



FINAL DRAFT LEGAL FRAMEWORK ON THE COMBAT AGAINST THE FINANCING OF TERRORISM IN THE ECOWAS MEMBER STATES

TITLE I. TERMINOLOGY AND DEFINITIONS:

Article 1: Terminology

“Confiscation” or “forfeiture” shall mean the permanent deprivation of the funds or other assets by a decision of a competent Authority or Court, Confiscation usually occurs by a judicial or administrative order which, having determined that the funds or assets are proceeds of crime, transfers to the State the ownership of the funds or other assets concerned. In such a case, the persons or entities entitled to interests on such funds or assets at the time of confiscation shall lose, in principle, all their rights to the funds or other assets confiscated.

“Convention” shall mean the United Nations Convention of 09 December 1999 for the Suppression of the Financing of Terrorism.

“Criminal organization” shall mean any group of persons that has as its purpose or activities, or one of its purposes or activities, the financing or otherwise the facilitation, of a terrorist act.

“Designated Non-Financial Businesses and Professions”

The FATF Recommendations were revised in 2003 to include certain designated non-financial businesses and professions within coverage of the Forty Recommendations for the first time. The requirements applicable to these entities and professionals are more limited and apply in more limited circumstances than financial institutions. Details of what requirements apply to which non-financial businesses and professions are described in Chapter VI, but

countries are required to bring the following entities and persons within coverage of certain AML/CFT provisions:



- Casinos (*which also include internet casinos*):
- Real estate agents:
- Dealers in precious metals:
- Dealers in precious stones:
 - Lawyers, notaries, other independent legal professionals, and accountants, which refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering;
 - Trust and company service providers, which refers to all persons or businesses that are not covered elsewhere under these recommendations, and who, as a business, provide any of the following services for third parties;
 - a. Acting as a formation agent of legal persons;
 - b. Acting as (*or arranging for another person to act as*) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - c. Providing a registered office, business address or accommodation, correspondence or administrative address
 - d. For a company, a partnership or any other legal person or arrangement;
 - e. Acting as (*or arranging for another person to act as*) a trustee of an express trust; or
 - f. Acting as (*or arranging for another person to act as*) a nominee shareholder for another person.

“Financial Intelligence Unit shall mean a national body in charge of receiving, analysing and disseminating to the competent authorities financial information reports



- on the suspected proceeds of a criminal activity and a possible financing of terrorism, or
- required by national laws or regulations, for the purpose of combating money laundering and the financing of terrorism

“Freezing” shall mean the temporary prohibition of transfer, conversion, or movement of funds or other assets in pursuance of a measure taken by a competent authority or court within a freezing mechanism, for the validity period of such measure. Frozen funds or other assets remain the property of the person(s), entity or entities entitled to interest on such funds or other assets at the time of the freezing thereof, and they may remain under the administration of the financial institutions or any other structure designated for this purpose by the said person(s) entity or entities before the initiative starts within a freezing mechanism.

“Funds and other Assets” shall mean financial assets, property of every kind whether tangible or intangible, movable or immovable, however acquired , as well legal documents or instruments in any form, including wire or digital forms, evidencing title to, or interests on, such funds or other assets, including, with no limits or restrictions, bank credits, travellers cheques, money orders, shares, movables, securities, bonds, drafts and letters of credit, as well as possible interest, dividends or other income or assets derived from or produced by such funds or other assets.

“Funds or Asset Transmission Service” shall mean a financial service which takes cash money, cheques or any other instrument of payment or deposit of assets in a particular place and pays an equivalent amount in cash or in any other form to a beneficiary who is in another geographical area by means of a communication, message, transfer or clearing system, to which belongs the fund or asset transmission service. This service may be provided by individuals or corporate entities formally through the regulated financial system or in any informal process, through non banking financial institutions or other business enterprises or any other mechanism, either via the regulated financial system (*using bank accounts for example*), or via a mechanism network operating outside the regulated system.

“Non-profit organisations” shall mean the organisations or corporate entities involved in collecting or distributing funds for charity, religious, cultural educational, social or fraternity purposes.



“Person, groups and entities involved in terrorist act” shall mean

- i. Persons who commit, or attempt to commit, terrorist acts or who participate in, or facilitate, the commission of terrorist acts,
- ii. Groups and entities owned or controlled directly or indirectly by such persons, and persons, groups and entities acting on behalf of, or under the direction of, such persons, groups and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons, groups or entities.

“ Politically exposed persons” (PEP) shall mean any citizen of the country or any foreigner holding or having held important public offices, mainly as a Head of State or Government, a senior political personality, a senior public officer, a Judicial or military official, a senior executive of state-owned corporations, a senior army officer or a political party leader, as well as any member of the family of a PEP and any close partner of such a person;

“Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of a crime, and shall include any property of a value corresponding to the proceeds.

“Seizure” shall mean the temporary prohibition of the transfer, conversion, or movement of funds or other assets, ordered by a competent authority or court within a freezing mechanism. However, unlike a freezing measure, a seizure is executed through a mechanism that enables the competent authority or court to place under their control the seized funds or other assets. Seized funds remain the property of the person(s), entity or entities entitled to interests on such funds or other assets at the time of the seizure, even though the competent authority or court often takes possession of the seized funds or other assets and administers or manages them.

“Suspicious transaction reporters” or simply, “Reporting entities”, include any natural or legal person or entity that conducts as a business one or more of the following activities or operations on behalf of a client either as listed in the

Anti-Money Laundering Act of year or simply listed down in the following activities.

[*However, the list should not be inconsistent with that described in the AML Law*]



1. Acceptance of deposits and other repayable funds from the public ;
2. Lending (including consumer credit ; mortgage credit; factoring), with or without recourse; and finance of commercial transactions (*including forfeiting*);
3. Financial leasing but (*excluding financial leasing for consumer products*);the transfer of money or value (*including formal and informal sectors, such as alternative remittance activity*);
4. The transfer of money or value including formal and informal sectors, such as alternative remittance activity;
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and banker's drafts, electronic money);
6. Financial guarantees and commitments;
7. Trading in:
 - a. money market instruments (*cheques, bills, CDs derivatives, etc*);
 - b. foreign change;
 - c. exchange, interest rate and index instruments;
 - d. transferable securities;
 - e. commodity futures trading;
8. Participation in securities issues and the provision of financial services related to such issues;
9. Individual and collective portfolio management;
- 10.Safekeeping and administration of cash or liquid securities on behalf of other persons;

11. Otherwise investing, administering or managing funds or money on behalf of other persons;

12. Underwriting and placement of life insurance and other investment related to insurance (this applies to both insurance undertakings and intermediaries, such as agents and brokers); and

Money and currency changing.



“**Terrorist**” shall mean a person who commits, or attempts to commit, a terrorist act as defined hereafter or who participates in or facilitates the commission of a terrorist act or conspires to do so.

“**Terrorist act**” shall mean

1. any act or omission committed in or outside (*name of country*) which constitutes an offence according to the definition of one of the treaties mentioned in the Annex to the United Nations Convention for the Suppression of the Financing of Terrorism, and other international treaties on terrorism adopted later; or

2. as well as any other act committed in or outside (*name of country*) which:

- a. Causes death of, or involves serious bodily harm to, a person;
- b. Involves serious damage to property;
- c. Endangers a person’s life;
- d. Creates serious risk to the health or safety of the public or a section of the public;
- e. Involves the use of firearms or explosives;
- f. Involves releasing into the environment or any part thereof or distributing or exposing the public or any part thereof to :
 - i. any dangerous, hazardous, radioactive or harmful substance;
 - ii. any toxic chemical;
 - iii. any microbial or other biological agent or toxin;
- g. is designed or intended to disrupt any computer system or the provision of services directly related to communications infrastructure, banking or financial services, utilities, transportation or other essential infrastructure;
- h. is designed or intended to disrupt the provision of essential emergency services such as the police, civil defence or medical services;

- i. involves prejudice to national security or public safety;
- j. involves participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute



to the criminal activities of the group, and is intended, by its nature and context, may reasonably be regarded as being intended to :

- i. intimidate the public or a section of the public; or
- ii. compel a government or an international organization to do, or refrain from doing, any act; or
- iii. Seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization, and is made for the purpose of advancing a political, ideological or religious cause.

3. Any act which disrupts any services and is committed in pursuance of a protest, demonstration or stoppage of work, shall be deemed not to be a terrorist act within the meaning of the above definition, so long as the act is not intended to result in any harm referred to in paragraphs (a), (b), (c), (d) above.

“Terrorist group” shall mean a structured group or organization of more than two persons, established over a period of time and acting in concert to commit terrorist acts;

“Structured group” shall mean a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership of a developed structure.

“Terrorist property” shall mean the property of a terrorist or terrorist group or any other property consisting of funds that is intended to be used to finance or otherwise assist the commission of a terrorist act, or used to finance or otherwise assist the commission of a terrorist act.

“Underlying predicate offence” shall mean any offence which generates proceeds that may become the object of an offence referred to under Article 2 of this draft law.

“Wire Transfer” shall be any wire transaction carried out on behalf of a principal (a natural person or a legal entity) through a financial institution in order to make a certain amount of money available to a beneficiary in another financial institution. The principal and the beneficiary may be one and the same person.



Article 2: Definition of the Financing of Terrorism

2.1- The offence of terrorist financing shall be considered as a money laundering predicate offence.

2.2 - Any person, group or entity commits a terrorism financing offence who, by any means, directly or indirectly, provides or collects funds, property, assets and other financial resources, or tries to provide or collect funds with the intention that they should be used, or in the knowledge that they are to be used in full or in part, in order to commit a terrorist act

2.3 – The offence shall exist independently of the possible occurrence of an act referred to in paragraph 1 above. Therefore, there is an offence when there has been an attempt to finance a terrorist act even if the act has not been performed and whether the funds or assets and other financial resources were actually used to carry out the act.

2.4 – Any person also commits an offence if that person:

- a) participates as an accomplice in an offence as stipulated in paragraphs 2.1 and 2.2 of this Article;
- b) organizes or directs others to commit an offence as stipulated in paragraphs 2.1 and 2.2 of this Article.
- c) contributes to the commission of one or more of the offences referred to in paragraphs 2.1 and 2.2 of this Article by a group of persons acting with a common purpose.

The contribution of the person is made with full knowledge of the intention of the group to commit an offence specified under paragraph 2.1 of this Article or to facilitate the criminal activity of the group or to serve its purposes.

That activity or purpose involves the commission of an offence as specified in paragraph 2.1 of this Article.

2.5- The offence shall exist even if the facts permitting the acquisition, holding and transfer of assets intended to finance terrorism are committed in the territory of a third State.



2.6 - The following justifications shall not be acceptable:

1. Use of any political, philosophical, ideological, racial, ethnic, religious or other similar considerations to account for the commission of any of the aforementioned offences.

2. Except where an amnesty has been granted for the original offence, the financing of terrorism shall exist, even if the perpetrator of the crimes or offence has not been prosecuted or convicted, or if a requirement for the judicial proceedings against such crimes or offences is not met.

2.7– Every person who :

- a) organizes or directs others to commit;
- b) attempts to commit;
- c) conspires to commit;
- d) participates as an accomplice to a person committing, or attempting to commit an offence under subsection (1)
- e) shall commit an offence.

2.8 – Knowledge, intent or purpose required as an element of the activities mentioned in subsections (1) and (3) may be inferred from objective factual circumstances.

2.9 – Where it is necessary for the purpose of an offence of financing of terrorism committed by a body corporate, to establish the state of mind of the body corporate, it shall be sufficient to show that a director, officer, employee or agent of the body corporate, acting in the course of employment or agency as the case may be, had the necessary intent.



TITLE II - GENERAL PROVISIONS

CHAPTER ONE - OBJECT AND JURISDICTION OF THE LAW

Article 3: Purpose of the Law

The purpose of this law is to determine the legal framework for the combat against terrorist financing in order to prevent the use of economic, financial and banking channels for the financing of terrorism.

Article 4: Jurisdiction

4.1 The provisions of Title III relating to preventive measures and suspicious transaction report, and of Title III on coercive measures shall be applicable to legal persons and entities presenting risks with regard to money laundering and the financing of terrorism.

4.2 The reporting entities and designated non-financial businesses and professions listed in the definition section shall have an obligation to report to the Financial Intelligence Unit (FIU) any transaction they suspect of being linked to the financing of terrorism.

TITLE III - PREVENTIVE MEASURES AND SUSPICIOUS TRANSACTION REPORTS

CHAPTER 1 - PREVENTIVE MEASURES

Article 5: Compliance with Change Regulations

Change operations, fund movements and payments of any kind with a third State shall be conducted according to the change regulations in force.



Article 6: Obligations

6.1 The Customer Due Diligence and record keeping obligations shall be similar to those defined under the law on money laundering. These obligations include:

OBLIGATIONS TO VERIFY IDENTITY AND KEEP RECORDS

6.2 Reporting entities to verify customer's identity and transactions

6.2.1 A reporting entity shall identify, within a reasonable amount of time (or before entering into a business relationship), the identity of a customer on the basis of any official or other identifying document and verify the identity of the customer on the basis of reliable and independent source documents, data or information or other evidence as is reasonably capable of verifying the identity of the customer when.

- (a) a reporting entity
 - i. enters into a continuing business relationship ;
 - ii. in the absence of such a relationship, conducts any transaction ;
- (b) carrying out an electronic funds transfer under section 11 (2);
- (c) there is a suspicion of money laundering or the financing of terrorism;
or
- (d) the reporting entity has doubts about the veracity or adequacy of the customer identification and verification documentation or information it had previously obtained.

6.2.2. Without limiting the generality of subsection (1), a reporting entity shall

- (a) when establishing a business relationship, obtain information on the purpose and nature of the business relationship;
- (b) if the transaction is conducted by a natural person, adequately identify and verify his/her identity including information relating to:

- i. the person's name, address and occupation;
- ii. the national identity card or passport or other applicable official identifying document



(c) if the transaction is conducted by a legal entity, adequately identify and verify its legal existence and structure, including information relating to;

- i. the customer's name, legal form, address and directors;
- ii. the principal owners and beneficiaries and control structure;
- iii. provisions regulating the power to bind the entity; and to verify that any person purporting to act on behalf of the customer is so authorised, and identify those persons;

(d) if the customer is a politically exposed person, a reporting entity shall

- i. adequately identify and verify his/her identity as set out in this section;
- ii. have appropriate risk management systems to determine whether the customer is a politically exposed person;
- iii. obtain the approval of senior management before establishing a business relationship with the customer;
- iv. take reasonable measures to establish the source of wealth and source of property; and
- v. conduct regular enhanced monitoring of the business relationship.

6.2.3. If a natural person conducts a transaction through a reporting entity and the reporting entity has reasonable grounds to believe that the person is undertaking the transaction on behalf of any other person or persons, then, in addition to complying with subsections (1) and (2), the reporting entity must identify and verify the identity of the other person or persons for whom, or for whose ultimate benefit, the transaction is being conducted.

6.2.4. A reporting entity shall take reasonable measures to ascertain the purpose of any transaction in excess of [..], or of [..] in case of cash transactions, and the origin and ultimate destination of the funds involved in the transaction.

6.2.5. (a) A reporting entity shall, in relation to its cross-border correspondent banking and other similar relationships,

- i. adequately identify and verify the person with whom it conducts such a business relationship;
- ii. gather sufficient information about the nature of the business of the person;



- iii. determine from publicly available information the reputation of the person and the quality of supervision to which the person is subject ;
- iv. assess the person's anti-money laundering and terrorist financing controls;
- v. obtain approval from senior management before establishing a new correspondent relationship
- vi. document the responsibilities of the reporting entity and the person.

(b) Where the relationship is a payable-through account, a reporting entity shall ensure that the person with whom it has established the relationship.

- i. has verified the identity of, and performed on-going due diligence on such of that person's customers that have direct access to accounts of the reporting entity; and
- ii. is able to provide the relevant customer identification data upon request to the reporting entity

6.2.6. Where a reporting entity relies on an intermediary or third party to undertake its obligations under subsections (1), (2) or (3) or to introduce business to it, it shall.

- (a) immediately obtain the information and documents required by subsections (1), (2) and (3)
- (b) ensure that copies of identification data and other relevant documentation relating to the requirements set out in subsections (1), (2) and (3) will be made available to it from the intermediary or the third party upon request without delay.

- (c) satisfy itself that the third party or intermediary is regulated and supervised for, and has measures in place to comply with the requirements set out in sections 7, 8 and 9 of this Act.



6.2.7. Subsection 6.2.1, 6.2.2. or 6.2.4 does not apply:

(a) if the transaction is part of an existing and regular business relationship with a person who has already produced satisfactory evidence of identity unless the reporting entity has reason to suspect that the transaction is suspicious or unusual; or

(b) if the transaction is an occasional transaction not exceeding [] unless the reporting entity has reason to suspect that the transaction is suspicious or unusual; or

(c) in such other circumstances as may be prescribed by the Minister of []

6.2.8. For purposes of subsection (6), “occasional transaction” shall mean any transaction involving cash that is conducted by any person otherwise than through an account in respect of which the person is the customer.

6.2.8. The Minister of [] may prescribe

- a) the official or identifying documents or the reliable and independent source documents, data or information, or other evidence that is required for identification or verification of any particular customer or class of customers;
- b) the threshold for, or the circumstances in which, the provisions of this section shall apply in relation to any particular customer or class of customers.

6.3 Necessity of identification to conduct business

If satisfactory evidence of the identity is not produced to or obtained by a reporting entity under section 6, the reporting entity shall not proceed any further with the transaction unless directed to do so by the Financial Intelligence

Unit (FIU) established under Part 3 and the reporting entity shall report the attempted transaction to the Anti Money Laundering Authorities (AMLA).

6.4 Reporting entity to maintain records

6.4.1 A reporting entity shall establish and maintain records of:



- a) a person's identity obtained in accordance with section 6;
- b) all transactions carried out by it and correspondence relating to the transactions as is necessary to enable the transaction to be readily reconstructed at any time by the Financial Intelligence Unit (FIU) or competent authority, and shall contain particulars sufficient to identify the:
 - i. nature and date of the transactions;
 - ii. type and amount of currency involved;
 - iii. the type and identifying number of any account with the reporting entity involved in the transaction;
 - iv. if the transaction involves a negotiable instrument other than currency, the name of the drawer of the instrument, the name of the institution on which it was drawn, the name of the payee (if any), the amount and date of the instrument, the number (if any) of the instrument and details of any endorsements appearing on the instrument;
 - v. the name and address of the reporting entity, and of the officer, employee or agent of the reporting entity who prepared the record.
- c) all reports made to the Financial Intelligence Unit under section 12; and
- d) Enquiries relating to money laundering and the financing of terrorism made to it by the Financial Intelligence Unit.

6.4.2. The records mentioned in subsection (1) must be kept for a minimum period of [5-7] years from the date:

- (a) the evidence of a person's identity was obtained;
- (b) of any transaction or correspondence;
- (c) the account is closed or business relationship ceases, whichever is the later.

6.4.3. The records established and maintained for purposes of subsection (b) shall be.

(b) sufficient to enable the transaction to be readily reconstructed at any time by the Financial Intelligence Unit or competent authority to provide, if necessary, evidence for prosecutions of any offence;



(b) maintained in a manner and form that will enable the reporting entity to comply immediately with requests for information from the law enforcement or FIU

6.4.4. Where any record is required to be kept under this Act, a copy of it, with the appropriate back-up and recovery procedures, shall be kept:

- (a) in a machine-readable form, if a paper copy can be readily produced from it; or
- (b) in an electronic form, if a paper copy can be readily produced from it and in a manner that enables appropriate authentication, for example, by the electronic signature of the person who keeps the record is retained.

6.4.5. The records maintained under subsection (1) shall be made available upon request to Financial Intelligence Unit, or competent authority for purposes of ensuring compliance with this Act and for purposes of an investigation and prosecution of an unlawful activity

6.5. Reporting entity to maintain account in true name

6.5.1. A reporting entity that maintains accounts, shall maintain them in the true name of the account holder.

6.5.2. A reporting entity shall not open, operate or maintain any anonymous account or any account which is in a fictitious, false or incorrect name.

6.6. Financial Institutions and money transmission service providers to include originator information

6.6.1. An entity or person that is licensed to do business in Sierra Leone as a financial institution under the [Financial Institutions Act] or a money transmission service provider shall include accurate originator information and

other related messages on electronic money transfers and such information shall remain with the transfer.

6.6.2. Subsection (1) shall not apply to an electronic money transfer other than a money transfer effected with a credit or debit card as means of payment which results from a transaction carried out with a credit or debit card, provided that the credit or debit card number is included in the information accompanying such a transfer.



6.6.3. Subsection (1) shall not apply to electronic money transfers and settlements between financial institutions where the originator and beneficiary of the money transfer are acting on their own behalf.

6.7. Reporting entity to monitor transactions

6.7.1. A reporting entity shall pay special attention to

- (a) any complex, unusual or large transactions;
- (b) any unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

6.7.2. A reporting entity shall pay special attention to –

- (a) business relations and transactions with persons in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or financing of terrorism;
- (b) electronic money transfers that do not contain complete originator information.

6.7.3. In relation to subsections (1) and (2), a reporting entity shall;

- (a) examine as far as possible the background and purpose of the transactions or business relations and record its findings in writing, and
- (b) upon request, shall make such findings available to the Financial Intelligence Unit or to the competent authority, to assist the FIU or the law enforcement agency in any investigation relating to an unlawful activity, a money laundering offence or an offence of financing of terrorism.

6.7.4. A reporting entity shall monitor its business relationships and the transactions undertaken throughout the course of the relationship to ensure that its obligations under section 6 are met and that the transactions conducted are consistent with the information that the reporting entity has about its customer and the profile of the customer's business.



6.8. These requirements are particularly and specifically binding on Financial Institutions for any transaction amounting to or exceeding, whether it be in one or several apparently inter-related operations.

In any case, the financial institution is bound to conduct this identification promptly even if the amount of the transaction is below.... where the transactions are complex, unusual and have no apparent economic or licit purpose.

6.9. These obligations shall be fulfilled with greater attention where the suspicious transaction report is about a client who is not physically available for identification especially in the context of non face-to-face transactions or a client who is considered a “ politically exposed person” (PEP).

CHAPTER II - SUSPICIOUS TRANSACTION REPORTS

Article 7: Obligation to Report Suspicious Transactions

7.1 Suspicious transaction reporters are bound to report promptly to the Financial Intelligence Units which shall process the information and disseminate it to the judicial authority when they suspect or have sufficient reasons to suspect that :

- The funds are proceeds of a criminal activity or are related to terrorism financing, or are derived from legal or illegal sources.
- The funds belong to natural persons, legal entities, or organisations considered as terrorist.
- The funds are initiated by them or for their own benefit

7.2 Suspicious transaction reporters are protected by legal provisions against any criminal or civil liability due to violation of confidentiality rules, whether they be imposed by contract or by legislative, regulatory or administrative texts, if they report suspicious transactions to the Financial Intelligence Unit in good faith even though the activity reported has not actually taken place.



7.3 It is prohibited by law for suspicious transaction reporters to divulge the fact that a suspicious transaction report or information related thereto has been communicated to the Financial Intelligence Unit.

7.4 Suspicious transaction reporters shall delay the execution of operations suspected of being related to the financing of terrorism until they have reported the suspicious transaction to the Financial Intelligence Unit.

7.5 The Financial Intelligence Unit may object to the execution of a suspicious transaction for preventive purposes for a maximum period of forty eight (48) hours, based on serious, consistent and reliable information in their possession.

7.6 When a transaction gives evidence of facts that may constitute a terrorism financing offence, the Financial Intelligence Unit shall forward a report on these facts to the competent Public Prosecutor according to the law.

TITLE IV - COERCIVE MEASURES

CHAPTER 1 - PUNISHMENT OF INFRACTIONS

Article 8: Applicable Sanctions

The sanctions may be of criminal, civil or administrative origin. Sanctions shall be applied by the relevant government authority having mandate under national law to impose fines and prison sentences for violation of the law.

8.1 Sanctions applicable to natural persons

- A minimum criminal sanction ofyears imprisonment and a fine which may be as much astimes the amount of the money concerned shall be imposed on anyone who commits a terrorism financing offence.

Another option: or the case may be referred, for sanctions, to the relevant natural laws in countries which adopt this law and have one.

- An attempt to commit a terrorism financing act shall be punishable as if the offence itself had been committed.



- Complicity in such an act, its organization, the direction given, the assistance, encouragement, advice and help provided for its perpetration or the facilitation of its execution, shall be punished like the terrorism financing offence itself.
 - Additional sanctions may also be inflicted on individual persons permanently or for a limited period of time, such as
 - Loss of civic, civil and family rights;
 - Prohibition to issue cheques, to pay with payment cards;
 - Prohibition to carry weapons;
 - Prohibition to drive or pilot land or maritime engines, or aircraft;
 - Prohibition to exercise some professional activities.

8.2 Association or complicity to commit Terrorism Financing.

The same sanctions shall apply to participation in an association or conspiracy aiming to commit the offence referred to under Articles 2.1.

8.3. Sanctions applicable to Legal Entities

The liability may be criminal, civil or administrative.

Legal entities other than the State shall be sentenced to pay a fine equal to five times the fines applicable to natural persons when a terrorism financing offence has been committed by a person responsible for the management or control of such entities acting in that capacity, without prejudice to the conviction of that person as perpetrator or accomplice in the offence.

Legal entities may additionally be:

a)banned permanently or for a maximum period of five years from directly or indirectly carrying on certain business activities;

b)ordered to close permanently or for a maximum period of five years their premises that were used for the perpetration of the offence;

c)dissolved if they were created for the purpose of committing the offence;

d) required to publicize the judgment in any appropriate media.



The penalties specified in sub-paragraphs a), b), c), d) of this Article shall not be applicable to financial institutions depending on an authority that has disciplinary powers.

When the competent supervising authority is informed by the Public Prosecutor of any prosecution against a financial institution, it may apply the appropriate sanctions pursuant to the legal and regulatory texts in force.

8.4. Aggravating Circumstances

The sanctions imposed under Articles 8.1, 8.2,8.3 shall be doubled when the offence is committed in the framework of a terrorist organization.

8.5. Mitigating Circumstances

The applicable sanctions specified under Article 2 shall be reduced by half if the person concerned, as perpetrator of or accomplice in the offence, assists in, or facilitates the identification of other guilty persons before the prosecution, or assists in or facilitates the identification of the latter after the prosecution has started.

8.6. Exemption

The damages resulting from such a case, like those in the case of a delayed execution inadvertently decided, shall be imposed on the State.

Article 9 Confiscation

Modalities and procedures

In the event of a conviction for an offence referred to under Article 2, an order shall be issued for the confiscation of the funds, assets and financial resources used or intended to be used to commit the offence, the funds and assets that are the subject of the offence, as well as the proceeds of the offence .

The confiscation order shall specify the funds and assets concerned and give the necessary details to identify and locate them.

When the funds and assets to be confiscated cannot be produced, confiscation may be ordered based on their value.



Anyone who claims to have a right over the assets or funds that are the subject of a confiscation order may appeal to the jurisdiction that issued the order within six months from the date of that order.

9.2 Nullity of Certain Instruments

Any act executed free of charge or for a consideration *inter vivo* or *mortis causa*, and the purpose of which is to safeguard assets from confiscation measures as provided for in this section, shall be void.

In the case of the nullification of a contract involving payment, the sincere and honest buyer shall be reimbursed only for the amount actually paid.

9.3 Disposal of Confiscated Property

Confiscated funds shall accrue to the State, which may allocate them to a fund for combating organized crime or terrorism, or for compensating the victims of the offences associated with terrorism, or their families. They shall remain unnumbered, up to their value, by any rights *in rem* lawfully established in favour of third parties.

In cases where confiscation is ordered under a judgment by default, the confiscated funds shall accrue to the State and shall be realized in accordance with the relevant procedures on the subject. However, if the court, ruling on an application to set aside such judgment, acquits the person prosecuted, it shall order restitution of the value of the funds confiscated by the State, unless it is proven that such property represents the proceeds of a crime or offence.

CHAPTER II - FREEZING OF FUNDS

Article 10 - Modalities and Procedures

10.1 Freezing of Funds in pursuance of Resolution n°1267 (1999)

The competent authority (*to be designated by the Member State*) may, by means of a judicial order or an administrative decision , freeze without delay funds or other assets of persons who commit or attempt to commit terrorist acts, participate in terrorist acts or facilitate the commission of terrorist acts, entities owned or directly or indirectly controlled by such persons, as well as natural persons or entities operating on behalf or on the direction of such persons or entities, including funds or other assets derived from or generated by assets



owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organization or such persons as are designated pursuant to the paragraph below or associated persons or entities. This should be done without delay and prior notification to the persons concerned.

The competent authority (*of the country*) has power to designate the persons whose funds or other assets should be frozen. In order to ensure efficient cooperation between countries in combating the financing of terrorism, (*name of the authority*) shall examine the initiatives taken in the framework of the freezing mechanism of other countries and, if need be, implement them. When (1) a notification or specific communication is transmitted and (2) (*name of the authority*) that has received the request is certain that according to the applicable principles of domestic law, that request for listing as a designated person is borne out by reasonable grounds or a reasonable basis that supports the suspicion that the person whose listing is proposed is a terrorist, a person who finances terrorism or a terrorist organisation, (*name of the authority*) shall order by an administrative decision that all the funds or other assets of the person thus designated should be frozen immediately with no prior notification of the designated persons concerned.

The competent authority (*to be designated by the Member State*) may by , means of a judicial order or an administrative decision, order the freezing without delay of by funds or other assets of persons designated by the Committee established by UN Resolution 1267 against Al Quaida and the Talibans according to the Security Council Resolution S/RES/1267 (1999) or by the competent authority of the country, or the foreign country, including funds deriving from funds or assets owned or directly or indirectly controlled by them or by persons operating on their behalf or under their direction, making sure such persons, funds or other assets are not made available, directly or indirectly,

to such persons, by the nationals or any person who is in the territory of the country concerned, unless the Committee decides otherwise on a case-by-case basis for humanitarian reasons. The freezing shall be executed without delay or prior notification of the designated persons concerned. The freezing of designated funds and assets shall be mandatory for any member country of the United Nations Organization.

Any freezing shall be largely publicised for the information of the public, mainly in the official bulletin of the State or a news paper publishing legal news. The same holds for the procedures for delisting target persons and release of funds inadvertently affected.



10.2 Disputing Fund Freezing Administrative Measures

- ❖ Any individual or organization whose funds have been frozen pursuant to Article 10.1 and who feel that they were listed by mistake, may seek to be delisted by submitting a request to this effect within thirty days of the publication of the list, to the competent Authority who ordered the freezing, indicating all factors that could demonstrate the mistake. The decision of the competent Authority, whether administrative or judicial, with respect to this request shall be subject to appeal in accordance with national laws and procedures.
- ❖ Any individual or organization whose funds have been frozen pursuant to Article 10.1, paragraphs 2 and 3, who feels that they were listed by mistake, with regard to their identity may seek to be delisted by submitting a request to this effect within thirty days of the publication of the list, to the competent Authority who ordered the freezing, indicating all factors that could demonstrate the mistake. The decision of the competent Authority, whether administrative or judicial, with respect to this request may be appealed.
- ❖ Any other objection shall be conducted according to the appropriate procedure as specified in the UN Security Council Resolutions.

10.3 The persons or entities holding funds or assets affected by a freezing decision are bound by law to comply with the decision and are liable to civil, criminal and administrative conviction if they fail to do so.

CHAPTER III - FREEZING, PROVISIONAL MEASURES AND SEIZURE IN CRIMINAL MATTERS

Article 11: Provisional Measures

The investigating magistrate may, *ex officio* or on the justified request of the Public Prosecutor, [or in common law jurisdictions, the Court or other judicial authority vested with issuing judicial or administrative orders], order, at the expense of the State, any provisional measures including the freezing of funds and financial transactions with assets, regardless of their nature, which are likely to be seized or confiscated.



The lifting of these measures may be ordered at any time on the request of the Public Prosecutor or, after notice from the latter, on the request of the Minister of Finance or the owner.

Article 12: Seizure

The investigating magistrate or the Public Prosecutor may seize assets associated with the offence that is the subject of investigation; in particular funds used or intended to be used to commit the offence referred to in Article I-2, as well as the proceeds of these offence, and all evidence which may facilitate their identification.

The competent Court or a specialized agency such as an asset recovery agency shall administer or manage these assets or funds.

TITLE V. JURISDICTION OF THE COURTS

Article 13 Jurisdiction of the Courts

The Courts (*of the Member country*) are competent to judge the offence specified under Article 2 where:

- a) the offence was committed in the national territory;
- b) the offence was committed on board a vessel flying the national flag or an aircraft registered according to the national laws at the time the offence was committed;

- c) the offence was committed by a national;
- d) the offence was committed outside the national territory by someone now present therein, in all cases where such a person cannot be extradited to a State requesting extradition for the same offence;
- e) the offence was directed to or resulted in the commission of an offence specified under Article 2, in the national territory or against a national;



- f) the offence was directed to or resulted in the commission of an offence specified under Article 2, against a government facility of the Member State which is located outside the territory, including its diplomatic or consular premises;
- g) the offence was directed to or resulted in the commission of an offence specified under Article 2, in an attempt to compel (*name of the member country*) to achieve or refrain from achieving any act;
- h) the offence was committed by a stateless person who has his or her habitual residence in the national territory;
- i) the offence was committed on board an aircraft exploited by the Government of that State.

TITLE VI - INTERNATIONAL COOPERATION

CHAPTER I - GENERAL PROVISIONS

Article 14: General Provisions

The State shall undertake to promote, implement and strengthen a dynamics of international cooperation and mutual judicial assistance with the other States in order to ensure more efficient combat against the financing of terrorism.

The State shall undertake to cooperate as much as possible with other States for the purposes of information exchange, investigation, and procedures for provisional measures and confiscations of instruments and proceeds associated

with terrorism financing, for purposes of extradition and mutual technical assistance.

CHAPTER II SECURITY MEASURES

Article 15 Investigations

When the Public Authorities are informed that the perpetrator or the presumed perpetrator of an offence referred to under Article 2, might be in the national territory, the judicial authorities take the necessary steps to investigate on the reported facts.



Article 16: Security Measures

Should the circumstances warrant, the judicial Authorities shall take appropriate steps to ensure the presence of that person, for the purpose of prosecution or extradition, by all lawful means.

Article 17: Right of Communication

Anyone against whom the measures specified under Article 16 are applied shall be entitled to:

- a) communicate without delay with the nearest competent representative of the State of which he or she is a national or with someone otherwise qualified to protect the rights of that person, or, in the case of a stateless person, the State which is his or her permanent residence;
- b) be visited by a representative of that State;
- c) be informed of the rights afforded him or her under subparagraphs (a) and (b) of this article.

When the Public Prosecutor's office receives the request from a state that has established its jurisdiction over the offence, it shall make the necessary arrangements to ensure that the person detained under Article 16 can be visited by a representative of the International Red Cross or another qualified organization.

Article 18: Notification to Competent States

When the person who is the subject of the investigation referred to in Article 15 has been detained, the Public Prosecutor's office shall immediately inform,

directly or through the United Nations Secretary General, the States that have established their jurisdiction over the offence, as well as INTERPOL and, if deemed appropriate, any other States concerned, of the detention and the circumstances justifying the detention. The Public Prosecutor's office shall promptly inform the said States of the conclusions of the investigation and indicate to them whether it intends to exercise its jurisdiction.



CHAPTER III - REQUESTS FOR MUTUAL JUDICIAL ASSISTANCE

Article 19: Purpose of Requests for Mutual Assistance

On the request of a foreign State which is party to the Convention, requests for mutual assistance relating to the offence referred to under Article 2 of this law are executed in accordance with the principles set forth in this title. Mutual Judicial assistance may specifically include:

- gathering evidence or taking depositions;
- providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
- serving judicial documents;
- carrying out searches and seizures;
- examining objects and sites;
- providing information and evidentiary items;
- providing originals or certified copies of relevant files and documents, including bank statements, accounting documents, and records showing the operations of a company or its business activities.

Article 20: Refusal to Execute Requests

20.1 A request for mutual judicial assistance shall be refused if there are serious grounds for believing that the measures being requested or the decision being sought are directed at the person in question solely on account of his or her race, religion, nationality, ethnic origin, political opinions;

20.2 The request for mutual judicial assistance may be refused if :

- a) it was not made by a competent authority according to the legislation of the requesting country or if it was not properly transmitted;
- b) the facts concerned are the subject of ongoing criminal proceedings or have already been the subject of a final judgment in the national territory.



20.3 Professional secrecy may not be invoked as a ground for refusing to comply with the request for lawyers who are bound to secrecy with regard to the defence;

20.4 The refusal of mutual judicial assistance must be absolutely prevented if it is based on unreasonable and disproportionate grounds.

20.5 The State (name of the country which adopts the law) shall promptly inform the requesting State of the reason for refusing to comply with the request.

Article 21: Request for Investigatory Measures

Investigatory measures shall be undertaken in conformity with the national legislation unless the competent foreign authorities have requested that a specific procedure compatible with the national legislation be followed.

A judicial officer or public official appointed by the requesting foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

Article 22: Request for Provisional Measures

The competent Authority which is requested by a foreign State to order provisional measures, shall order such measures in accordance with its own national legislation.

It may also take any measure whose effects correspond most closely to the requested measures. If the request is worded in general terms, the Court shall order the most appropriate measures provided for under the national legislation. Should it refuse to comply with measures not provided for under its national legislation, the judicial Authority receiving the request to carry out the

provisional measures ordered abroad may replace them with measures provided for under its own legislation and whose effects correspond most closely to the requested measures.

The provisions relating to the lifting of provisional measures as stipulated in Article 11 of this law shall be applicable.



Article 23: Request for Confiscation

In the case of a request for mutual judicial assistance for the issue of a confiscation order, the Court shall rule after referring the matter to the prosecuting authority. The confiscation order must apply to funds used or intended to be used to commit a terrorism financing offence or which constitute the proceeds of such an offence, and are located in the national territory.

The Court receiving the request for the enforcement of a confiscation order issued abroad is bound by the findings as to facts on which the order is based and may refuse to grant the request solely for one of the grounds stipulated in Article 20.

Article 24: Disposal of Confiscated Assets

The State (*name the country which adopts the Law*) has the power to dispose of funds confiscated in its territory on the request of foreign authorities.

However, the State may reach agreements with foreign States providing for the sharing, systematically or on a case-by-case basis, of funds derived from confiscations ordered upon their request.

CHAPTER IV - EXTRADITION

Article 25: Requests for Extradition

In the case of a request for extradition, the provisions of the Convention, procedures and principles set forth in an extradition treaty in force between the requesting State and the country adopting this law, as well as the provisions of this law, shall be applicable so long as they are not inconsistent with the Convention.

Article 26: Security Measures

If it feels that the circumstances warrant, the Public Prosecutor's office shall take appropriate steps to ensure the presence of the person covered by the request for extradition, when necessary, asking the Court receiving the request for extradition to place that person under judicial control or in detention.



Article 27: Double Criminality

Under this law, extradition shall be carried out only if the offence giving rise to extradition or a similar offence is provided for under this law.

Article 28: Mandatory Grounds for Refusal

Extradition shall not be granted:

- (a) If there are serious grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of his or her race, religion nationality, ethnic origin, political opinions, sex, or status, or that this person's position may be prejudiced for any of these reasons;
- (b) if a final judgment has been rendered in *the country adopting this law* in respect of the offence for which extradition was requested;
- (c) if, according to the Law of either country, the person whose extradition is requested can no longer be prosecuted or convicted because of the time that has elapsed, or amnesty or any other reason;
- (d) if the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman, or degrading treatment or punishment, or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as stipulated in Article 14 of the International Covenant on Civil and Political Rights;

Article 29: Optional Grounds for Refusal

Extradition may be refused:

- a) if prosecution in respect of the offence for which extradition is requested is going on in the country receiving the request against the person whose extradition is requested;
- b) if the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;



- c) if the State (*name of the country adopting the law*), while also taking into account the nature of the offence and the interest of the requesting State, considers that, in the circumstances of the case, the extradition of the person in question would be incompatible with humanitarian considerations in view of the age, health, or other personal circumstances of that person;
- d) if extradition is sought to enforce a final sentence that was rendered in the absence of the person concerned, who has not been able to provide for his or her own defence for reasons beyond his or her control;
- e) if...[*name of the country adopting the law*] has established its jurisdiction over the offence pursuant to Article 13 of this law;
- f) if the person whose extradition is requested is subject to death penalty in respect of the crime of which he or she is accused in the requesting country, unless that country gives sufficient assurances that the penalty will not be carried out;

Article 30 : Aut dedere aut judicare: either extradite or prosecute

If ... [*name the country adopting this law*] refuses to extradite, it shall refer the matter to its competent authorities so that proceedings may be instituted against the person concerned in respect of the offence that gave rise to the request.

Article 31: Surrender of Property

Within the limits authorized under national legislation and without prejudice to the rights of third parties, all property found in the territory of ... [*name of the country adopting this law*] which has been acquired as a result of the offence committed or that may be required as evidence, shall be surrendered to the requesting State if extradition is granted, if so requested by that state.

The property in question, if the requesting State so requests, may be surrendered to the requesting state even if the extradition agreed to cannot be carried out.

Should that property be subject to seizure or confiscation in the territory of ... [name of the country adopting the law], the State may temporarily retain it or hand it over.



Where national legislation or the rights of third parties so require, any property surrendered shall be returned to the State [name of the country adopting the law] free of charge, after the completion of proceedings, if [name of the country adopting the law] so requests.

CHAPTER V: PROVISIONS APPLICABLE TO REQUESTS FOR MUTUAL JUDICIAL ASSISTANCE AS WELL AS REQUESTS FOR EXTRADITION

Article 32: Political Nature of the Offence

For the purposes of extradition or mutual judicial assistance between States party to this law, none of the offences referred to under Article 2 shall be considered political offence and an offence connected with a political offence, or an offence inspired by political motives. Therefore, a request for extradition or mutual judicial assistance based on such an offence may not be refused for the sole reason that it concerns a political offence, an offence connected to a political offence, or an offence inspired by political grounds.

Article 33: Transmission of requests

Requests sent by foreign authorities with a view to establishing terrorism financing offences or enforcing or ordering provisional measures or confiscations, or for purposes of extradition, shall be transmitted through diplomatic channels. In urgent cases, such requests may be sent through the foreign authorities of the requesting and requested States to the national judicial authorities of the requesting and requested States either by post or by any other faster means of transmission, leaving a written or materially equivalent record. In such cases, in the absence of notice given through diplomatic channels, requests shall not be executed.

Requests and their annexes shall be accompanied by a translation in a language acceptable to the State [*name of the country adopting the law*]

Article 34: Content of Requests

34.1- Requests shall specify:

1. the authority requesting the measure;
2. the requested authority;



3. the purpose of the request and any relevant contextual remarks;
4. the facts in support of the request;
5. any known details that may facilitate the identification of the persons concerned, in particular their marital status, nationality, address, and occupation;
6. any information necessary to identify and locate the persons, instrumentalities, proceeds, or property in question;
7. the text of the statutory provision establishing the offence or, where applicable, a statement of the law applicable to the offence and indication of the penalty incurred for the offence.

34.2 In addition, requests shall include the following particulars in certain specific cases:

1. in the case of requests for provisional measures, a description of the measures sought;
2. in the case of requests for a confiscation order, a statement of the relevant facts and arguments to enable the judicial authorities to order the confiscation under domestic law;
3. in the case of requests for the enforcement of orders relating to provisional measures or confiscation,
 - (a) a certified true copy of the order, and a statement of the grounds on the basis of which the order was made if they are not indicated in the order itself;
 - (b) a document certifying that the order is enforceable and not subject to ordinary means of appeal;

- (c) an indication of the extent to which the order is to be enforced and, where applicable, the amount of the sum to be recovered on the item or items of property;
- (d) where necessary and if possible, any information concerning third-party rights of claim on instrumentalities, proceeds, property, or other things in question.



- 4. in the case of requests for extradition, if the person has been convicted of an offence: the original or a certified true copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable and the extent to which the sentence remains to be served

Article 35: Handling of Requests

The Minister of Justice [or Attorney General's Office] of... [*name of the country adopting the law*], after verifying that the request has been properly conducted, shall forward it to the Central Authority for AML request at the place where the investigations are to be conducted or where the proceeds or property in question are situated or where the person whose extradition is being requested is located.

The Public Prosecutor's office shall refer the matter to the officials competent to deal with requests for investigation or to the court competent to deal with requests relating to provisional measures, confiscations, or extradition.

A magistrate or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a magistrate or by a public official.

Article 36: Additional Information

The Ministry of Justice [*Attorney General's Office*] or the Public Prosecutor's Office may, ex officio or on the request of the court to which the matter is referred, request through diplomatic channels or directly, that the competent foreign authority provide all additional information necessary for complying with the request or facilitating compliance therewith.

Article 37: Requirement of Confidentiality

Where a request requires that its existence and substance be kept confidential, such a requirement shall be observed except to the extent necessary to give effect to the request. If that is not possible, the requesting authorities shall be promptly informed to that effect.



Article 38: Postponement

The Public Prosecutor's Office may postpone referring the matter to the police authorities or to the court only if the measures or order sought could interfere with ongoing investigations or proceedings. It shall immediately inform the requesting authority accordingly through diplomatic channels or directly.

Article 39: Simplified Extradition Procedure

With regard to the offences provided for under this law, the State [*name of the country adopting the law*] may grant extradition after receipt of a request for provisional arrest, provided that the person whose extradition is requested explicitly consents thereto.

Article 40: Restriction on the Use of Evidence for Other Purposes

The communication or use, for investigations or proceedings other than those specified in the foreign request, of evidentiary facts contained therein, shall be prohibited on penalty of invalidation of such investigations or proceedings, except with the prior consent of the requesting State.

Article 41: Allocation of Costs

Costs incurred in complying with requests provided for under this title shall be borne by the State of (*name of the country adopting the law*) unless otherwise agreed with the requesting country.

TITLE VII - MISCELLANEOUS MEASURES

CHAPTER I - NONPROFIT ASSOCIATIONS AND ORGANISATIONS

Article 42: Registration Procedure

The State (*name of the country which adopts this law*) shall undertake to implement special measures of close watch over non profit associations and organizations, mainly for the purpose of preventing them from being involved in terrorism financing activities.



Any non-profit association or organization that wishes to collect or receive, grant or transfer funds must be entered in the register [*of associations*] [*of non-profit organizations*] in accordance with methods defined by law.

The application for registration shall mention the name and purpose of the non-profit association or organisation.

The initial application for registration shall include the names, surnames, address and telephone numbers of all persons given responsibility for the operations of the association, particularly the President, Vice-President, Secretary General, Members of the Board of Directors, and Treasurer, as applicable. Any change in the identity of those officers must be reported to the authority in charge of the register.

Article 43: Donations

The State (*name of the country adopting this law*) shall ensure that any donation made to an association or organization indicated in the preceding article in an amount equal to or exceeding... .. determined by decree is entered in a register maintained for that purpose by the association or organization, containing the full details on the donor, the date, the nature, and the amount of the donation. The record shall be kept for a minimum period of five years and submitted upon the request of any authority responsible for the oversight of non-profit organizations and, when requested, to judicial police officials responsible for a criminal investigation.

Article 44: Mandatory Statements

Any cash donation of an amount equal to or exceeding shall be indicated in a statement to be filed with the Financial Intelligence Unit.

Every donation shall also be indicated in a statement filed with the Financial Intelligence Unit when funds are suspected of being related to a terrorist operation or the financing of terrorism.

Article 45: Accounting and bank accounts

Non-profit associations or organizations shall keep accounts in accordance with the standards in force and submit their financial statements for the preceding year to the authorities designated for this purpose within six months following the closure of their financial year.



Non-profit associations or organizations shall deposit in a bank account at an authorized banking institution all sums of money that are submitted to them as donations or in the context of the transactions they are called upon to carry out.

Article 46: Temporary Suspension , Ban , and Dissolution of Associations

Notwithstanding the conduct of criminal proceedings, the Minister of the Interior may, by administrative ruling, order a temporary suspension of, or ban on, or the dissolution of non-profit associations or organizations that, with full knowledge of the facts, encourage, promote, organize, or commit the offences referred to under Article 2 of this law.

Article 47: Sanctions

47.1 Any violation of the provisions of this chapter shall be punished by one of the following sanctions:

- (a) a fine three-fold the amount of funds received;
- (b) a temporary ban on the activities of the association or organisation for a maximum period of five years;
- (c) the dissolution of the association or organization.

47.2 The directors and other senior officers of such associations or organizations shall be liable to imprisonment and fines.

CHAPTER II - ALTERNATIVE REMITTANCE SYSTEMS

Article 48: Registration procedures

The State (*name of the country adopting the law*) shall undertake to ensure that any individual or corporate entity not licensed as a financial institution in the sense, of the banking law, or any intermediary empowered in the sense of the regulation for external financial relations or any other applicable law, carry out for the benefit or on behalf of another person or corporate entity, operations to transfer funds or assets in accordance with the following paragraph as a main or essential activity, on a regular or periodical basis, or in addition to another activity, must be authorized or entered in a register used for this purpose by the competent Authority designated to this effect. (*Services of the Treasury or one of its sections, or the Financial Intelligence Unit*).



Article 49: Obligations

Alternative Remittance Systems shall meet the requirements binding on financial institutions with regard to money laundering, in particular the requirements concerning the identification of clients, vigilance, suspicious transactions reports, the keeping and communication of records and documents. They shall also keep updated lists of their agents and make them available to the competent authorities upon request.

Countries shall designate a competent authority to register/licence natural and legal persons that perform value transfer operations.

Countries shall also put in place systems to ensure that the licensing/registration requirements are complied with.

Article 50: Sanctions

- Civil, criminal or administrative sanctions, depending on the seriousness of the offence, shall be inflicted upon persons who carry out alternative remittance operations without being entered in the register referred to under Article 48 of this chapter or licensed. The same sanctions shall be applicable to those who fail to comply with the requirements.
- An attempt to commit an offence referred to in the preceding paragraph shall be punished as if the crime itself had been committed.
- Complicity shall be punished like the offence itself.
- Legal entities may, in addition, be:

- a) prohibited permanently or for a maximum period of five years from directly or indirectly engaging in certain professional activities;
- b) ordered to close permanently or for a maximum period of five years their premises that were used for the commission of the offence;



- c) dissolved if they were created for the purpose of committing the offence;
- d) ordered to pay a maximum fine of.....

CHAPTER III - INFORMATION ACCOMPANYING WIRE TRANSFERS

Article 51: Characteristics of Wire Transfers

Wire transfers as defined in Title I, Article 1, may be cross-border (where the financial institutions of the principal and the beneficiary are located in different countries), or national (where the financial institution of both the principal and the beneficiary are in the same country).

Article 52: Information Accompanying Wire Transfers

The Financial institution of the principal shall ensure that:

- all cross-border wire transfers shall be accompanied by accurate information on the principal, particularly on his or her name, and, as applicable, his or her account number. It must also include the address or number of the national identity card or client identification number or date of birth of the principal.
- the information needed for the principal's identification must be kept for all wire transfers and shall be made available to the financial institutions of the principal and the Authorities upon request.

- where the information on the principal accompanying the wire transfer is missing or incomplete, the financial institution shall request the sending institution to provide the missing information and must refuse to accept the transfer if, after verification it finds out that information is not satisfactory. If need be, the financial institution must report to the Financial Intelligence Unit.



Article 53: Sanctions

Financial Institutions which fail to comply with the regulation and requirements binding on suspicious transaction reporters shall be liable to civil, administrative or criminal sanctions depending on the seriousness of the infraction.

CHAPTER IV - MONEY CARRIERS

Article 54: Transport specificities

As physical cash and negotiable or bearer instrument transfers may be, in view of the porous borders in Africa, a convenient means for terrorists to provide money for their networks, measures must be taken to prevent their use for that purpose.

54.1 Close watch and Control Obligation

- Physical cross border transfers shall be subject to close watch and control through realistic measures to be introduced by the State in order to prevent their use for terrorism financing purposes.
- Nevertheless, the use of the system implemented must be strictly limited to detecting suspicious transactions and not be an impediment to the free flow of capital or to compliance with change regulations.

54.2 Obligation of Identification, Declaration and Justification

- Physical cash transfers amounting to or above shall be systematically declared and justified by the carrier at border offices.

- The competent Authority of (*the country which adopts this law*) shall submit the carrier to mandatory identification and request from him or her, if need be, additional information as to the origin of the cash money and negotiable or carrier instruments, and as to the purpose of their use when the amount exceeds..... ..



- If the competent authority suspects terrorism financing or false declarations, it shall take the necessary steps to communicate all information relating to the suspected transaction to the Financial Intelligence Unit, and be able to prevent, for a given period, the transfer of the money and negotiable or carrier instruments in order to achieve the necessary verifications.
- The competent authority shall have power to retain cash or negotiable instruments suspected of being linked to the financing of terrorism for purposes of investigation. The competent authority shall also have power to confiscate cash or negotiable instruments seized in violation of the reporting obligation.
- Any cash or negotiable instrument suspected of being related to the financing of terrorism shall be reported to the Financial Intelligence Unit.

54.3 Sanctions

Any failure to comply with the requirements specified under Articles 54.1 and 51.2 shall be liable to civil, criminal and administrative sanctions according to the texts in force, particularly the confiscation of the cash-money being carried.

TITLE VIII - FINAL PROVISIONS

Article 55 : Notification of the Supervising Authority of the judicial proceedings carried on against suspicious transaction reporters under their responsibility

The Public Prosecutor shall notify every competent Supervising Authority of the judicial proceedings against the suspicious transaction reporters under their responsibility as provided for under this law.

Article 56 : Effective date of the Law

This law shall become effective from its promulgation.

Done and adopted
name of the Country: _____

Date: _____