

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 of 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 is the proceeds of crime** – conversion or transfer of funds or other property, knowing that such funds or other property is 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 is 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** – willful provision or collection funds or other property by any means, 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 preparation, organization and carrying out actions envisaged in the articles 219-1, 219-2, 226, 227, 227-1, 270-1, 277, 278, 279, 280, 282 283-1 by a person or a group (organization, community) or an individual terrorist or a terrorist group (organization, community);

1.0.5. **financial monitoring organ** – the **Financial Markets Supervision 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 Article 4 of this Law and obligated to implement the measures stipulated under *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 involved in monitoring** – natural and legal persons involved in purchase and sale of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals, natural and legal persons that provide intermediary services on purchase and sale of real estate, lottery and sports

betting games organizers, lawyers, notaries, persons providing legal, accountancy, tax consultancy or audit services that implement the measures provided for by this Law for the purposes of preventing 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 control measures on preventing the legalization of criminally obtained funds or other property and the financing of terrorism as defined by Article 12 of this Law carried out by monitoring entities and other persons involved in monitoring ~~which are legal persons;~~

1.0.11. **customer** – any natural 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** – *natural or legal person who ultimately obtains economic or other benefit from the transactions with funds or other property as well as the natural person who owns the legal person for the benefit of which transactions are conducted or controls the customer and (or) on whose behalf financial or other transactions are conducted or exercises ultimate effective control over a legal person;*

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 jewelries 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** – *any types of tangible and intangible properties, real estate, movable property, post parcels, bank loans, letters of credit, traveller's checks, bank checks, promissory notes, stocks, bonds, and other securities, as well as legal documents or acts compiled in electronic or other forms and confirming the rights to such assets, regardless of the methods of acquisition;*

1.0.16. **asset freezing** – *prohibition of conversion, transferring, disposing of assets or conducting financial or other transactions with them in any form which result in changing the volume, amount, place, nature, designation and ownership of the assets;*

1.0.17. **designated persons within the framework of combating the financing of terrorism** – *natural and legal persons to whom sanctions shall be imposed within the framework of combating the financing of terrorism pursuant to legislation of the Republic of Azerbaijan and international treaties it acceded to as well as the relevant United Nations Security Council Resolutions and whose list has been approved in the manner established by the **Cabinet of Ministers**;*

1.0.18. **business relationship** - *professional relationship which monitoring entities and other persons involved in monitoring formed with their customers when conducting their professional activity and is based upon mutual rights and duties of parties and does not have one-time nature.*

Article 2.

Scope of application of the Law

2.1. For the purposes of detecting and preventing the acts related 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 persons who carry out transactions with funds and other property, as well

as the activity of the authorities empowered to supervise execution of transactions with funds or other property in 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 which the Republic of Azerbaijan is a party to.

2.3. *The relations regarding legalization of the criminally obtained funds or other property and the financing of terrorism in the Alliance Free Economic Zone are regulated in accordance with the requirements of the Law of the Republic of Azerbaijan "On 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 monitoring entities and other persons involved in monitoring ~~which are legal persons~~;

3.0.3. prohibition of informing the customer or any other person on the measures 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 which the Republic of Azerbaijan is a party to.

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 persons* 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 their managers*;

~~4.1.8. natural and legal persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals;~~

4.1.9. non-governmental organizations, *branch or representative office of foreign non-governmental organizations 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. natural and legal persons providing intermediary services on the buying and selling of real estate.~~

4.1.10. *persons who have obtained a license for currency exchange activities.*

4.2. *Persons associated with criminals shall not have significant shareholdings in the monitoring participants or be the beneficial owners of such shares, as well as fulfil the management functions of the monitoring participants, shall not be entitled to hold a position in the audit committee or supervisory board and the board of directors either.*

Article 5.

Other persons involved in monitoring

5.1. *Requirements of Articles 9-11 and 12-1 of this Law are implemented by the other persons involved in monitoring as below:*

5.1.1. *when natural or legal persons involved in sale and purchase of precious stones, precious metals as well as jewelry and other items made of precious stones and precious metals, lottery and sports betting games organizers conduct cash transactions in the amount provided for in Article 9.2.2 of this Law;*

5.1.2. *when natural or legal persons that provide intermediary services on purchase or sale of real estate conduct real estate sale or purchase transactions;*

5.1.3. *when notaries, lawyers and persons that provide legal, accountancy, tax consultancy and audit services conduct the transactions mentioned below:*

5.1.3.1. *transactions related to real estate purchase or sale;*

5.1.3.2. *transactions related to management of funds, securities or other property of the customer;*

5.1.3.3. *transactions related to the management of bank or securities accounts of the customer;*

5.1.3.4. *transactions related to establishment of legal persons, maintaining and managing their operations, organizing collection of funds for these purposes as well as purchase or sale of legal persons.*

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

5.3. *The provisions of 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 Article 12 of this Law.*

Article 6.

Supervision authorities

6.1. *Supervision authorities are the following bodies:*

6.1.1. **Financial Markets Supervision Authority** – *for credit institutions, legal persons providing leasing services, investment companies, investment funds and their managers, insurers, reinsurers and insurance intermediaries, institutions providing post services that are engaged in transfers of the funds, lottery and sports betting games organizers, persons who have obtained a license for currency exchange activities pawnshops and natural or legal persons that provide intermediary services on purchase or sale of real estate;*

6.1.1-1. **Financial Monitoring Service** – *for pawnshops and natural or legal persons that provide intermediary services on purchase or sale of real estate*

~~6.1.2. relevant executive authority carrying out supervision over the securities market – for brokers who are the professional participants of the securities market, those who professionally operate in the management of assets, lottery organizer and investment funds;~~

6.1.3. **Ministry of Finance** – ~~for insurers, reinsurers and insurance intermediaries,~~ *for natural and legal persons involved in purchase and sale of precious stones, precious*

metals, as well as the jewelry 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. **Ministry of Justice** and **State Committee on Relations with Religious Organisations** – for non-governmental organizations, *branch or representative office of foreign non-governmental organizations in the Republic of Azerbaijan* or religious organizations parts of activities of which consist of receiving, collecting, delivering or transferring the funds;

6.1.6. **Ministry of Justice** and **Ministry of Taxes** – for notaries, other persons that *provide legal, accountancy and tax consultancy services*;

6.1.7. **Bar Association** within the framework of its competences – for the lawyers;

6.1.8. **Chamber of Auditors** within the framework of its competences – 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 supervision authorities detect incompliance with the requirements of ~~Articles 9–12~~ of this Law by monitoring entities and other persons involved in monitoring, supervision authorities shall implement administrative or other measures as provided by the legislation in respect to the monitoring entity and other persons involved in monitoring, and inform the financial monitoring organ.

6.4. Violation of the requirements of this Law by monitoring entities and other persons involved in monitoring that operate under a license may cause suspension or revocation of a license as prescribed by the legislation of the Republic of Azerbaijan, or imposing other measures stipulated in the legislation of the Republic of Azerbaijan.

6.5. *Regulations on supervision over the compliance by the organizations provided for in the Article 4.0.9 of this Law with the requirements of Articles 9–12 of this Law shall be established by the relevant executive authority.*

6.6. *The risks of financing of terrorism, the legalization of money or other criminally obtained funds in relation to monitoring participants and other persons involved in monitoring is estimated once a year and supervisory inspections are carried out with the identified risks.*

6.7. *Supervision authorities shall use the statistical information provided by the body (s) established by the relevant executive authority for the purposes of Article 6.6 of this Law.*

Article 7.

Transactions with funds or other property subject to monitoring

7.1. 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 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 the financing of terrorism;

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

7.2.3. any transactions with funds or other property of the politically exposed persons of a 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 of funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan.

7.2.5. *assets of the designated persons within the framework of combating the financing of terrorism as well as legal persons under their control or subordination as well as natural and legal persons acting on behalf of those persons or as per their instructions, and the transactions with those 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 **Cabinet of Ministers**. ~~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 designated persons within the framework of combating the financing of terrorism shall consist of the country list defined by **State Security Service** according to legislation of the Republic of Azerbaijan and international treaties it acceded to, and the international list defined by **Ministry of Foreign Affairs** according to relevant resolutions of the United Nations. Upon defining both lists, financial monitoring organ shall approve them and place them promptly on its official website and send directly or via relevant supervisory authorities to monitoring entities and other persons involved in monitoring.*

7.3-2. *It is possible to appeal to court as per the Code of Administrative Procedure of the Republic of Azerbaijan against the decision of **State Security Service** on inclusion of a person in the list of designated persons within the framework of combating the financing of terrorism.*

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

7.4-1. *Monitoring participants and other persons participating in the monitoring shall pay special attention to operations and business relationships with citizens of states (territories) envisaged in the article 7.3 of the Law, with individuals whose place of registration, residence and main activity location are in that state (territory), as well as to transactions related to acceptance and transfer by any person of cash of which the origin or destination point is that country (territory), and shall clarify purpose and substance of such transactions in case if they have no clear economic and legal purpose, and shall prepare a written analytical report in this regard. If requested, to submit the report to the financial monitoring body, auditor, prosecuting authorities or supervisory authorities as required by the law.*

7.5. Foreign branches and subsidiaries of monitoring entities *and other persons involved in monitoring* that have permanent business in the country (jurisdiction) determined by Article 7.3 of this Law shall comply with the requirements of the legislation of the Republic of Azerbaijan and international standards against the legalization of criminally obtained funds or other property and the financing of terrorism, to the extent that the legislation of the host country (jurisdiction) permits. Monitoring entities *and other*

persons involved in monitoring are required to inform in writing their relevant supervision authorities, if 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. **State Customs Committee** when it fulfills its authorities as prescribed by the legislation shall, upon detecting traces of legalization of criminally obtained funds and other property and financing of terrorism, take measures to preserve and seize the traces of the crime and shall send the records obtained accordingly to the competent authority that conducts criminal prosecution as well as inform financial monitoring organ.

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 the information specified in Article 8.1 of this Law shall be determined by **Cabinet of Ministers**.

Article 9.

Customer due diligence 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* of customers and beneficial owners in the following cases:

9.2.1. before establishing business relationship;

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. when there is a suspicion of money laundering or terrorist financing regardless of any exemptions or thresholds;

9.2.5. monitoring entity has doubts about the veracity or adequacy of previously obtained customer identification data.

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 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 persons), and provisions regulating the power to bind the legal person.

9.5. Identification of a natural person shall be carried out on the basis of his/her ID documents.

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

9.7. A 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 state registration certificate of the legal person submitted for identification purposes shall be kept by monitoring entity.

9.8. Monitoring entities, as 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, 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 persons, 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 natural persons 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 persons;

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 natural person 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 persons 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 it is not possible to meet the requirements related to identification and verification of the customer and beneficial owner after the establishment of the business relationship, or there are doubts about the veracity or adequacy of previously obtained identification data for the customer or beneficial owner, as well as if it is not possible to obtain information on background and purpose of the customer's business relationship, monitoring entities shall terminate the business relationship and shall report to the financial monitoring organ pursuant to Article 11 of this Law.*

9.16. Monitoring entities shall apply CDD requirements to customers existing until the entry 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 as specified by legislation.

9.18. Natural and legal persons involved in purchase and sale of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones or precious metals, as well as the natural and legal persons that provide intermediary services on purchase and sale 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 as specified in 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 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 are 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 shall regularly monitor ongoing business relationship with foreign politically exposed persons, periodically take measures to update identification and verification documentation.*

Article 9-2.

Unusual transactions

Monitoring entities are required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. Monitoring entities are required to examine as far as possible the background and purpose of the transactions stipulated in Article 9–2.1 of this Law, and to set forth their findings in writing to financial monitoring organ, *auditors, law enforcement agencies* or supervision authorities.

Article 10.

Record keeping requirements

10.1. Monitoring entities shall maintain the documents on due diligence measures envisaged by 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, business correspondence and other documents for officializing the account obtained during identification and verification of the customer, beneficial owner or authorized representative – at least for 5 (five) years after the customer's account is closed or legal relations with the customer are terminated;*

10.1.2. *information and documents, including the amount and type of the currency, on domestic or international transactions with funds or other property conducted by the customer in the extent which will allow to restore each individual transactions – at least for 5 (five) years following completion of the transaction;*

10.1.3. *information and documents on the transactions provided for in Article 9-2 of this Law, including the findings of the analysis to examine background and purpose of unusual transactions – at least for 5 (five) years after legal relations with the customer are terminated.*

10.2. Monitoring entities are required to ensure that all customer and transaction records and information mentioned in 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 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. Monitoring entities in circumstances listed in Articles 7 and 9.15 of this Law and other persons involved in monitoring in 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 monitoring entities in accordance with Articles 9.4–9.6 of this Law for the identification of legal and natural persons 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 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 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, the monitoring entities shall immediately inform the financial monitoring organ after execution of the transaction.

11.4. Since the time, when monitoring entity reports to the financial monitoring organ on the transactions specified by 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 suspension of these transactions, the monitoring entity may execute the transaction.

11.4-1. Upon the placement of the list of designated persons within the framework of combating the financing of terrorism on the official website of the financial monitoring authority, monitoring entities and other persons involved in monitoring shall take prompt actions for freezing the assets of the persons specified in Article 7.2.5 without notifying them and immediately inform the financial monitoring organ. Should the financial monitoring organ not send a decision on freezing the assets within two working days of informing the financial monitoring organ, the measures for freezing the assets shall be cancelled.

11.5. In case of urgency, the information mentioned in 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. Such 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 the actions for asset freezing within the framework of combating the financing of terrorism

11-1.1. The assets being directly or indirectly in the possession or use of natural or legal persons specified in Article 7.2.5 of this Law or owned (jointly or shared), managed or controlled by those persons as well as other assets obtained via such property shall be frozen.

11-1.2. The assets of natural or legal persons specified in Article 7.2.5 of this Law shall be frozen regardless of their engaging in terrorism or the activity of financing terrorism.

11-1.3. *Except for cases specified in Article 19-1.10 of this Law, the assets shall be kept frozen while the person are in the list of the designated persons within the framework of combating the financing of terrorism and be promptly released following delisting of the person.*

11-1.4. *It is prohibited for natural and legal persons or state institutions to give directly or indirectly any assets to ownership, use and possession of the physical and legal persons specified in Article 7.2.5. of this Law in the territory of the Republic of Azerbaijan and to enable those persons to profit from these assets in any 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. *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, manage and mitigate the risks of legalization of criminally obtained funds or other property and financing of terrorism;*

12.1.2. establishment of the centralized internal archive to identify and verify the customers, the persons acting on behalf of customers, beneficial owners and 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 monitoring entities;

~~12.1.6. establishment of measures to resolve the 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 persons~~ 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 Article 11 of this Law.

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

12.3. *Monitoring entities* shall develop their internal control systems in accordance with the requirements of the financial monitoring organ.

12.4. *The type and extent of the measures implemented within the framework of internal control system should be consistent with the nature of activities of monitoring*

entities and risks of legalization of criminally obtained funds or other property and 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 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 personnel that work on the basis of labor or other civil and legal 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 as prescribed 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 conspiracy to commit a 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 to reject submitting information

16.1. Banking or other legally protected secrecy regimes shall not be invoked as a ground to reject submitting *information indicated in Articles 9-2 and 11.1 to the financial monitoring organ, and information indicated in Article 9-2 to the supervision authorities for conducting supervision measures.*

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.

Financial monitoring organ

17.1. *Institution* that carries out powers of the financial monitoring organ is defined by **President of the Republic of Azerbaijan**.

17.2. Financial monitoring organ shall *take part in policy formulation in the field of prevention of the legalization of criminally obtained funds or other property and the financing of terrorism*, gather and analyze the information submitted by the monitoring entities, other persons involved in monitoring, supervision authorities and by **State Customs Committee**.

17.3. Upon receiving information from the known sources on the transaction which is subject to monitoring, the financial monitoring organ may request monitoring entities, other persons involved in monitoring, supervision authorities and **State Customs Committee** to submit information defined in 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 the mentioned bodies or other state authorities additional information as well as information from state real estate register on the basis of substantiated requests in writing in accordance with the Law of the Republic of Azerbaijan "On state real estate register" needed to properly undertake its functions.

17.3-1. The Financial Monitoring Service for the purposes specified in Article 17.3 of this Law has the right to obtain information through the on-line access to databases of supervisory and other state authorities determined by the relevant state body. The degree of exposure of the Financial Monitoring Service to the use of those information resources (scope of received information) is determined by the body (s) 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 General Prosecutor Office, and the information on the financing of terrorism shall be submitted to **State Security Service**. *If the financial monitoring body determines the traces of other crimes in the operations carried out as a result of the conducted analysis, the necessary information is forwarded to relevant executive authorities or prosecuting authorities which conduct criminal prosecution on the relevant offense.*

17.6. Where the financial monitoring organ, while carrying out of its duties, obtains information on non-compliance of 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 in relation to monitoring entities and other persons involved in monitoring of administrative or other measures stipulated by the national legislation.

17.7. The powers of the financial monitoring organ are defined by this Law and the *Charter* approved by **President of the Republic of Azerbaijan**.

17.8. Financial monitoring organ adopts the following regulations: on the list and *minimum threshold of total amount* of transactions with funds or other property to be

submitted to the financial monitoring organ as specified by this Law, on simplified CDD measures, ~~in accordance with the article 6.2 on supervision over the compliance with the requirements of this Law,~~ on submission of information to the financial monitoring organ, on requirements as to the establishment of internal control system, on the form of submission of statistical data on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism.

*Article 17-1. Requirements regarding Employees of the **Financial Monitoring Service***

*17-1.1. Requirements regarding Employees of the **Financial Monitoring Service** (including managers) are the following:*

17-1.1.1. except for scientific and creative activity, and pedagogical activity with the consent of the Chair of the Executive Board, while for the Chair of the Executive Board with the consent of the relevant state body, not to engage in other paid activity;

*17-1.1.2. The **Financial Monitoring Service** employees are not allowed to travel to a foreign country at the expense of the foreign country or international organization without any notice to the Chair of the Executive Board, and the Chair without notice to the relevant state body;*

17-1.1.3. always, also following the termination of labor relations with the Service, protect the official information known to them in relation to their job duties, as well as state secrets or the information that constitutes another secret protected by law, and not disclose this information except for the cases provided for in the law as well as not use for the benefit of third parties;

17-1.1.4. remain unbiased when fulfilling the service duty or taking decisions and not allow any person or group of persons to gain advantage or create suitable conditions for gaining such advantage due to race, nationality, religion, language, gender, social origin, property and service status, personal beliefs, affiliation to social or any other union.

*17-1.2. The **Financial Monitoring Service** employees (including the Chair) are not liable for any damage caused by any action or inaction when fulfilling their service duties, unless it is proved that such action or inaction are illegal or unconscientious.*

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, **State Security Service** 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 semiannual 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 organ shall use the statistical information provided pursuant to Article 18.1 of this Law for the purposes of determining policies and evaluating risks in the field of preventing legalization of criminally obtained funds or other property and the financing of terrorism, including controlling compliance with the requirements of this Law.*

Article 19.

Suspension 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 2 business days take substantiated decision to suspend 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 suspended by financial monitoring organ for a period not exceeding 72 hours.

19.3. Where the financial monitoring organ takes decision to suspend the execution of a suspicious transaction, the decision and relevant documents shall be immediately sent to **State Security Service** and **General Prosecutor Office**. These 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 suspension 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.

Assets Freezing

19-1.1. Should the financial monitoring organ identify that the information submitted as per Article 7.2.5 of this Law belongs to the designated person within the framework of combating the financing of terrorism as well as legal person being under control or subordination of that person or natural and legal persons acting on behalf of or according to the instructions of that person, the financial monitoring organ shall adopt a decision on initial freezing the assets within two working days. Assets shall be frozen by the financial monitoring organ within 30 days.

*19-1.2. One copy of the decision on freezing the assets shall be sent immediately to the monitoring entities who provided this information or other persons involved in the monitoring, and other copy shall be sent to **State Security Service** with corresponding documents for execution.*

*19-1.3. Should the grounds for caring out criminal proceedings be defined in the course of analyzing of the information specified in Article 19-1.2 of this Law, **State Security Service** shall take actions for suspension of the transactions suspected in financing terrorism, or imposing seizure over the property in manner established in the Criminal-Procedural Code of the Republic of Azerbaijan.*

*19-1.4. If there are not any grounds for caring out criminal proceedings in the information specified in Article 19-1.2 of this Law, and if **State Security Service** detects the following cases by conducting initial examination, it shall appeal to the regional (city) court where the assets exist at least 15 days prior to expiration of the term stipulated in the decision of the financial monitoring organ for freezing the assets of natural or legal persons:*

19-1.4.1. should the person whose assets are considered to be frozen be the designated person within the framework of combating the financing of terrorism as well as legal person being under that person's control or subordination and natural and legal person acting on behalf of that person or as per his instructions;

19-1.4.2. although the person whose assets are considered to be frozen is not included in the list of the designated persons within the framework of combating the financing of terrorism but there are sufficient grounds on providing by that person the

assistance to terrorism, financing terrorism and committing such actions or attempting to commit such actions, or the appeals received by the competent authorities of foreign countries are considered sound.

19-1.5. Should the cases prescribed in Articles 19-1.4.1 or 19-1.4.2 of this Law be confirmed, the court shall adopt a decision on freezing the assets until the expiration of the term defined in the decision of the financial monitoring organ on initial freezing the assets.

19-1.6. The decision adopted by the court on freezing the assets shall be sent to the financial monitoring organ and the person whose assets have been frozen. The person whose assets have been frozen shall be entitled to appeal to the highest instance against the decision of the court on freezing the assets.

19-1.7. On the basis of the court decision, the financial monitoring organ shall promptly place the information on freezing the assets of natural or legal persons on the official web site and send them directly or via relevant regulatory authorities to the monitoring entities and other persons involved in the monitoring. The financial monitoring organ shall provide the persons whose assets have been frozen with the information on the grounds for freezing their assets and the actions to be taken in such case as well as the termination procedure of assets freezing in writing within 1 day of receiving the relevant decision.

19-1.8. The actions for freezing the assets of the natural or legal persons on the basis of the court decision shall be continued until the concealing that decision.

*19-1.9. Upon the elimination of grounds for freezing the assets of natural or legal persons, the court shall adopt a decision on termination of the actions for freezing the assets at request of the person whose assets have been frozen or **State Security Service**.*

19-1.10. For recovering the necessary and unexpected expenses of the natural or legal persons whose assets have been frozen, the procedure of using the frozen assets shall be established by the relevant executive authority.

Article 20.

International cooperation in the field of combating 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, in accordance with the legislation of the Republic of Azerbaijan and international treaties which the Republic of Azerbaijan is a party to, cooperate with the competent authorities of foreign countries in exchanging information on legalization of criminally obtained funds or other property, financing of terrorism, crimes committed to obtain such funds or other property, as well as in *conducting supervisory measures*, criminal prosecution and execution of court decisions.

20.2. The financial monitoring organ shall submit information on issues as defined in 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 which the Republic of Azerbaijan is a party to.

20.3. The information shall be submitted to the competent authority of the foreign country 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 country to initiate a criminal investigation or to send a relevant request.

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

20.5. The execution of requests on MLA 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 countries in that sphere shall be regulated in accordance with the legislation of the Republic of Azerbaijan and the international treaties which the Republic of Azerbaijan is a party to.

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 Article 20.5 of this Law, the funds or other property confiscated in the territory of the Republic of Azerbaijan may be fully or partially delivered to the state where the court decision was taken.

Article 20-1.

Coordination of activity in the field of combating legalization of criminally obtained funds and other property and financing of terrorism

The Anti-Corruption Commission of the Republic of Azerbaijan participates in formulating the state policy in the field of combating legalization of criminally obtained funds and other property and financing of terrorism, coordinates the activity of state bodies and institutions and oversees implementation of state programs in this field.

**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.

**Ilham ALIYEV
President of the Republic of Azerbaijan**

**Baku, «10» February 2009
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