevant executive authority.

Article 7. Transactions with funds or other property subject to monitoring

7.1. The monitoring entities shall submit to the financial monitoring organ the information on transactions with funds or other property, the list and minimum threshold of total amount of which is designated by the *financial monitoring organ*.

7.2. Information on funds or other property, transactions with them and the attempts to carry out transactions involving the following features shall be submitted to the *financial monitoring organ* regardless of their amount:

7.2.1. situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing;

7.2.2. any transaction with the funds or other property associated with the citizens of the country (jurisdiction) determined by the article 7.3 of this Law, with the persons registered or that, who has a residency or permanent business in this country

(jurisdiction), with the persons who has a bank account in banks registered in this country (jurisdiction);

7.2.3. *any transactions with funds or other property of politically exposed persons of foreign country;*

7.2.4. *transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan;*

7.2.5. *assets of persons to whom sanctions should be applied in the framework of combating the financing of terrorism, as well as legal entities that are owned or controlled by these persons, including individuals and legal entities carrying out activities for or on behalf of these persons and operations with these assets.*

7.3. The list of countries that do not or insufficiently comply with the international standards on prevention of the legalization of criminally obtained funds or other property, financing of terrorism, or suspected in support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, or the countries that do not require disclosing identification information when conducting financial transactions *is determined and published by the financial monitoring organ in the order as established by the relevant executive authority.* The relevant list ~~and the list of persons envisaged in the article 7.2.5 of this Law~~ shall be submitted to the monitoring entities and other persons involved in monitoring by the financial monitoring organ directly or via supervision authorities.

7.3-1. *The list of persons to which sanctions should be applied in the framework of combating the financing of terrorism consists of an internal list established by the relevant executive authority in accordance with the legislation and international treaties of the Republic of Azerbaijan and an international list established by the relevant executive authority in accordance with the relevant resolutions of the United Nations. After the establishment, both lists are approved by the financial monitoring authority, and immediately posted on its official website, directly or through appropriate supervisory authorities shall be sent to monitoring participants and other persons involved in monitoring.*

7.3-2. *The decision of the relevant executive authority to include a person in the list of persons to which sanctions should be applied in the framework of combating the financing of terrorism can be appealed in court in the manner established by the Administrative Procedure Code of the Republic of Azerbaijan.*

7.4. *Appropriate counter-measures shall be applied in relation to the business relationships and transactions with individuals and legal entities of the countries which continuously not applying or insufficiently applying the requirements of international instruments on prevention of the legalization of criminally obtained funds or other property and the financing of terrorism to which the Republic of Azerbaijan is a party.*

7.4-1. Monitoring participants and other persons, participating in monitoring should pay particular attention to business relations and operations with citizens of states (territories), provided for in Article 7.3 of this Law, persons, whose place of registration, residence or main activity are these states (territories), including operations related to the receipt or transfer by any person of funds, the starting point or destination of which is the given state (territory), in the absence of economic or lawful purpose of such operations to find out their purpose and the nature and prepare a written analysis report in this regard. In cases where this is required, the report shall be submitted to the financial monitoring authority, the prosecuting authorities or the supervisory authorities.

7.5. If it is not prohibited by the legislation of the countries where affiliates and subsidiaries of legal entities of monitoring participants and other participants engaged in monitoring acting are located, in the states (territories) stipulated in Article 7.3 of this Law, the requirements of the legislation of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party, shall apply. Monitoring entities and other participants involved in monitoring, are required to inform their appropriate supervision authorities in written form, when a foreign branch or subsidiary is unable to observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism because this is prohibited by host country legislation.

Article 8. Monitoring of transportation of currency values into or from the territory of the Republic of Azerbaijan

8.1. If the relevant executive authority of the Republic of Azerbaijan reveals evidences of legalization of criminally obtained funds or any other property and financing of terrorism, when importing currency values to the Republic of Azerbaijan or exporting them from the Republic of Azerbaijan, then it must take measures to protect and collect evidences of the crime, send received documents to the relevant body conducting the criminal prosecution, as well as to send information about this to the financial monitoring body.

8.2. Based on the Law of the Republic of Azerbaijan «On Currency Regulation», the information on currency values transported through the customs boundary of the Republic of Azerbaijan shall be submitted to the financial monitoring organ as well.

8.3. The form of the compiling of information listed in the article 8.1 of this Law shall be determined by the relevant executive authority.

Article 9. Identification and verification measures

9.1. Monitoring entities are not permitted to keep anonymous accounts or accounts in fictitious names, or anonymous deposit accounts, as well as to issue the anonymous deposit certificates.

9.2. Monitoring entities shall take measures on identification and verification (CDD) of the customer and beneficial owner in the following cases:

9.2.1. before establishing business relations;

9.2.2. *before carrying out occasional transactions above the applicable designated threshold in the amount of 15000 manats (hereinafter - threshold), this also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;*

9.2.3. *before carrying out occasional transactions that are wire transfers regardless of the amount;*

9.2.4. *if there is a suspicion or sufficient grounds of legalization of criminally obtained funds or any other property and financing of terrorism;*

9.2.5. *if there is a suspicion of the invalidity of previously submitted identification data relating to the customer or the beneficial owner.*

9.3. *If the total amount of a transaction is not known before the execution of that transaction, the identification and verification of the customer and the beneficial owner shall be carried out from the moment when the amount of transaction will exceed the limit.*

9.4. *Identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Monitoring entities shall verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. Monitoring entities are required to verify the legal status of the legal person, by obtaining proof of incorporation (establishment or existence), and obtain information concerning the customer's name, legal form, address, directors (for legal entities), and provisions regulating the power to bind the legal person.*

9.5. *Identification of an individual shall be carried out on the basis of his ID documents.*

9.6. *Identification of a individual engaged in the entrepreneurship activity without forming a legal person shall be carried out on the basis of his/her ID cards and a certificate issued by the relevant tax agency.*

9.7. *Copy of ID card, notarized copies of the certificate given by the relevant tax agency, power of attorney for the representative confirming his right to act on behalf of the customer, the charter and the state registration certificate of the legal person submitted for the identification purposes shall be kept by monitoring entity.*

9.8. *The monitoring entities, in cases stipulated in article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in articles 9.4-9.6 of this Law to verify the identity of that other person. For customers that are legal entities, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the individuals that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).*

9.9. *The measures applying for verification of a legal person are the following:*

9.9.1. comparing the information submitted by a legal person with information included into the state register of legal entities;

9.9.2. obtaining the information on activity of legal person from mass-media, internet or official publication;

9.9.3. comparing the latest submitted information with previously received information.

9.10. The measures applying for verification of a individual are the following:

9.10.1. confirming the date of birth from birth certificate document, passport, driving license or other official documents;

9.10.2. confirming the permanent address from a utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract.

9.11. Monitoring entities shall obtain information on the purpose and intended nature of the business relationship.

9.12. Monitoring entities shall conduct ongoing due diligence on the business relationship. Ongoing due diligence shall include the following:

9.12.1. scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and the source of funds;

9.12.2. ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

9.13. Alongside with the requirements on identification and verification stipulated in the article 9 of this Law monitoring entities shall perform enhanced due diligence for higher risk categories of customer, business relationship or transaction under the circumstances listed below:

9.13.1. non-resident customers;

9.13.2. legal entities or arrangements such as trusts that are personal assets holding vehicles;

9.13.3. companies that have nominee shareholders or shares in bearer form;

9.13.4. establishing of correspondent banking relationships or any other transactions with correspondent accounts of foreign banks;

9.13.5. in cases specified by the article 7.2 of this Law.

9.14. The enhanced due diligence measures performed by the monitoring entities are the following:

9.14.1. verification of accounts and business relationships or other transactions carried out with other means, clarification of the purpose and nature of the transactions;

9.14.2. learning the names of the shareholders and their shares, in case if the customer is a legal person;

9.14.3. obtaining from other reliable sources and comparing more precise information about the customers, beneficial owner, and if possible, about the sources of funds or other property.

9.15. Where the monitoring entity is unable to identify and verify the parties of transactions in order as defined by this Law or whether refused from submitting identification information on the customer or beneficial owner, or the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data, the monitoring entity shall not open the account, commence business relations or perform the transaction, and in accordance with article 11 of this Law shall inform the financial monitoring organ about that. If after the initiation of business relations it is impossible to fulfill the requirements in connection with the identification and verification of the client and the beneficial owner and there are suspicions of unreliability of the previously submitted identification data in connection with the client or the beneficial owner and it is also impossible to obtain information about the nature and purposes of the client's business relations, monitoring participants should stop business relations and inform the financial monitoring body in accordance with Article 11 of this Law.

9.16. Monitoring entities shall apply CDD requirements to customers existing until the entrance into force of this Law, on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.

9.17. Taking into account the features of the activity of a monitoring entity, additional documents for identification of the customer and beneficial owner may be required in order specified by legislation.

9.18. Individuals and legal entities engaged in buying and selling of precious stones, precious metals, as well as the jewellery or the other goods made of precious stones or precious metals, as well as the individuals and legal entities providing intermediary services on the buying and selling of real estate, shall carry out the identification measures as defined in this article in course of conducting cash transactions above the threshold.

9.19. Monitoring entities can apply simplified CDD measures in cases specified by the articles 9.2.1 and 9.2.2 of this Law. Simplified CDD measures shall be determined by the financial monitoring organ on the basis of evaluation of materiality and risk of customers, business relationships or financial transactions.

Article 9-1. Politically exposed persons of foreign countries

9-1.1. Monitoring entities are required, in addition to performing the CDD measures required under the article 9 of this Law, to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person of a foreign country.

9-1.2. Monitoring entities are required to obtain senior management approval for establishing business relationships with a politically exposed person of a foreign country. Where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a politically exposed person of a foreign country, monitoring entities should be required to obtain senior management written approval to continue the business relationship.

9-1.3. Monitoring entities are required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as politically exposed person of foreign countries.

9-1.4. Monitoring entities should regularly monitor long-term business relations with foreign states' politicians, take measures to periodically update identification and verification documents.

Article 9-2. Unusual transactions

Participants of the transaction should study the purpose and nature of all complex, large unusual, and also transactions, that have no apparent or visible economic or lawful purpose and to prepare in this connection written analytical reports. If necessary, the reports should be submitted in accordance with the procedure established by legislation to the financial monitoring body, the auditor, the criminal prosecution authorities, or supervisory authorities.

Article 10. Obligation to keep identification and verification documents and documents related to transactions with cash or other property

10.1. The monitoring entities shall maintain the documents on due diligence measures envisaged by the article 9 of this Law, documents on the transactions with the funds or other property and documents envisaged by articles 9-1 and 9-2 of this Law, in the information carriers or in the electronic format within the timeframes indicated below, if no longer period is envisaged by the legislation:

10.1.1. all information and documents obtained in the identification and verification of the client, the beneficial owner or authorized representative, business correspondence and other documents for processing the account - at least five years after the client's account is closed or legal relations with the client are terminated;

10.1.2. information and documents concerning the internal or international transactions carried out by the client with monetary funds or other property, including the amount and type of currency, to the extent that it will allow the restoration of any individual transaction - not less than five years from the date of completion of the transaction;

10.1.3. documents and information regarding the transactions provided for in Article 9-2 of this Law, including the results of the analysis conducted to clarify the purpose and nature of unusual transactions - at least five years after the termination of legal relations with the client.

10.2. Monitoring entities are required to ensure that all customer and transaction records and information mentioned in the article 10.1 of this Law are available on a timely basis to the supervision authorities and financial monitoring organ upon appropriate request.

10.3. The timeframe stipulated in the article 10.1 of this Law may be prolonged if requested by supervision authorities or financial monitoring organ in specific cases upon proper authority.

Article 11. Submission of information to the financial monitoring organ

11.1. The monitoring entities in cases listed in the articles 7 and 9.15 of this Law *and other persons involved in monitoring in the articles 7.2 and 9.15 of this Law* shall submit the following information to the financial monitoring organ in the form determined by the financial monitoring organ:

11.1.1. type of transaction;

11.1.2. date of execution of transaction;

11.1.3. amount of executed transaction;

11.1.4. necessary information received by the monitoring entities in accordance with the articles 9.4-9.6 of this Law for the identification of legal and individuals conducting the transaction;

11.1.5. information about the *beneficial owner*;

11.1.6. information on the nature, as well as the information describing a chronological history of the transaction;

11.1.7. the grounds stipulating the suspiciousness of transaction.

11.2. The information on transactions mentioned in the article 7.1 of this Law shall be submitted within 3 (three) business days after receiving the order (commission) to execute the transaction.

11.3. The information on transactions mentioned in the articles 7.2 and 9.15 of this Law shall be submitted before the execution of the transaction. Where non-execution of a transaction is impossible or where it is known that non-execution of the transaction may cause impediments for identification of the *beneficial owner*, after execution of the transaction the monitoring entities shall immediately inform the financial monitoring organ.

11.4. Since the time, when monitoring entity reports to the financial monitoring organ on the transactions specified by the articles 7.2.1-7.2.4 and 9.15 of this Law, the monitoring entity shall not execute the transactions for two working days. If during that period, the financial monitoring organ does not order to suspend these transactions the monitoring entity may execute the transaction.

11.4-1. Since the posting of the list of persons to which sanctions should be applied in the framework of combating the financing of terrorism on the official website of the financial monitoring body, all individuals or legal entities, including monitoring participants and other persons participating in monitoring, as well as state structures, are obliged to take measures on immediately freezing the assets of persons provided for in Article 11-1.1 of this Law, without warning persons, specified in Article 7.2.5 of this Law and immediately provide information on this to the financial monitoring body. If within two working days from the moment of providing information to the financial monitoring body the decision of the financial monitoring body to freeze assets is not received, then the assets freezing measures are canceled.

11.5. In case of urgency, the information mentioned in the article 11.1 of this Law shall be orally submitted to the financial monitoring organ. The same information shall be immediately submitted in a written format to the financial monitoring organ.

11.6. In accordance with this Law, the information submitted to the financial monitoring organ shall not be disclosed. This information may only be demanded from monitoring entities *and other persons involved in monitoring* by the criminal investigation bodies in the course of criminal proceeding. In this case, information may be disclosed only on the basis of the court decision that has come into force.

11.7. Except the cases prescribed by the legislation of the Republic of Azerbaijan, informing the customers or any other persons about the measures to be taken against legalization of criminally obtained funds or other property and the financing of terrorism shall entail responsibility, as defined by the legislation.

Article 11-1. Scope of assets freeze measures in the framework of combating the financing of terrorism

11-1.1. The assets that are directly or indirectly in the ownership, possession or use of an individual or legal entity provided for in Article 7.2.5 of this Law, or owned by that person, including in common ownership (joint or share), managed or controlled by this person, as well as other assets derived from of such property are subject to freezing.

11-1.2. Assets of individuals and legal entities provided for in Article 7.2.5 of this Law are subject to freezing, irrespective of whether these assets are directly connected to any terrorist activity or the financing of terrorism.

11-1.3. Except as provided in Article 19-1.10 of this Law, assets shall remain frozen during the term of the person's being on the list of persons to whom sanctions should be applied in the framework of combating the financing of terrorism and shall be immediately released upon withdrawal of a person from this list.

11-1.4. Individuals or legal entities, or state structures in the territory of the Republic of Azerbaijan are prohibited from transferring directly or indirectly any assets to the possession, use or disposal of individuals and legal entities provided for in Article 7.2.5 of this Law, to create conditions for these individuals to obtain profits from these assets in one or another form.

Article 12. Internal control system of the monitoring entities to prevent the legalization of criminally obtained funds or other property and the financing of terrorism

12.1. The *monitoring* entities shall establish and maintain internal control system to prevent the legalization of criminally obtained funds or other property and the financing of terrorism. This system shall include, *inter alia*, the followings:

12.1.1. establishment of the internal rules and procedures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism;

12.1.1-1. taking measures to identify, assess the risks of legalization of criminally obtained funds or other property and the financing of terrorism and to manage and reduce such risks;

12.1.2. establishment of the centralized internal archive to identify and verify the customers, the persons acting on behalf of customers, the beneficial owners and the transactions, *or to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person of a foreign country;*

12.1.3. preparation of the rules on the documentation and the confidentiality of information;

12.1.4. ensuring that employees are kept informed of new developments, including information on current techniques, methods and trends of the legalization of criminally obtained funds or other property and the financing of terrorism;

12.1.5. definition of the criteria for detecting the transactions to be monitored taking into account features of the activity of the monitoring entities;

~~12.1.6. establishment of measures targeted to resolution of problems caused by the suspension of a transaction;~~

12.1.7. establishment of the internal audit mechanism to test compliance of the application by monitoring entities of the rules as stipulated by this Law;

12.1.8. appointment in the monitoring entities ~~which are legal entities~~ of a compliance-officer at the level of management or heads of structural units, who shall be responsible to supervise the implementation of internal rules and procedures, carry out the exchange of information with the financial monitoring organ, as well as to have timely access to CDD information, transaction records, and other relevant information for preparing and submitting reports on transactions which are subject to monitoring;

12.1.9. to put in place screening procedures to ensure high standards when hiring employees depending on features of the activity, as well as the other mechanisms and rules for detecting and preventing any transactions, the nature of which is suspicious, and submission of the necessary information to the financial monitoring organ in accordance with the article 11 of this Law.

12.2. A compliance-officer defined in the article 12.1.8 of this Law and employed with a *monitoring* entity, shall report only to the senior management of that legal entity.

12.3. The *monitoring* entities which are legal entities shall develop their internal control systems in accordance with the requirements of the financial monitoring organ.

12.4. The type and extent of measures applied within the internal control system should correspond to the nature of the activities of monitoring participants and the risk of legalization of criminally obtained funds or other property and the financing of terrorism .

Article 12-1. Non-face to face business relationships and transactions

12-1.1. Monitoring entities are required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in schemes of the legalization of criminally obtained funds or other property and the financing of terrorism.

12-1.2. Monitoring entities are required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures shall apply when establishing customer relationships and when conducting ongoing due diligence.

12-1.3. Measures for managing the risks mentioned in the article 12-1.2 of this Law shall include specific and effective CDD procedures that apply to non-face to face customers.

Article 13. Submission of information by supervision authorities to the financial monitoring organ

For the purposes to prevent the legalization of criminally obtained funds or other property and the financing of terrorism, the financial monitoring organ may request the supervision authorities to submit relevant information. In this case, requested information shall be submitted to the financial monitoring organ.

Article 14. Exemption from liability for reporting of the transaction which is subject to monitoring

Where the monitoring entities and other persons involved in monitoring, *their employees, working on the basis of employment or other civil law contracts*, as well as the personnel of the supervision authorities submit the information on the transaction which is subject to monitoring in good faith to the financial monitoring organ in order as defined by this Law, they shall be exempt from any liability for breach of any restriction on disclosure of the bank or other legally protected secrecy, as well as causing the material and moral damage emerged as a result of the disclosure of information.

Article 15. Exemption from liability for executing the transactions

Where the transaction, which is subject to monitoring, has been executed and there are no bargain to commit the crime between the customer or *beneficial owner* and the responsible persons (who make arrangement for execution of this transaction) of the monitoring entity or other persons involved in monitoring, as well as where the information on this transaction has been reported to the financial monitoring organ in accordance with article 11 of this Law, the monitoring entity and other persons involved in monitoring, its personnel shall be exempt from any liability.

Article 16. Prohibition of refusal to provide submitting information

16.1. *The financial monitoring authority can not be denied the provision of information specified in articles 9-2 and 11.1, and the supervisory authorities in connection with the implementation of control measures - the information specified in Article 9-2, based on the protection of bank secrecy or other protected by law secrets.*

16.2. The requirements of this Law shall not apply to the state secrets.

Section III. Organization of the activity of the financial monitoring organ

Article 17. The financial monitoring organ

17.1. The *structure* carries out powers of the financial monitoring organ is defined by the relevant executive authority.

17.2. The financial monitoring organ *participates in the formation of state policy in the field of the fight against the legalization of money or other property, obtained by criminal means and the financing of terrorism*, gathers and analyzes the information submitted by the monitoring entities, other persons involved in monitoring, supervision authorities and by the relevant executive authority mentioned in the article 8.1 of this Law.

17.3. Upon receiving information from the known sources on transaction which is subject to monitoring, the financial monitoring organ may request monitoring entities, other persons involved in monitoring, supervision authorities and relevant executive authority mentioned in the article 8.1 of this Law to submit information defined in the article 11.1 of this Law for the purposes of inquiry, also within the framework of analysis and its own authority the financial monitoring organ may obtain from mentioned bodies or other state authorities additional information, *the information from the state register of immovable property on the basis of reasonable written requests in accordance with the Law of Azerbaijan Republic "On state registration of real property"*, needed to properly undertake its functions.

17.3-1. For the purposes provided for in Article 17.3 of this Law, the financial monitoring body is entitled to receive information using the online information resources of the supervisory authority or body (structure), determined by the relevant executive authority. The degree of access of the financial monitoring body to the use of these information resources (the range of information received) is defined by the body (structure), determined by the relevant executive authority.

17.4. Information held by the financial monitoring organ shall be securely protected and used solely for the goals of this Law; also the financial monitoring organ shall create an information protection system.

17.5. Where the financial monitoring organ, within the framework of analysis determines that the executed transaction is related to the legalization of criminally obtained funds or other property and the financing of terrorism, the information on the legalization of criminally obtained funds or other property shall be submitted to the prosecution authorities, and the information on the financing of terrorism shall be submitted to the relevant executive authority. *If as a result of the analysis in the operations performed, elements of other crimes are detected, the financial monitoring body shall forward the relevant information on jurisdiction to the relevant executive authorities conducting criminal prosecution, or to the prosecution authorities.*

17.6. Where the financial monitoring organ, in course of carrying out of its employment duties, obtains information on non-compliance of the monitoring entities and other persons involved in monitoring with the requirements of this Law, it shall submit such information to the relevant supervision authorities for enforcement to the monitoring entities and other persons involved in monitoring of administrative or stipulated by the national legislation other measures.

17.7. The powers of the financial monitoring organ are defined by this Law and the *Articles of Association* approved by the relevant executive authority.

17.8. Financial monitoring body adopts normative acts concerning the list and minimum limit for the total amount of transactions, the details of which should be submitted to it in accordance with this Law, the simplified rules of identification and verification, ~~the rules of monitoring in accordance with Article 6.2 of this Law~~, rules of presentation of information to the financial monitoring authority, the requirements for the preparation of the internal control systems, on the form of submission of statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism.

Article 17-1. Requirements for employees of the financial monitoring body

17-1.1. The requirements for employees (including the head) of the financial monitoring body are as follows:

17-1.1.1. not to engage in any other paid activity, except for scientific, creative activity and pedagogical activity with the permission of the head of the financial monitoring body, and to the head of the financial monitoring body - with the permission of the relevant executive authority;

17-1.1.2. do not visit a foreign country at the expense of a foreign country or international organization without notifying the head of the financial monitoring body, and to the head of the financial monitoring body - without notifying the relevant executive authority;

7-1.1.3. always keep information confidential that has become known to them and related to official activities, including state secrets and other secrets protected by law, including after the termination of labor relations with the financial monitoring body, and not to disclose this information and not use it in favor of third parties, with the exception of cases provided by law;

17-1.1.4. be impartial in the performance of their duties and decisions, while not allowing the superiority of a person or group of persons on the basis of race, ethnicity, religion, language, gender, social origin, property and official position, beliefs, membership in a public or any another association or the creation of conditions for the acquisition of such superiority.

17-1.2. The employees of the financial monitoring body (including the head) are not liable for damage caused by any action or inaction in the performance of their official duties, provided that it is not proved that such an action or inaction is illegal or dishonest.

Article 18. Collection of statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism

18.1. In order to centralize statistical information, the relevant executive authority and General Prosecutor Office within the framework of their powers shall submit statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism to financial monitoring organ on semi-annual basis.

18.2. A form of submission of information stated in article 18.1 of this Law is defined by the financial monitoring organ after being agreed with the relevant state authorities.

18.3. The financial monitoring body, in order to establish policies in the field of the fight against the legalization of money or other property, obtained by criminal means, and the financing of terrorism and risk assessment, including the monitoring of compliance with the requirements of this Law, uses the statistics, provided in accordance with Article 18.1 of this law.

Article 19. Freezing of the execution of a suspicious transaction concerning the legalization of criminally obtained funds or other property and the financing of terrorism

19.1. The financial monitoring organ, based on the information obtained, may within two business days take substantiated decision to freeze the execution of a suspicious transaction on the legalization of criminally obtained funds or other property and the financing of terrorism. In this case, the relevant instruction shall be immediately sent by the financial monitoring organ to the monitoring entities and other persons involved in monitoring executing the transaction.

19.2. Execution of a suspicious transaction on the legalization of criminally obtained funds or other property and the financing of terrorism, may be frozen by financial monitoring organ for a period not exceeding 72 hours.

19.3. Where the financial monitoring organ takes decision to freeze the execution of a suspicious transaction, the decision and relevant documents shall be immediately sent to the

state authorities who are responsible for criminal prosecution on legalization of criminally obtained funds or other property and the financing of terrorism. The same state authorities may take measures, in the order specified by the Criminal Procedure Code of the Republic of Azerbaijan, for prolongation of a period specified in article 19.2 of this Law for suspension of execution of a suspicious transaction for a longer period.

19.4. Information about the freezing of the execution of the suspicious transaction on the legalization of criminally obtained funds or other property and the financing of terrorism shall not be disclosed to the customer.

Article 19-1. Freezing of assets

19-1.1. If it is established that the information submitted to the financial monitoring authority in accordance with Article 11.4-1 of this Law refers to the person to whom sanctions should be applied in the framework of combating the financing of terrorism, as well as to a legal entity that is owned or controlled by this person, including the individual and legal entity carrying out activities on behalf or on instruction of the person, the authority within two working days decides on the preliminary freezing of assets. The financial monitoring authority freezes assets for a 30-day period.

19-1.2. One copy of the decision on the preliminary freezing of assets shall be sent to the relevant monitoring participants, other persons participating in the monitoring or state structures, and another copy to the relevant executive authority for immediate action and conduct of the proceedings.

19-1.3. If during consideration of information provided for in Article 19-1.2 of this Law, the grounds for the prosecution are revealed, in order to prevent the transfer of assets to the financing of terrorism, the relevant executive authority, in accordance with the procedure established by the Code of Criminal Procedure of the Republic of Azerbaijan, takes measures to suspend execution of operations that arouse suspicion of the financing of terrorism, or to seize property.

19-1.4. If, in the information provided for in Article 19-1.2 of this Law, there are no grounds for carrying out criminal prosecutions, but the relevant executive authority has conducted a preliminary audit and identified the following circumstances, it seeks to freeze the assets of individuals or legal entities in the district (city) court at the place of assets location no later than 15 days before the expiration of the period stipulated in the decision of the financial monitoring body on the preliminary freezing of assets:

19-1.4.1. if the person to whom the asset freeze is intended to apply, is a person to whom sanctions should be applied in the context of combating the financing of terrorism, as well as a legal entity that is in the possession or under the supervision of such person, including an individual and legal entity operating on behalf of or on instruction of such person;

19-1.4.2. if the person to whom the asset freeze is intended to apply, is not on the list of persons to whom sanctions should be applied in the framework of combating the financing of terrorism, but there are sufficient grounds to suspect him of involvement in terrorism, financing of terrorism, assistance in committing such acts or attempting

to the commission of such acts, including if the appeals received from the authorized bodies of the foreign state have been found to be justified.

19-1.5. If the circumstances provided for in Articles 19-1.4.1 and 19-1.4.2 of this Law are confirmed, the court shall decide to freeze the assets before the expiration of the period stipulated in the decision of the financial monitoring body on the preliminary freezing of assets.

19-1.6. The court's decision to freeze assets shall be sent to the financial monitoring authority and the person whose assets are frozen. A person whose assets are frozen can appeal against a court decision to freeze assets in a court of higher instance.

19-1.7. The financial monitoring authority, on the basis of a court decision, immediately posts information on the freezing of assets of an individual or legal entity on its official website, and directly or through appropriate supervisory authorities sends to monitoring participants and other persons involved in monitoring. The financial monitoring authority provides written information on the grounds for freezing of its assets and the measures to be taken in this regard, as well as on the procedure for the cancelation of assets freeze, within one day of the receipt of the relevant decision.

19-1.8. Measures to freeze the assets of individuals or legal entities on the basis of a court decision to freeze assets continue until the decision is cancelled.

19-1.9. After elimination of the grounds for freezing the assets of an individual or legal entity, the court, on the basis of a request by the person whose assets is frozen, or the relevant executive authority, takes decision on cancellation of the assets freezing measures.

19-1.10. The procedure for ensuring the use of frozen assets for the payment of necessary and unforeseen expenses of individuals or legal entities whose assets are frozen shall be established by the relevant executive authority.

Article 20. International cooperation in the field of combating against legalization of criminally obtained funds or other property and the financing of terrorism

20.1. State authorities of the Republic of Azerbaijan carrying out their activity in the field of combating against the legalization of criminally obtained funds or other property and the financing of terrorism, shall cooperate with the competent authorities of foreign states in the sphere of combating against legalization of criminally obtained funds or other property and the financing of terrorism, *the implementation of control measures*, exchange of information on committed crimes, execution of the court decisions and criminal prosecution in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party.

20.2. The financial monitoring organ shall submit information on issues as defined in the article 20.1 of this Law to the foreign competent authorities upon their requests or on its own initiative, as well as to request such information from the foreign competent authorities in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is party.

20.3. This information shall be submitted to the competent authority of the foreign state only if it does not contradict with the legislation of the Republic of Azerbaijan and does not affect its national interests or the submitted information forms a basis for a competent authority of the foreign state to initiate an criminal investigation or to send a relevant request.

20.4. The information shall be submitted to the competent authority of the foreign state provided that the information will not be used for purposes not indicated in the request.

20.5. The execution of requests on mutual legal assistance on issues of legalization of criminally obtained funds or other property and the financing of terrorism, also the recognition and execution of the court decisions of foreign states in that sphere shall be regulated in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party.

20.6. In accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party, based on the article 20.5 of this Law, the funds or other property confiscated on the territory of the Republic of Azerbaijan may be fully or partially delivered to the state where the court decision has been made.

Article 20-1. Coordination of activity in the sphere of combating money laundering or other property laundering and financing of terrorism

The Commission on Combating Corruption of the Republic of Azerbaijan participates in the formation of the state policy in the sphere of combating money laundering or other property laundering and financing of terrorism, coordinates the activities of state bodies and structures in this sphere and supervises the execution of state programs.

Section IV. Final provisions

Article 21. Liability upon violating this Law

The persons, who violate the requirements of this Law, shall bear responsibility in accordance with the legislation of the Republic of Azerbaijan.

Article 22. Effective date of this Law

This Law shall enter into force from the date of publication.

President of the Republic of Azerbaijan

Ilham ALIYEV

Baku, 10 February 2009

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