

(Unofficial translation by the Financial and Capital Market Commission)

Text consolidated with amending laws of

12 December 2008;
01 December 2009;
10 December 2009.

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing

Chapter I General Provisions

Article 1. Terms Used in this Law

The following terms are used in this Law:

- 1) funds** – financial resources or assets of any other kind, whether corporeal or incorporeal, movable or immovable;
- 2) financial resources** – financial instruments or payment instruments (cash or non-cash), documents (on paper or in an electronic form) that are held by a person either in ownership or possession and entitle the person to any benefit thereof, as well as precious metals in ownership or possession;
- 3) business relationship** – a relationship between a person subject to this Law and a customer that is initiated as a result of the economic or the professional activities of the person subject to this Law and has an element of duration at the establishment of the relationship;
- 4) customer** – a legal or a natural person or an association thereof to which a person subject to this Law provides services or sells goods;
- 5) beneficial owner** – a natural person:
 - a) who owns or directly or indirectly controls at least 25 percent of the share capital or voting rights of a merchant or exercises other control over the merchant's operation,
 - b) who, directly or indirectly, is entitled to the property or exercises a direct or an indirect control over at least 25 percent of a legal arrangement other than a merchant. In the case of a foundation, a beneficial owner shall be a person or a group of persons for whose benefit the foundation has been set up. In the case of political parties, societies and cooperative societies, a beneficial owner shall be the respective political party, society or cooperative society,
 - c) for whose benefit or in whose interest a business relationship is established,

d) for whose benefit or in whose interest a separate transaction is made without establishing a business relationship in the meaning of this Law;

6) credit institution – a bank or an electronic money institution registered in the Republic of Latvia, another member state or a third country, or a branch or a representative office of a bank or an electronic money institution of a member state or a third country;

7) financial institution – a merchant, a branch or a representative office registered with the commercial register or a merchant (other than a credit institution) registered with the respective register of another member state or a third country that has been established to provide one or several financial services as defined by the Credit Institution Law. A financial institution shall be:

- a) an insurance merchant that provides life insurance and a private pension fund,
- b) a life insurance intermediary,
- c) an investment brokerage firm,
- d) an investment management company,
- e) a capital company that engages in buying and selling cash foreign currency,
- f) other duly authorised provider of money transmission and remittance services;

8) legal arrangement – a legal person or an association of persons with an independent legal capacity and capability;

9) external accountant – a person that agrees to provide or provides accounting services to a customer on the basis of a written contract (except a job contract) with the customer;

10) legal arrangement and company service providers – a legal or a natural person that has a business relationship with a customer and provides the following services:

- a) assists in establishing a legal arrangement,
- b) acts as or arranges for another person to act as a director or a secretary of a merchant or other legal arrangement, a partner of a partnership or in a similar position,
- c) provides a registered office address, a correspondence address, a business address, and other similar services to a legal arrangement,
- d) acts or arranges for another person to act as a trustee in accordance with an express authorisation or a similar legal document,
- e) represents or arranges for another person to represent a shareholder or a member of a commercial company whose financial instruments are not listed on a regulated market, and who is subject to disclosure requirements in conformity with the European Union legislative provisions or equivalent international standards;

11) member state – a Member State of the European Union or a country of the European Economic Area;

12) third country – a country other than a member state;

13) supervisory and control authority – a public institution or a professional organisation taking measures to supervise and control the compliance with the requirements of this Law;

14) list of indicators of unusual transactions – a list approved by the Cabinet of Ministers containing the indicators of transactions that may evidence a possible laundering of proceeds from criminal activity (money laundering), terrorist financing or an attempt thereof;

15) shell bank – a credit institution, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and is not providing financial services, and which has no supervisory authority. Persons shall be considered a shell bank when they provide services equivalent to those of a credit institution, provide money remittance services on order of third persons, and which have no supervisory and control authority except the cases when such remittances are provided by electronic money institutions or they are provided within a group of commercial companies that are treated as such by the Law on Financial Conglomerates or among commercial companies that have the same beneficial owner;

16) unusual transaction – a transaction corresponding to at least one indicator from the list of indicators of unusual transactions;

17) suspicious transaction – a transaction that gives rise to suspicion of laundering of proceeds from criminal activity (money laundering) or of terrorist financing or an attempt thereof, or of any other criminal offence related thereto.

Article 2. Purpose of this Law

This Law aims at preventing laundering the proceeds from criminal activity (money laundering) and terrorist financing.

Article 3. Persons Subject to this Law

(1) This Law shall apply to the following persons engaging in economic or professional activity:

- 1) credit institutions;
- 2) financial institutions;
- 3) tax advisors, external accountants, sworn auditors un commercial companies of sworn auditors,
- 4) sworn notaries, sworn advocates, other independent legal professionals when they act in the name and for the benefit of their customers to assist in the planning and execution of a transaction, to participate in any transaction or to perform other professional activity related to transactions for the benefit of their customer in the following cases:
 - a) buying or selling of real estate, shares in the capital of a commercial company,
 - b) managing a customer's money, financial instruments and other funds,
 - c) opening or managing all kinds of accounts with credit institutions or financial institutions,
 - d) creating, managing or ensuring the operation of legal arrangements, making investments necessary for creating, managing or ensuring the operation of legal arrangements;
- 5) legal arrangement and company service providers,
- 6) persons acting in the capacity of agents or intermediaries in real estate transactions,
- 7) organisers of lotteries and gambling,
- 8) persons providing money collection services,

9) other legal or natural persons involved in trading real estate, transport vehicles, items of culture, precious metals, precious stones and articles thereof or other goods, acting as intermediaries in the said transactions or providers of services, where the payment is made in cash in lats or another currency in the amount equivalent to or exceeding 15 000 euros at the exchange rate set by the Bank of Latvia on the transaction day, whether the transaction is executed in a single operation or several linked operations. Where the transaction is made in a foreign currency whose official exchange rate is not set by the Bank of Latvia, the exchange rate that is published on the first business day of the current week in the information source indicated by the Bank of Latvia shall be used for the calculation.

(2) The person subject to this Law shall ensure that its structural units, branches, representative offices and subsidiaries in third countries, when providing financial services, comply with the requirements equivalent to the requirements established in this Law as to customer identification, due diligence and record keeping without prejudice to the legal norms and generally accepted practice of the respective country.

(3) Where the regulatory provisions of a third country prevent from observing the requirements that are equivalent to those of this Law as to customer identification, due diligence and record keeping, the person subject to this Law shall notify to this effect the supervisory and control authority in the Republic of Latvia and ensure that additional measures are taken to mitigate the risks related to the prevention of laundering the proceeds from criminal activity (money laundering) and of terrorist financing.

(4) In order to prevent the activities related to laundering the proceeds from criminal activity (money laundering) and terrorist financing, the persons not indicated in Paragraph 1 hereof, including public institutions, derived public persons and institutions thereof shall also have a duty to comply with the requirements of this Law as to reporting unusual or suspicious transactions. Legal defence mechanisms applied to the persons subject to this Law shall apply to the persons indicated in that Paragraph.

Article 4. Proceeds from Criminal Activity

(1) The proceeds shall be recognised as derived from criminal activity where:

- 1) a person, directly or indirectly, acquires ownership or possession of them as a result of a criminal offence, [10 December 2009]
- 2) in other cases specified by the Criminal Procedure Law.

(2) “Proceeds from criminal activity” shall mean “criminally acquired property and financial resources” as used in the Criminal Procedure Law.

(3) In addition to the property and resources as set out in the Criminal Procedure Law, the proceeds from criminal activity shall also mean the funds that belong to a person or that are, directly or indirectly, controlled by a person who:

- 1) is included in the list of persons who are suspected of being involved in terrorist activities that is compiled by countries or international organisations recognised by the Cabinet of Ministers;

2) may reasonably be suspected of the execution of or participation in a terrorist-related criminal offence on the basis of information available to bodies performing investigatory operations, pre-trial investigation institutions, the Office of the Prosecutor or the court.

(4) The Office for the Prevention of Laundering of Proceeds Derived from Criminal Activity (hereinafter, the Financial Intelligence Unit) shall notify the persons subject to this Law and their supervisory and control authorities of the persons referred to in Paragraph 3 hereof.

(5) The proceeds from criminal activity shall be recognised as such in due course of the Criminal Procedure Law.

Article 5. Laundering the Proceeds from Criminal Activity (Money Laundering) and Terrorist Financing

(1) Laundering the proceeds from criminal activity (money laundering) shall mean the following activities provided that they have been committed for concealing or disguising the illicit origin of such proceeds or assisting any other person who is involved in the committing of such activity to evade the legal liability of his/her action:

- 1) converting the proceeds from criminal activity into other valuables, changing their location or ownership;
- 2) concealing or disguising the true nature, source, location, disposition, movement or ownership of the proceeds from criminal activity;
- 3) acquiring the proceeds from criminal activity for ownership, possession or use knowing, at the time of acquiring such rights that the proceeds were derived from criminal activity;
- 4) participating in any of the activities mentioned in Subparagraphs 1, 2 and 3 of Paragraph 1 hereof.

(2) Money laundering shall be recognised as such even where the criminal offence, which is defined by the Criminal Law and results in a direct or indirect acquisition of the proceeds derived thereby, was committed outside the Republic of Latvia and according to the local legislation the person committing such criminal activity is held criminally liable.

(3) Terrorist financing shall mean the activities as defined by the Criminal Law.

Chapter II Internal Control

Article 6. Duty to Establish an Internal Control System

(1) By developing appropriate policies and procedures, any legal person subject to this Law shall establish and document an internal control system for the prevention of money laundering and terrorist financing that is commensurate with its operations.

(2) An internal control system is a set of measures that includes actions for ensuring compliance with legal requirements by allocating adequate resources and training the staff

with the aim of averting, to the extent possible, the involvement of a person subject to this Law in money laundering or terrorist financing.

(3) When establishing an internal control system, credit institutions, insurance companies and investment brokerage firms shall follow the requirements for the establishment of the internal control system as set out in the Credit Institution Law, the Law on the Financial Instruments Market, Law on Insurance Companies and Supervision Thereof and the regulatory provisions developed by reference to these laws.

(4) The requirements of Paragraphs 1, 2 and 3 of this Article shall not apply to the persons subject to this Law as referred to in Subparagraph 9 of Paragraph 1 of Article 3 hereof.

Article 7. Internal Control System

(1) When developing an internal control system, a person subject to this Law shall establish at least the following:

- 1) the customer identification procedure;
- 2) the procedure for money laundering and terrorist financing risk assessment as to a customer, his/her country of residence (registration), economic or personal activity, services used and transactions made;
- 3) the procedure and scope of customer due diligence based on the money laundering and terrorist financing risk assessment carried out by the persons subject to this Law to fulfil the minimum requirements of customer due diligence as set out in this Law and other regulatory provisions;
- 4) the procedure whereby a customer's transactions are monitored based on the money laundering and terrorist financing risk assessment carried out by the persons subject to this Law;
- 5) the procedure whereby unusual and suspicious transactions are identified and the procedure whereby any person subject to this Law refrains from executing a suspicious transaction;
- 6) the procedure whereby unusual and suspicious transactions are reported to the Financial Intelligence Unit;
- 7) the procedure whereby data and records on customer identification, due diligence and transaction monitoring are stored;
- 8) the rights, duties and responsibility of the staff while observing the requirements of this Law.

(2) The Financial and Capital Market Commission shall establish the methodology for assessing the risks associated with money laundering and terrorist financing to be followed by credit institutions and financial institutions, excluding capital companies that buy and sell cash foreign currency.

(3) In addition to the requirements set out in Paragraph 1 hereof, credit institutions and financial institutions, excluding capital companies that buy and sell cash foreign currency, shall establish the reporting duty of the person responsible for the prevention of money laundering and terrorist financing, on a regular basis, to the board on the functioning of the internal control system preventing money laundering and terrorist financing in the respective credit institution or financial institution.

Article 8. Improving the Internal Control System

A person subject to this Law shall assess the efficiency of the internal control system on a regular basis in view of additional risks that may arise as a result of the introduction and development of new technologies and, if necessary, take measures to improve the efficiency of the internal control system.

Article 9. Staff Training

A person subject to this Law shall ensure that its employees who are responsible for compliance with this Law are aware of the risks associated with money laundering and terrorist financing, know the regulatory provisions on preventing money laundering and terrorist financing, and train its employees on a regular basis to improve their skills in identifying indicators of unusual transactions and suspicious transactions and accomplishing the measures prescribed by the internal control system.

Article 10. Appointing the Employees Responsible for Compliance with the Law

(1) A legal person subject to this Law shall appoint a structural unit or one or several employees to be entitled to take decisions and be directly responsible for compliance with this Law. Within 30 days after obtaining the status of a person subject to this Law, the person subject to this Law shall make a notification about appointing such structural unit or employee to the Financial Intelligence Unit and its supervisory and control authority.

(2) In addition to the requirements set out in Paragraph 1 hereof, credit and financial institutions, excluding capital companies that buy and sell cash foreign currency, shall appoint a board member who shall be responsible for the prevention of money laundering and of terrorist financing in the respective credit or financial institution.

(3) A legal person subject to this Law, its supervisory and control authority, the Financial Intelligence Unit and officials and employees thereof shall be prohibited from disclosing to third persons any data available to them about the persons or employees of the structural units referred to in Paragraph 1 hereof.

(4) A person that is responsible for ensuring compliance with this Law in a credit institution or an insurance merchant that provides life insurance shall not have been convicted for committing a crime.

Chapter III Customer Identification and Due Diligence

Article 11. Duty to Identify Customer

(1) A person subject to this Law shall identify a customer before establishing a business relationship.

(2) The person subject to this Law shall also identify a customer before each occasional transaction when not establishing the business relationship within the meaning of this Law where:

1) the amount of a transaction or the total amount of several apparently linked transactions is equivalent to 15 000 euros or more at the exchange rate set by the Bank of Latvia on the transaction day;

2) a transaction corresponds to at least one of the indicators in the list of unusual transactions or gives rise to a suspicion of money laundering, terrorist financing or an attempt thereof;

3) there are doubts about the veracity of the previously obtained identification data .

(3) Where at the execution of a transaction it is not possible to establish whether the amount of the transaction will be equivalent to 15 000 euros or more, a customer shall be identified as soon as it becomes known that the amount is equivalent to 15 000 euros or more at the exchange rate set by the Bank of Latvia on the transaction day.

(4) Where the risks associated with money laundering and terrorist financing are low and no enhanced customer due diligence is needed according to this Law and in order not to interrupt the normal conduct of a transaction, a customer may be identified and the beneficial owner established at inception of the business relationship, as soon as this becomes possible, but prior to executing the first transaction.

(5) Where no enhanced customer due diligence is needed according to this Law, an insurance merchant that provides life insurance and a life insurance intermediary shall be entitled to identify a customer and establish the beneficial owner after the establishment of a business relationship or prior to the payment of the insurance premium, or before the beneficiary of the insurance premium has enforced the rights established in the insurance policy.

Article 12. Identification of Natural Persons

(1) Natural persons shall be identified by verifying their identity on the basis of a personal identification document in which the following information is provided:

1) regarding a resident: the name, the surname, the personal identity number;

2) regarding a non-resident: the name, the surname, the date of birth, the number of the personal identification document and the date of issue, the issuing country and the authority which issued the document .

(2) Natural persons, non-residents, who have personally appeared before the persons subject to this Law in Latvia shall be identified only by the document valid for immigration into Latvia .

(3) Natural persons, non-residents, who have not personally appeared before the persons subject to this Law in Latvia (non face-to-face customers) shall be identified in their country of residence by using the domestic passport of the respective country, other document that evidences the person's identity and is accepted by the respective country or a document that is valid for immigration into the country where the person is being identified.

(4) Sworn notaries shall identify natural persons in due course of the Notariate Law.

Article 13. Identification of Legal Persons

(1) Legal persons shall be identified by requesting that they:

- 1) produce documents evidencing their establishment or legal registration;
- 2) notify of the registered office address of the customer;
- 3) identify the persons entitled to represent them in the relationship with the person subject to this Law; a document evidencing the rights of those persons to represent the legal person or a copy such document shall be obtained.

(2) A person subject to this Law shall be entitled to identify a legal person by obtaining the information required in Paragraph 1 hereof from a publicly available source that is reliable and independent.

(3) Sworn notaries shall identify legal persons in due course of the Notariate Law.

Article 14. Making Copies of Personal Identification Documents

(1) At inception of a business relationship or executing the transactions referred to in Article 11 hereof, a credit institution and a financial institution shall make copies of the documents on the basis of which a customer was identified.

(2) Where the information identifying a customer, a legal person, was obtained in the manner set out in Paragraph 2 of Article 13 hereof, the credit institution and the financial institution shall make records of the information referred to in Paragraph 1 of Article 13 hereof and of the information sources.

Article 15. Prohibition from Keeping Anonymous Accounts

Credit institutions and financial institutions shall be prohibited from opening and keeping anonymous accounts (of customers that have not been identified).

Article 16. Duty to Apply Customer Due Diligence Measures

A person subject to this Law shall apply customer due diligence measures in the following cases:

- 1) before establishing a business relationship, including before opening an account and accepting money or other funds for keeping or possession;
- 2) when there is a suspicion of money laundering or of terrorist financing, regardless of the exemptions referred to in Articles 26 and 27 hereof;
- 3) when there are doubts about the veracity of previously obtained customer identification data.

Article 17. Customer Due Diligence

(1) In the framework of a business relationship, customer due diligence is a set of measures based on risk assessment whereby the person subject to this Law:

- 1) establishes information on the beneficial owner;
- 2) obtains information on the purpose and intended nature of the business relationship;
- 3) after entering into the business relationship monitors the business relationship;
- 4) ensures that the documents, data and information obtained during customer due diligence are properly kept and updated on a regular basis.

(2) When establishing the extent and the procedure of customer due diligence, a person subject to this Law shall take into account the risks associated with money laundering and terrorist financing in respect of a customer's residence (registration) country, legal form, type of operation, services used or transactions made.

(3) The obligations set out in this Law in respect of customer due diligence shall apply to a legal arrangement irrespective of whether it has the status of a legal person.

Article 18. Establishing the Beneficial Owner

(1) A person subject to this Law shall establish the beneficial owner:

- 1) for customers, legal persons, to which enhanced customer due diligence shall apply;
- 2) for all customers where it is known or there is a suspicion that the transaction is executed in the interest or on order of another person.

(2) A person subject to this Law shall establish the beneficial owner by obtaining the information referred to in Paragraph 1 of Article 12 hereof in one of the following ways:

- 1) obtaining a statement signed by the customer about the beneficial owner;
- 2) using data or documents from information systems of Latvia or of other countries;
- 3) establishing itself the beneficial owner in cases when data on the beneficial owner cannot be obtained otherwise.

Article 19. Obtaining Information on the Purpose and Intended Nature of the Business Relationship

At inception of a business relationship, a person subject to this Law, based on the money laundering and terrorist financing risk assessment, shall obtain and make records of information on the purpose and intended nature of the business relationship, including information on the services that the customer intends to use, the origin of the customer's funds, the intended number and volume of transactions, the customer's economic or personal activity for which the customer will use the respective services.

Article 20. Monitoring a Business Relationship after Its Establishment

(1) After establishing a business relationship, a person subject to this Law, based on the money laundering and terrorist financing risk assessment, shall perform the following:

- 1) update information on a customer's economic or personal activity;
- 2) monitor transactions on a regular basis to ensure that they are not unusual or suspicious.

(2) When monitoring a business relationship, any person subject to this Law shall pay particular attention to the following:

- 1) unusually large and complex transactions or mutually linked transactions, which have no apparent economic or visible lawful purpose, and are not typical for a customer;
- 2) transactions involving persons from third countries that, in accordance with the opinion of international organisations, shall be considered as countries and territories where there are no effective regulatory provisions for combating money laundering and terrorist financing or that have refused to cooperate with international organisations in the area of preventing money laundering and terrorist financing.

Article 21. Prohibition from Cooperating with Shell Banks

(1) A person subject to this Law shall be prohibited from executing transactions with shell banks.

(2) The establishment and operation of shell banks shall be prohibited in the Republic of Latvia.

Article 22. Enhanced Customer Due Diligence

(1) Enhanced customer due diligence are activities that are based on the risk assessment and are carried out in addition to customer due diligence, with the aim of:

- 1) establishing the beneficial owner and making sure that the person indicated as the beneficial owner in accordance with Article 18 hereof is the beneficial owner of the customer;
- 2) ensuring enhanced monitoring of the customer's transactions.

(2) A person subject to this Law shall perform enhanced customer due diligence in the following cases:

- 1) at inception of a business relationship with a customer who has not been physically present during the identification procedure (non-face to face customers);
- 2) at inception of a business relationship with a politically exposed person;
- 3) when starting cross-border credit institution relationship with respondents from third countries.

(3) For the purposes of this Law, a politically exposed person (PEP) is a natural person who:

- 1) is entrusted with one of the following prominent public functions in another member state or a third country: the head of the state, a member of the parliament, the head of the government, a minister, a deputy minister or an assistant minister, a state secretary, a judge of the supreme court, a judge of the constitutional court, a board or a council member of the court of auditors, a member of the council or of the board of a central bank, an ambassador, a *chargé d'affaires*, a high-ranking officer of the armed forces, a member of the council or of

the board of a state-owned capital company, as well as a person who has resigned from the position of a prominent public function within one year;

2) is a parent, a spouse and a person equivalent to a spouse, a child, his/her spouse or a person equivalent to a spouse of the persons referred to in Paragraph 1 hereof. A person shall be treated as equivalent to a spouse provided that the laws of the respective country contain a provision for such status;

3) is publicly known to have a business relationship with any person referred to in Paragraph 1 hereof or a joint ownership with such person of the share capital in a commercial company, and a natural person that is a sole owner of a legal arrangement that is known to be established for the benefit *de facto* of any person referred to in Paragraph 1 hereof;

(4) Credit institutions and financial institutions that are supervised by the Financial and Capital Market Commission in accordance with this Law shall also perform enhanced customer due diligence in respect of the categories of customers established by the Commission.

(5) For credit institutions and financial institutions that are supervised by the Financial and Capital Market Commission in accordance with regulatory provisions, the Commission shall establish the minimum extent of the enhanced customer due diligence in respect of various categories of customers, the procedure for enhanced monitoring of customer transactions, and the indicators for the services provided by the credit and financial institutions and for the customer transactions that require enhanced customer due diligence when credit institutions and financial institutions uncover them.

Article 23. Physical Absence of a Customer during the Identification Procedure (Non-Face to Face Customers)

(1) Where at inception of a business relationship a customer has not been identified by a person subject to this Law, its employee or authorised person, the person subject to this Law shall take any of the following steps:

1) obtain additional documents or information evidencing the customer's identity;

2) perform additional verification or certification of submitted documents or obtain a statement of a credit institution or a financial institution registered in another member state to the effect that the customer has a business relationship with that credit institution or financial institution;

3) ensure that the first payment in the course of the business relationship is carried out through an account opened in the customer's name with a credit institution to which the requirements of this Law or of the European Union legislative provisions on the prevention of money laundering and of terrorist financing apply;

4) require that the customer is present when executing the first transaction.

(2) When a person other than an employee of the person subject to this Law is authorised to identify a customer, the person subject to this Law shall be responsible that the customer identification is performed in accordance with the requirements of this Law.

Article 24. Cross-Border Correspondent Banking Relationship

(1) At inception of a correspondent banking relationship with a credit institution and an investment brokerage firm (respondent institution) that are registered and operate in a third country, a credit institution shall take the following measures:

- 1) gather information on the respondent institution to understand fully the nature of its business and determine from publicly available information its reputation and the quality of supervision;
- 2) assess the respondent institution's controls for the prevention of money laundering and of terrorist financing when starting a business relationship;
- 3) obtain approval from the board or a specially authorised member of the board before starting a new correspondent relationship;
- 4) document the responsibilities of each institution in respect of the prevention of money laundering and of terrorist financing;
- 5) ascertain that the identity of the customers who have direct access to the accounts of the correspondent financial institution ("payable-through accounts") is verified and the enhanced customer due diligence measures are performed and the respondent institution is able to provide relevant customer due diligence data upon request .

(2) A credit institution shall ensure that it does not enter into, or continue, correspondent banking relationship with a credit institution or an investment brokerage firm that are known to have a business relationship with shell banks.

Article 25. Business Relationship with a Politically Exposed Person

(1) At inception of a business relationship with a customer, a person subject to this Law, on the basis of the procedures based on risk assessment, shall determine whether the customer or the beneficial owner of the customer is a politically exposed person (PEP).

(2) On the basis of risk assessment, the internal control system of a person subject to this Law shall ensure the possibility to determine that a customer that was not a PEP at inception of a business relationship becomes a PEP after the establishment of the business relationship.

(3) Where a customer or a beneficial owner of the customer is a PEP, a person subject to this Law shall take the following measures:

- 1) obtain approval from the board or a specially authorised member of the board before entering into a business relationship. The condition referred to in this Paragraph shall apply to the legal persons subject to this Law;
- 2) take measures and make records thereof to determine the origin of the customer's money or other funds used in his/her transactions.

(4) When maintaining a business relationship with a PEP, a person subject to this Law shall monitor the customer's transactions on a regular basis.

Article 26. Exceptions to Customer Due Diligence

(1) A person subject to this Law shall be entitled not to apply customer due diligence in the cases when a customer is :

- 1) a credit institution or a financial institution registered in the Republic of Latvia or a member state, except a capital company that buys and sells cash foreign currency, or a provider of money transmission and remittance services;
- 2) a credit institution or a financial institution (except capital companies that buy and sell cash foreign currency, and providers of money transmission and remittance services) that is registered in a third country which imposes requirements equivalent to those of the European Union regulatory provisions with respect to the prevention of money laundering and of terrorist financing;
- 3) the Republic of Latvia, a derived public person, an institution of the Republic of Latvia or of an indirect administration or a capital company controlled by the central or a local government representing a low risk of money laundering and of terrorist financing;
- 4) a merchant whose shares are admitted to trading on the regulated market of one or several member states or of a third country, where the information disclosure requirements applying to that merchant are equivalent to those of the European Union legislative provisions;
- 5) a person in whose name acts a notary or other independent legal professional from a member state or a third country that imposes requirements equivalent to those of the European Union legislative provisions for the prevention of money laundering and of terrorist financing, provided that these persons are supervised for compliance with those requirements and information about this person is available upon request of the person subject to this Law with whom a business relationship is started;
- 6) any other person that represents a low risk of money laundering and of terrorist financing.

(2) The customers referred to in Subparagraphs 3 and 6 of Paragraph 1 hereof shall be regarded as representing a low risk of money laundering and of terrorist financing, where they meet the following criteria:

- 1) they have performed public administration assignments in accordance with the European Union legislative provisions;
- 2) the information identifying them is publicly available, transparent and reliable;
- 3) both their operations and accounting methods are transparent;
- 4) at the European Union or a member state level, there are procedures whereby their operations are controlled.

(3) In other cases not referred to in Paragraph 2 hereof customers shall be recognised as representing a low risk of money laundering and terrorist financing, provided that they comply with the following criteria:

- 1) they are persons subject to this Law;
- 2) the information identifying them is publicly available, transparent and reliable;
- 3) the persons providing financial services have a licence (permit) for the provision of financial services;
- 4) the persons are subject to the supervision by competent public authorities in respect of the compliance of their operations with regulatory provisions.

(4) The Cabinet of Ministers shall approve the list of third countries and territories that impose the requirements for the prevention of money laundering and of terrorist financing that are in line with the requirements of the European Union legislative provisions. [10 December 2009]

(5) When taking a decision not to perform customer due diligence, a person subject to this Law shall obtain information and make records to the effect that the customer complies with the exemptions listed in Paragraph 1 hereof.

(6) In the cases mentioned in Paragraph 1 hereof a person subject to this Law shall be entitled not to comply with the requirements of Paragraph 1 of Article 14 hereof.

Article 27. Special Exemptions from Customer Due Diligence

(1) Insurance merchants that provide life insurance and insurance intermediaries shall be entitled not to apply customer due diligence in respect of life insurance policies, where the annual insurance premium does not exceed an amount that, at the exchange rate set by the Bank of Latvia on the transaction day, is equivalent to 1 000 euro or a single premium does not exceed 2 500 euros.

(2) Private pension funds shall be entitled not to apply customer due diligence in respect of the contributions to pension plans that may not be used by the customer as collateral and in respect of the contributions to pension plans that are made by way of deduction from wages.

(3) Electronic money institutions shall be entitled not to apply customer due diligence in the following cases:

- 1) the maximum amount stored in an electronic device does not exceed the amount equivalent to 150 euros and the device cannot be recharged,
- 2) where the device can be recharged, the total amount transacted on the electronic device during the calendar year does not exceed the amount equivalent to 2 500 euros.

(4) A person subject to this Law shall be entitled not to apply customer due diligence when providing services that comply with the following indicators:

- 1) a transaction has a written contractual base;
- 2) a transaction is made on a bank account which is opened by a credit institution registered in a member state or a third country and which is subject to the requirements equivalent to those of the European Union legislative provisions in respect of the prevention of money laundering and of terrorist financing;
- 3) a transaction does not comply with the indicators contained in the list of indicators of unusual transactions;
- 4) a transaction does not give rise to suspicion or no information evidencing money laundering, terrorist financing or an attempt thereof is available;
- 5) the total amount of a transaction is less than 15 000 euros at the exchange rate set by the Bank of Latvia as at the transaction day;
- 6) the proceeds from executing a transaction cannot be used for the benefit of third parties, except in the case of death, disablement, survival to a predetermined advanced age, or similar events;
- 7) where, when executing the transaction, it is not possible to convert funds into financial instruments or insurance or other claims, or where the conversion is possible, the following conditions shall be observed:
 - a) proceeds from the transaction are utilised only in a long term (not earlier than in five years),
 - b) the subject of the transaction cannot be used as collateral,

c) during the validity of the transaction no accelerated payments are made, the cession of the right to a claim is not feasible and no early termination takes place.

Article 28. Obtaining the Information Necessary for Customer Due Diligence and a Customer's Liability

(1) To comply with the requirements of this Law, a person subject to this Law shall be entitled to request from customers and customers shall have a duty to provide truthful information and documents necessary for customer due diligence, including information and documents on the beneficial owners, transactions, economic and personal activities of customers and beneficial owners, the financial standing and the origin of money or other funds.

(2) Where a person subject to this Law fails to obtain truthful information and documents that are needed for compliance with the requirements set out in Articles 11 and 17 hereof to the extent that would permit the persons subject to this Law to carry out an inspection on its merits, the person subject to this Law shall terminate the business relationship with the customer and require that the customer meets his/her liabilities before maturity. In these cases the person subject to this Law shall take a decision on terminating the business relationship also in respect of other customers who have the same beneficial owners or requiring these customers to meet their liabilities before maturity.

(3) The requirements set out in Paragraph 2 hereof shall not apply to tax advisors, external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals in the course of defending or representing that customer in pre-trial criminal proceedings or judicial proceedings, or providing advice on instituting or avoiding judicial proceedings.

Article 29. Recognising and Accepting the Results of Customer Identification and Customer Due Diligence

(1) A person subject to this Law shall be entitled to recognise and accept the results of customer identification and customer due diligence performed by credit institutions and financial institutions other than capital companies that buy and sell cash foreign currency and providers of money transmission and remittance services in a member state and a third country provided that the requirements in respect of the prevention of money laundering and of terrorist financing as enforced in these countries are equivalent to those of this Law.

(2) A person subject to this Law shall be entitled to recognise and accept the results of customer identification and customer due diligence as made by credit institutions and financial institutions and referred to in Paragraph 1 hereof, even if the extent of obtained information and underlying documents differ from the requirements of this Law.

(3) A person subject to this Law shall be responsible for compliance with the requirements of this Law also in those cases when customer identification and customer due diligence are made using the results of customer identification and customer due diligence that are

performed by the credit institutions and financial institutions referred to in Paragraph 1 hereof.

(4) Upon request of a person subject to this Law that has been contacted by a customer, the credit institutions and financial institutions referred to in Paragraph 1 hereof shall, without delay, produce to the person subject to this Law all information and copies of documents obtained as a result of customer identification and customer due diligence, where after the receipt of the request the customer's agreement for passing the information and documents referred to in this Article to the person subject to this Law has been obtained.

(5) Reliance of a person subject to this Law on the results of customer identification and customer due diligence shall be without prejudice to the duty to monitor the customer's business relationship on a continuing basis.

Chapter IV

Reporting of Unusual and Suspicious Transactions

Article 30. Reporting Duty

(1) A person subject to this Law shall have a duty:

- 1) to report to the Financial Intelligence Unit any unusual transaction without delay;
- 2) to report to the Financial Intelligence Unit any suspicious transaction without delay;
- 3) within seven days upon receipt of a written request by the Financial Intelligence Unit resulting from report submitted by the subject of the law or bodies and institutions referred to in Article 62 hereof, to provide additional information and documents, necessary for fulfilling its functions as set out in this Law, about the customer or the transaction, the origin and further movement of funds, that has become available to the person subject to this Law in order to comply with this Law. Information and documents on other transactions of that customer may be provided to Financial Intelligence Unit upon request with the agreement of the prosecutor general or specially authorised prosecutor. In view of the extent of the information and documents to be submitted, the deadline for meeting the requirement may be extended with the consent of the Financial Intelligence Unit. [10 December 2009]

(2) The Cabinet of Ministers shall issue provisions establishing the list of indicators of unusual transactions and the procedure whereby unusual and suspicious transactions are reported and approve the reporting form.

(3) The requirements of Paragraph 1 hereof and Chapter V of this Law shall not apply to tax advisors, external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals in the course of defending or representing that customer in pre-trial criminal proceedings or judicial proceedings, or providing advice on instituting or avoiding judicial proceedings.

(4) Reports shall be submitted in writing or electronically.

(5) The Financial Intelligence Unit shall not be entitled to disclose data about the persons reporting unusual or suspicious transactions. This restriction shall not apply to the cases mentioned in Paragraph 1 of Article 56 hereof.

(6) Not later than on the next business day a person subject to this Law shall register the reports submitted to the Financial Intelligence Unit and ensure that supervisory and control authorities have access to these reports.

Article 31. Content of the Report

The report submitted by a person subject to this Law to the Financial Intelligence Unit shall contain the following:

- 1) customer identification data;
- 2) a description of any planned, notified, advised, started, delayed, executed or confirmed transaction and identification data of the persons involved, the transaction volume, the time and place for executing or notifying the transaction, and copies of documents where a person subject to this Law has the documents evidencing the transaction;
- 3) the grounds for considering the transaction suspicious by the person subject to this Law or the indicator of an unusual transaction to which the transaction corresponds.

Chapter V

Refraining from Executing a Transaction and Suspending a Transaction

Article 32. Refraining from Executing a Transaction

(1) A person subject to this Law takes a decision to refrain from executing one or several linked transactions or debit operations of a particular type on the customer's account where the transaction is related or may be reasonably suspected of being related with money laundering or terrorist financing.

(2) A person subject to this Law shall notify the Financial Intelligence Unit of its refraining from executing a transaction without delay, not later than on the next business day in due course of Article 31 hereof.

(2¹) Not later than five business days upon receiving report on refraining from executing a transaction or debit operations of a particular type on the customer's account, the Financial Intelligence Unit shall assess if the decision prescribed in Part one of Article hereof taken by the subject of this law is in line with the law hereof and if the legal restrictions applied is proportional, and shall issue an order for continuing or discontinuing of refraining from executing a transaction or debit operations of a particular type on the customer's account. Financial Intelligence Unit order on discontinuing the refraining from executing a transaction or debit operations of a particular type on the customer's account shall be reasonably grounded. [10 December 2009]

(3) Not later than 40 days of receiving a report about refraining from executing a transaction, but in exceptional cases during an additional term that is established by the prosecutor general

or a specially authorised prosecutor as necessary for receiving the required information from a foreign country – no longer than 40 days, the Financial Intelligence Unit shall take one of the following measures: [10 December 2009]

1) issue an order to suspend the transaction or the particular debit operation on the customer's account where:

a) pursuant to Paragraph 3 of Article 4 hereof money or other funds are recognised as derived from criminal activity. In that case the transaction or the particular debit operation on the customer's account shall be suspended for the time indicated in the order, but no longer than for six months;

b) on the basis of information available to the Financial Intelligence Unit there is a suspicion of committing a criminal offence, including that of money laundering or an attempt thereof. In that case the transaction shall be suspended for the time indicated in the order, but no longer than for 45 days.

2) notify in writing the person subject to this Law to the effect that a further refraining from executing the transaction is not motivated and shall be terminated as there are no grounds for issuing and order referred to in Subparagraph 1 of Paragraph 3 hereof; [10 December 2009]

3) not later than on the 40th day of receiving a report about refraining from executing a transaction, notify in writing the person subject to this Law of the additional term established by the prosecutor general or a specially authorised prosecutor referred to in Paragraph 3 hereof. [10 December 2009]

(4) When receiving the order referred to in Subparagraph 1 of Paragraph 3 hereof, a person subject to this Law shall suspend a transaction or a particular debit operation on the customer's account for the time indicated in the order, notify in writing the customer to this effect and send a copy of the order to the customer explaining the appeal procedure.

(5) The Financial Intelligence Unit shall repeal the order issued in due course of Subparagraph 1 of Paragraph 3 hereof on suspending a transaction or a particular debit operation on the customer's account where the customer provides motivated information on the legal origin of money or other funds. The customer shall submit this information to the person subject to this Law that shall submit it to the Financial Intelligence Unit without delay.

(6) The Financial Intelligence Unit shall be entitled to issue an order to repeal the suspension of a transaction or a particular debit operation on a customer's account before the deadline set out in the initial order.

(7) Where the order is not repealed, the Financial Intelligence Unit shall submit information to pre-trial investigation institutions or the Office of the Prosecutor within 10 business days in due course of Article 55 hereof.

(8) A person subject to this Law shall no longer refrain from executing a transaction or a particular debit operation on a customer's account where:

1) upon expiration of the deadline referred to in Paragraph 3 hereof the person subject to this Law does not have the order issued by the Financial Intelligence Unit to suspend the transaction or the particular debit operation on the customer's account and does not have a written statement about the additional term established by the prosecutor general or a specially authorised prosecutor;

2) has received the written statement referred to in Subparagraph 2 of Paragraph 3 hereof;

3) by the deadline referred to in Subparagraph 1.a) or 1.b) of Paragraph 3 hereof, has not received a decision or an order issued by the pre-trial investigation institution, the Office of the Prosecutor or the court as set out in other regulatory provisions that is a basis for suspending a transaction or a particular debit operation on the customer's account;

4) has received the order issued by the Financial Intelligence Unit on discontinuing the refraining from executing a transaction or debit operations of a particular type on the customer's account referred to in Paragraph 2¹ hereof. [10 December 2009]

Article 33. Orders to the State Information System Manager

(1) In the cases referred to in Subparagraph 1 of Paragraph 3 of Article 32 hereof, the Financial Intelligence Unit shall be entitled to issue an order to the state information system manager to take measures within his/her competence to prevent the re-registration of the property during the time indicated in the order.

(2) The state information system manager shall execute the order without delay and notify the Financial Intelligence Unit of the manner and results of execution.

(3) Where the Financial Intelligence Unit has not repealed the order, it shall submit information to pre-trial investigation institutions or the Office of the Prosecutor in due course of Article 55 hereof within 10 business days of its issuance.

Article 33¹. Targets of the Orders Issued by the Financial Intelligence Unit

(1) Orders issued by the Financial Intelligence Unit referred to in Subparagraph 1 of Paragraph 3 of Article 32 hereof shall refer to illegally obtained means including property arising from the conversion of criminal assets in other values. [10 December 2009]

(2) Where illegally obtained means are partially or in whole added from means obtained from legitimate sources, orders issued by Financial Intelligence Unit refer to the obtained funds and proceeds from legitimate sources of funds in total. [10 December 2009]

(3) Where the funds referred to in the orders issued by the Financial Intelligence Unit in accordance with part one and two hereof generate profit, orders issued by the Financial Intelligence Unit refer to such profit in whole or to the part connected to the illegally obtained means. [10 December 2009]

Article 33². Orders for Transaction Monitoring

The Financial Intelligence Unit in the cases when based on the information received from the subject of this law or as a result of information exchange with the authorities and institutions named in Article 62 hereof a grounded suspicion of a criminal offence arises committed or being committed including money laundering, terrorism financing or an attempt of such activities, with the agreement of the prosecutor general or specially authorised prosecutor issues order for the subject of the law to monitor the transactions on the customer's accounts – up to one month. If necessary, this period can be prolonged by the prosecutor general or specially authorised prosecutor. [10 December 2009]

Article 33³. Order notification to the Land Register office

(1) The orders issued by the Financial Intelligence Unit referred to in Subparagraph 1 of Paragraph 3 of Article 32 hereof are notified to the Land Register office where it falls within the competence of the Land Register. Where the Land Register office has already received a request for corroboration on a voluntary basis of the immovable property included in the Financial Intelligence Unit order before the receipt of the order or during the period stated by the Financial Intelligence Unit, a judge of a Land Register office shall take a decision to suspend the examination of such request for the period stated by the Financial Intelligence Unit. The Land Register office shall forward the decision taken to the Financial Intelligence Unit. [10 December 2009]

(2) Upon the receipt of the order issued by the Financial Intelligence Unit referred to in Subparagraph 1 of Paragraph 3 of Article 32 hereof the Land Register office shall inform in written form the person to whom it applies by sending a copy of the order with the explanation of the appeal procedures. [10 December 2009]

Article 34. The Procedure Whereby Orders of the Financial Intelligence Unit Are Appealed

(1) The orders issued by the Financial Intelligence Unit in the cases laid down by this Law and in compliance with the provisions of this Law may be contested to a specially authorised prosecutor by the deadlines set out in this Law either by persons whose transactions and particular debit operations on accounts have been suspended or a restriction has been issued to the state information system manager or the Land Register office as to the re-registration of the funds belonging to them, or by their authorised representatives. [10 December 2009]

(1¹) The persons to whom the orders issued by the Financial Intelligence Unit referred to in Paragraph 2¹ of Article 32 hereof apply and regarding whose transactions refraining from executing a transaction or debit operations of a particular type continues or the authorised representatives of such persons, as well as the subjects of this Law may contest the orders directly to the specially authorised prosecutor in the deadlines set hereof. [10 December 2009]

(2) The persons referred to in Paragraph 1 and Paragraph 1¹ hereof may contest the decision of a specially authorised prosecutor to the prosecutor general whose decision shall be final. [10 December 2009]

Article 35. Deadlines for the Submission of Complaints

The persons referred to in Paragraph 1 of Article 34 hereof shall be entitled to submit a complaint for an order issued by the Financial Intelligence Unit within 30 days of the day when they receive the copy of the order.

Article 36. Exemption from Refraining from Executing a Suspicious Transaction

(1) Where a person subject to this Law cannot refrain from executing a transaction that may be reasonably suspected to be related to money laundering or terrorist financing, or where refraining from executing such transaction may serve as an indication for the persons involved

in money laundering or terrorist financing to avert from liability, the person subject to this Law shall be entitled to execute the transaction and notify the Financial Intelligence Unit in due course of Article 31 hereof.

(2) Paragraph 1 hereof shall not apply to transactions by persons in respect of which the United Nations Security Council or the European Union established financial restrictions.

(3) A credit institution shall be entitled to make payments from accounts of the persons suspected of committing or participating in a criminal offence related to terrorism or money laundering, where in respect of these accounts the credit institution has taken a decision to refrain from executing particular debit operations or has received an order from the Financial Intelligence Unit to refrain from executing particular debit operations in the cases specified by the European Union legislative provisions.

Chapter VI

Record Keeping and Exempting the Persons Subject to this Law from Liability

Article 37. Keeping and Updating Customer Due Diligence Documents

(1) A person subject to this Law shall make records of customer identification and customer due diligence measures and, upon request of the supervisory and control authority or the Financial Intelligence Unit, shall present these documents to its supervisory or control institutions or submit copies of documents to the Financial Intelligence Unit.

(2) A person subject to this Law shall keep the following for at least five years after the termination of the business relationship:

- 1) copies of documents evidencing customer identification data;
- 2) information about customers and their accounts;
- 3) statements about the beneficial owner;
- 4) correspondence, including by electronic mail;
- 5) other documents, including in an electronic form, obtained during customer due diligence.

(3) In separate cases, upon an order of the Financial Intelligence Unit, the deadline referred to in Paragraph 2 hereof may be extended to more than five years, but it shall not exceed six years.

(4) A person subject to this Law shall be entitled to process electronically the data obtained as a result of customer identification and customer due diligence about customers, their representatives and beneficial owners.

(5) Sworn notaries shall keep customer due diligence documents in accordance with the requirements of the Notariate Law.

Article 38. Prohibition from Disclosing the Fact of Reporting

(1) A person subject to this Law shall be prohibited from notifying the customer, the beneficial owner and other persons, except supervisory and control authorities, to the effect that information about the customer or his/her transaction (transactions) has been submitted to the Financial Intelligence Unit and that this information is or may be analysed or pre-trial criminal proceedings performed in relation to the committing of a criminal offence, including that of money laundering, terrorist financing or an attempt thereof.

(2) The prohibitions referred to in Paragraph 1 hereof shall not apply to information exchange between the persons subject to this Law of member states or third countries that enforce equivalent requirements for the prevention of money laundering and of terrorist financing, where those persons belong to one group. One group shall be a legal arrangement that has a single owner, management or control institution.

(3) The prohibitions referred to in Paragraph 1 hereof shall not apply to information exchange between tax advisors, external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals of a member state or a third country that imposes requirements for the prevention of money laundering and of terrorist financing equivalent to those of this Law, where they perform their professional activities as employees of a single legal person or acting within a single group.

(4) The prohibition referred to in Paragraph 1 hereof shall not apply to credit institutions, financial institutions, tax advisors, external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals in respect of exchange of information in cases when the following conditions exist:

- 1) two or more persons subject to this Law are involved in a transaction;
- 2) one and the same customer is involved in a transaction;
- 3) the persons subject to this Law that are involved in a transaction are registered or operate in a member state or a third country that imposes requirements for the prevention of money laundering and of terrorist financing equivalent to those of this Law;
- 4) the persons subject to this Law that are involved in a transaction belong to the same professional category and exercise equivalent duties in respect of professional secrecy and personal data protection;
- 5) exchanged information is used solely for the prevention of money laundering and of terrorist financing.

Article 39. Permission to Disclose the Fact of Reporting

(1) The person subject to this Law shall be entitled to notify the customer of the fact that it refrained from executing a transaction and notified the Financial Intelligence Unit to this effect as well as notify the customer of the orders issued by the Financial Intelligence Unit referred to in Paragraph 2¹ of Article 32 hereof. [10 December 2009]

(2) The Financial Intelligence Unit shall notify the person subject to this Law:

- 1) either of the fact that information was submitted to pre-trial investigation institutions or the Office of the Prosecutor in due course of Article 55 hereof,
- 2) or of the fact that information referred to in Subparagraph 1 hereof with respect to refraining from executing the transaction cannot be disclosed.

Article 40. Exempting the Persons Subject to this Law from Liability

(1) Compliance with the requirements of this Law by the person subject to this Law shall not be regarded as a breach of the norms governing the professional activity or of the requirements by supervisory and control authorities.

(2) Where, in due course of this Law, a person subject to this Law has reported to the Financial Intelligence Unit in good faith, whether money laundering, terrorist financing or an attempt thereof or other criminal offence related thereto is proven or not during the course of pre-trial criminal proceedings or in the court and irrespective of the provisions of the mutual agreement between a customer and the person subject to this Law, disclosure of information to the Financial Intelligence Unit shall not constitute disclosure of confidential information and shall not incur legal, including civil, liability.

(3) Where a person subject to this Law has refrained from executing a transaction in good faith in accordance with Article 32 hereof, discontinued business relationship or requested fulfilment of liabilities before maturity in accordance with Paragraph 2 of Article 28 hereof, refraining from or delaying a transaction, discontinuing a business relationship or requesting fulfilment of liabilities before maturity shall not incur legal, including civil, liability on the person subject to this Law.

(4) Where tax advisors, external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals prevent the customer from getting involved in a criminal activity, this shall not constitute disclosure of confidential information and shall not incur legal, including civil, liability on the person subject to this Law.

(5) Where the Financial Intelligence Unit has issued an order for the suspension of a transaction in accordance with the requirements of this Law, this shall not incur legal, including civil, liability on the person subject to this Law irrespective of the outcome of the suspension of the transaction.

Chapter VII

Special Provisions Applicable to Credit Institutions and Financial Institutions

Article 41. Availability of the Information Necessary for Compliance with the Requirements of this Law

(1) To assess compliance of a person with the requirements of Paragraph 4 of Article 10 hereof, credit institutions and insurance merchants that provide life insurance shall be entitled to request and, free of charge, receive information from the Penal Register on an employee and a person wishing to start a job-related contractual relationship with the credit institution or the insurance merchant about his/her conviction for a criminal offence, irrespective of whether the conviction is cancelled or removed.

(2) In order to fulfil the duties as set out in this Law, credit institutions and insurance merchants that provide life insurance shall be entitled to request and, free of charge, receive information from the following:

1) the Register of Enterprises of the Republic of Latvia: information on a customer, its beneficial owners and representatives, counterparties to transactions and their beneficial owners, and also on the persons who have expressed willingness to start business relationship with the credit institution or the insurance merchant, their beneficial owners and representatives, on the spouses of those persons and the first degree relatives, to assure of the identity of the customers or their representatives and of the fact that the property status of the customer's beneficial owner evidences that the person might be the beneficial owner of the particular customer, in order to assess the necessity to notify the Financial Intelligence Unit of a suspicious transaction or to refrain from executing a suspicious transaction and to establish whether insolvency proceedings or legal protection proceedings is not instituted against the customer;

2) the State Social Insurance Agency: information on the employer and the social insurance payments for the last five years of a customer, his/her beneficial owners and representatives, of the persons who have expressed willingness to start business relationship with the credit institution or the insurance merchant, their beneficial owners and representatives to assure that the transactions made by those persons are consistent with their income level and that they have submitted truthful information about their job-related contractual relationship to the credit institution or the insurance merchant;

3) the Invalid Documents Register: information on a customer, his/her beneficial owners and representatives, and on a person who has expressed willingness to start business relationship with the credit institution or the insurance merchant, his/her beneficial owners and representatives, to assure that the personal identification documents presented by these persons have not been recognised invalid;

4) the Penal Register: information on the conviction for a criminal offence of an economic nature that has not been cancelled or removed of a customer, his/her beneficial owners and representatives, and of a person who has expressed willingness to start business relationship with the credit institution or the insurance merchant, his/her beneficial owners and representatives, when performing the customer's money laundering and terrorist financing risk assessment and also in cases when the necessity to notify the Financial Intelligence Unit of a suspicious transaction or to refrain from executing a suspicious transaction is assessed;

5) the State Unified Computerised Land Register: information on the real estate belonging or having belonged to a customer and his/her beneficial owner, counterparties to transactions and their beneficial owners, and to a person who has expressed willingness to start business relationship with the credit institution or the insurance merchant, his/her beneficial owners and representatives, spouses of the said persons and the first degree relatives, to assure that the information available to the credit institution or the insurance merchant on the transactions with real estate executed by the customer is in compliance with the information in the land register and that the property status of the customer's beneficial owner evidences that the person might be the beneficial owner of the particular customer as well as in cases when the necessity to notify the Financial Intelligence Unit of a suspicious transaction or to refrain from executing a suspicious transaction is assessed;

6) the State Register of Vehicles: information on the vehicles belonging or having belonged to a customer, his/her beneficial owners, counterparties to transactions and their beneficial owners and to a person who has expressed willingness to start business relationship with the credit institution or the insurance merchant, his/her beneficial owners and representatives, spouses and the first degree relatives of these persons, to assure that the information available

to the credit institution or the insurance merchant on the transactions with vehicles made by the customer is in compliance with the data in the State Register of Vehicles and that the property status of the beneficial owner of the customer evidences that this person might be the beneficial owner of the particular customer;

7) the Population Register: information on the personal identification data (name, surname and personal identity number) of a customer, his/her beneficial owners and representatives, and of a person who has expressed willingness to start business relationship with the credit institution or the insurance merchant, his/her beneficial owner and representatives, to check the identity of these persons and information on the spouses and the first degree relatives of these persons, to assure of their personal identity, establish mutually linked customers and make the assessment of the money laundering and terrorist financing risk.

(3) Information received in due course of Paragraphs 1 and 2 hereof shall be used only to perform the functions as set out in this Law.

Article 42. Rights to Perform Identification after the Opening of an Account

A credit institution shall be entitled to open an account before identifying the customer and establishing the beneficial owner, where, according to the requirements of this Law, it is entitled not to apply enhanced customer due diligence to such customers and it is ensured that a customer cannot make any transactions on the account before the completion of customer due diligence.

Article 43. Discontinuing a Business Relationship

(1) Where it is not possible to identify a customer and establish the beneficial owner as set out in this Law, a credit institution and a financial institution shall be prohibited from servicing the account of such person, establish a business relationship or make any transactions, or they shall discontinue the business relationship and report to the Financial Intelligence Unit where the suspicion of money laundering or of terrorist financing arises.

(2) Where, in the cases referred to in Paragraph 2 of Article 28 hereof, a credit institution on its own initiative discontinues the business relationship with a customer by closing his/her respective accounts, the credit institution or the financial institution, on the customer's order, shall remit the financial resources of these accounts to the customer's current account with another credit institution or to the account from which it previously received the financial resources and notify the Financial Intelligence Unit to this effect.

(3) Where a customer has opened a financial instrument account with a credit institution or a financial institution, the credit institution or the financial institution, in the cases referred to in Paragraph 2 of Article 28 hereof, when discontinuing the business relationship with that customer, shall close the customer's financial instrument account and sell the financial instruments of the account for their market value. The acquired financial resources shall be used by the credit institution or the financial institution as set out in Paragraph 2 hereof.

(4) Where a credit institution and a financial institution discontinues the business relationship with a customer or requests that the customer fulfils the liabilities ahead of maturity in the

cases and according to the procedure set out in this Law, this shall not incur legal, including civil, liability on the credit institution and the financial institution.

Article 44. Information Exchange Among Credit Institutions and Financial Institutions

(1) To achieve the goals of this Law, a credit institution, upon request of a correspondent bank registered in a member state, shall submit to it information and documents acquired during identification and due diligence of customers, beneficial owners or authorised persons in respect of the transaction made with the intermediation of the correspondent bank.

(2) To achieve the goals of this Law, a credit institution and a financial institution shall be entitled, directly or through the intermediation of an institution authorised by them, to exchange information referred to in Paragraph 1 hereof about their customers or persons with whom the business relationship has not been started or has been discontinued in due course of this Law.

(3) No legal, including civil, liability shall be incurred on a credit institution and a financial institution for the disclosure of information as set out in Paragraphs 1 and 2 hereof. The data obtained in due course of Paragraphs 1 and 2 hereof shall be treated as confidential.

(4) To achieve the goals of this Law, a credit institution, a financial institution or its authorised institution shall be entitled to establish, maintain and electronically process personal data, establish and maintain personal data processing systems about customers and persons with whom the business relationship has not been started or has been discontinued in due course of this Law, and about beneficial owners and authorised persons in respect of such persons. In these cases, the rights of the data subject, as referred to in the Law on Safeguarding the Natural Person Data, to request data processing information, including about the goals, recipients, sources, right to access own personal data and request that the data be amended, destroyed, processing discontinued or prohibited, shall not apply.

Chapter VIII

Rights and Duties of a Supervisory and Control Authority

Article 45. The Supervisory and Control Authorities of the Persons Subject to this Law

(1) Compliance of the persons subject to this Law with the requirements of this Law shall be monitored and controlled by the following authorities: [10 December 2009]

1) the Financial and Capital Market Commission in respect of credit institutions, insurance merchants that provide life insurance, private pension funds, life insurance intermediaries, investment brokerage firms, investment management companies and other providers of money transmission and remittance services;

2) the Latvian Council of Sworn Advocates in respect of sworn advocates;

3) the Latvian Council of Sworn Notaries in respect of sworn notaries;

4) the Latvian Association of Certified Auditors in respect of sworn auditors and commercial companies of sworn auditors;

5) the Ministry of Transport in respect of the State joint-stock company "Latvijas Pasts";

- 6) the Bank of Latvia in respect of the capital companies that have a licence issued by it for buying and selling cash foreign currency;
- 7) the Lotteries and Gambling Supervisory Inspection in respect of the organisers of lotteries and gambling;
- 8) [01 December 2009];
- 9) [10 December 2009].

(1¹) Transactions with the items included in the list of state protected cultural heritage monuments are supervised and controlled by the State Inspection for Heritage Protection. [10 December 2009]

(2) The State Revenue Service shall supervise the following persons subject to this Law that are excluded from Paragraph 1 hereof:

- 1) tax advisors, external accountants;
- 2) independent legal professionals when they act in the name of their customers to assist in the planning or execution of a transaction, to participate in any transaction or to perform other professional activity related to transactions or confirm a transaction for the benefit of the customer, and the transaction is:
 - a) buying or selling real estate, an enterprise;
 - b) managing a customer's money, financial instruments and other funds;
 - c) opening or managing all kinds of accounts with credit institutions or financial institutions;
 - d) creating, managing or ensuring the operation of legal arrangements, making investments necessary for creating, managing or ensuring the operation of legal arrangements;
- 3) legal arrangement and company service providers;
- 4) persons acting in the capacity of agents or intermediaries in real estate transactions;
- 5) other legal or natural persons trading in real estate, transport vehicles and other articles, acting as intermediaries in such transactions or providing services in relation to such transactions, where the payment is made in cash in lats or other currency and the amount, at the exchange rate set by the Bank of Latvia on the transaction day, is equivalent to 15 000 euros or more, whether the transaction is made as a single operation or several linked operations. Where the transaction is made in a foreign currency whose official exchange rate is not set by the Bank of Latvia, the exchange rate that is published on the first business day of the current week in the information source indicated by the Bank of Latvia shall be used for the calculation;
- 6) legal or natural persons engaged in trading and intermediation in transactions of precious metals, precious stones and gems and articles thereof. [01 December 2009]

(3) The persons subject to this Law as referred to in Paragraph 2 hereof shall notify in writing the type of their activities to the territorial unit of the State Revenue Service in view of their registered office address or declared residence address within 10 business days of starting their operation .

Article 46. Duties of a Supervisory and Control Authorities

(1) A supervisory and control authority shall have the following duties:

- 1) to list and register the persons subject to this Law to be supervised;
- 2) to train the employees of the persons subject to this Law under its supervision and control in respect of the prevention of money laundering and of terrorist financing;

- 3) in accordance with the established methodology, to perform regular inspections to assess the fulfilment by the persons subject to this Law of the requirements of this Law, take a decision to prepare an inspection statement and apply sanctions where violations are detected;
- 4) to report to the Financial Intelligence Unit unusual and suspicious transactions uncovered during inspections that had not been reported to the Financial Intelligence Unit by the person subject to this Law;
- 5) on request of the Financial Intelligence Unit, to provide it with methodological assistance for fulfilling the functions assigned to it by this Law;
- 6) to apply or urge other competent authorities to apply the sanctions, as set out in other regulatory provisions, for the violation of such provisions and control the measures taken to remedy the violations;
- 7) on its own initiative or on request, to exchange information with foreign institutions whose responsibilities are in essence the same, ensuring data confidentiality and their application only for mutually agreed purposes;
- 8) every year by February 1, to compile and submit to the Financial Intelligence Unit the statistical information on the measures taken in the previous year in respect of the supervision and control of the persons subject to this Law;
- 9) to take the necessary administrative, technical and organisational measures to ensure that the information obtained while fulfilling the requirements of this Law is protected, prevent unauthorised access to information or unauthorised amending, disseminating or destroying of information. The manager of the supervisory and control authority shall establish the procedure whereby information is registered, processed, stored and destroyed. The supervisory and control authority shall keep information for at least five years;
- 10) to exchange information with the supervisory and control authorities of other countries that perform equivalent functions to take measures for reducing the possibility of money laundering and terrorist financing.

(2) The Latvian Council of Sworn Notaries, the Latvian Council of Sworn Advocates and the Latvian Association of Certified Auditors shall exercise supervision and control for the fulfilment of the requirements of this Law pursuant to the procedure set out in the regulatory provisions governing their activities. These organisations shall have the following duties:

- 1) to develop the procedure whereby a set of measures is developed in respect of the persons subject to this Law for ensuring compliance with the requirements of this Law;
- 2) to ensure training for the employees of the persons subject to this Law under its supervision and control in respect of the prevention of money laundering and terrorist financing;
- 3) to apply or urge other competent authorities to apply the sanctions, as set out in other regulatory provisions, for the violation of the requirements of this Law.

Article 47. Rights of a Supervisory and Control Authority

(1) A supervisory and control authority shall have the following rights:

- 1) to visit the premises that belong to or are used by the persons subject to this Law under its supervision or control and are connected with their economic or professional activities and carry out inspections there;
- 2) to request that the persons subject to this Law under its supervision or control submit information related to the fulfilment of the requirements of this Law, request to produce original documents, review and get copies or duplicates thereof, get relevant explanations and

perform activities to prevent or reduce the possibility of money laundering or terrorist financing;

3) to prepare statements evidencing the violations of the requirements of this Law and the facts related thereto;

4) to establish the deadline by which the persons subject to this Law shall remedy the detected violations of the requirements of this Law and control the fulfilment of the remedial measures;

5) to publish statistical information on the violations of the requirements of this Law and sanctions applied;

6) to request that public and derived public person institutions submit any information available to them for the fulfilment of the responsibilities as set out in this Law;

7) to issue proposals to the persons subject to this Law for the fulfilment of their responsibilities as set out in this Law.

(2) The Financial and Capital Market Commission shall be entitled to issue regulatory provisions for the supervision and control of the prevention of money laundering and terrorist financing and establish binding requirements for credit institutions and financial institutions, excluding capital companies that engage in buying and selling cash foreign currency (currency exchange), for the fulfilment of their responsibilities set out in this Law in respect of the establishment of an internal control system, of the identification of the beneficial owner and of assuring that the person indicated as the beneficial owner is the beneficial owner in respect of the customer, of the supervision of the transactions made by the customer and of knowing the customer's economic activity.

Article 48. Prohibition from Disclosing Information

(1) The supervisory and control authorities of the persons subject to this Law and their officials and employees shall not be entitled to notify the persons subject to this Law, the beneficial owners as well as other persons to the effect that information about a customer, customer account transaction monitoring and unusual or suspicious transaction has been submitted to the Financial Intelligence Unit and this information is or may be analysed or a pre-trial criminal proceedings performed in relation to the committing of a criminal offence, including money laundering, terrorist financing or an attempt thereof. [10 December 2009]

(2) The prohibition referred to in Paragraph 1 hereof in respect of the supervisory and control authorities shall not apply in the cases when information is submitted to a pre-trial investigation institution, the Office of the Prosecutor or the court, and the cases when the person subject to this Law has refrained from executing a transaction.

Article 49. Exempting a Supervisory and Control Authority from Liability

Reporting to the Financial Intelligence Unit in due course of this Chapter shall not constitute the disclosure of confidential information and shall not incur legal liability on the supervisory and control authorities of the persons subject to this Law, their officials and employees, whether a criminal offence, including money laundering, terrorist financing or an attempt thereof or other criminal offence related thereto is proven in pre-trial criminal proceedings or court, or not.

Chapter IX

The Financial Intelligence Unit

Article 50. Legal Status of the Financial Intelligence Unit

(1) The Financial Intelligence Unit is a specially established public institution that, pursuant to this Law, exercises control of unusual and suspicious transactions and obtains, receives, makes records, processes, compiles, stores, analyses and provides to a pre-trial investigation institution, the Office of the Prosecutor and the court information that may be used for the prevention, uncovering, pre-trial criminal proceedings or adjudicating money laundering, terrorist financing or an attempt thereof or other criminal offence related thereto.

(2) The Financial Intelligence Unit shall operate under the supervision of the Office of the Prosecutor.

(3) The Prosecutor General shall establish the structure and draw the list of positions within the Financial Intelligence Unit in accordance with the allocated state budget resources.

(4) The Prosecutor General shall appoint the director of the Financial Intelligence Unit for the term of four years and dismiss him/her. The director of the Financial Intelligence Unit shall recruit and dismiss the employees of the Financial Intelligence Unit. Officials and employees of the Financial Intelligence Unit shall be remunerated as determined in the Law "On Remuneration of State and Local Government institutions Officials and Employees". [01 December 2009]

(5) The director and the employees of the Financial Intelligence Unit shall comply with the requirements of the Law on the State Secret to receive a special permission necessary for the access to strictly secret information.

Article 51. Duties and Rights of the Financial Intelligence Unit

(1) The Financial Intelligence Unit shall have the following duties:

1) to receive, compile, store and analyse the reports of the persons subject to this Law and information that is obtained otherwise to detect whether such information may be attributed to money laundering, terrorist financing, or other criminal offence related thereto;

2) to provide to an investigation institution, the Office of the Prosecutor and the court information that may be used for the prevention, uncovering, pre-trial criminal proceedings or adjudicating money laundering, terrorist financing or an attempt thereof or other criminal offence related thereto;

3) to analyse the quality of reports and their application efficiency, and notify the person subject to this Law to this effect;

4) to make analysis and research of the techniques of money laundering, terrorist financing and an attempt thereof, improve the methods whereby these activities are prevented and discovered;

- 5) in due course of this Law, to cooperate with international and foreign institutions that engage in the prevention of money laundering and terrorist financing;
- 6) to provide supervisory and control authorities with information on the characteristic techniques for obtaining the proceeds from criminal activity, laundering such proceeds and financing terrorists and characteristic locations to enhance the measures that would reduce the possibility of money laundering and of terrorist financing, ensure training of the employees of supervisory and control authorities in relation to the prevention of money laundering and of terrorist financing;
- 7) to provide to the persons subject to this Law and their supervisory and control authorities the information referred to in Paragraph 4 of Article 4 hereof and ensure that it is updated;
- 8) on request by supervisory and control authorities, to submit information within their competence about the statistics, quality and application efficiency of the reports submitted by the persons subject to this Law;
- 9) in view of the information available to it, to provide to the persons subject to this Law, supervisory and control authorities, pre-trial investigation institutions and the Office of the Prosecutor recommendations for reducing the possibilities of money laundering and terrorist financing;
- 10) to publish information about its performance, indicating the number of cases investigated and of persons brought to criminal prosecution during the previous year, the number of persons convicted for the criminal offence of money laundering or of terrorist financing and the volume of suspended and seized funds;
- 11) to notify supervisory and control authorities on the detected violations of the requirements of this Law by the persons subject to this Law;
- 12) to compile and submit to the Advisory Board of the Financial Intelligence Unit the statistical information set out in Subparagraph 8 of Paragraph 1 of Article 46 hereof.

(2) The Financial Intelligence Unit shall have the following rights:

- 1) in the cases specified in this Law, to issue orders to the persons subject to this Law to suspend a transaction or a particular debit operation on a customer's account;
- 2) in the cases specified in this Law, to issue orders to the state information system manager or to turn to the Land Register office with the request to take measures for preventing the re-registration of funds; [*10 December 2009*]
- 3) to issue orders to the persons subject to this Law to extend the deadline for storing the documents obtained during the customer identification and due diligence;
- 4) to request and receive information from the persons subject to this Law, public and derived public persons and institutions thereof;
- 5) to provide information to pre-trial investigation institutions, the Office of the Prosecutor, the court, supervisory and control authorities;
- 6) exchange information with foreign institutions that exercise equivalent duties.

Article 52. Responsibility of the Financial Intelligence Unit

Where the orders set out in this Law are issued in due course of this Law, the consequences thereof shall not incur legal, including civil, liability on the Financial Intelligence Unit and its officials.

Article 53. Information Protection at the Financial Intelligence Unit

(1) Information available to the Financial Intelligence Unit shall be used only for the purpose of this Law and in due course of this Law. An employee of the Financial Intelligence Unit who has used such information for other purposes or disclosed it to the persons who are not entitled to receive that information shall be held criminally liable in due course of the Criminal Law.

(2) Information obtained at the Financial Intelligence Unit as a result of the procedure supervised by the Prosecutor General or specially authorised prosecutors shall not be disclosed to the bodies performing investigatory operations, pre-trial investigation institutions, the Office of the Prosecutor or the court or used for their needs.

(3) The Financial Intelligence Unit shall take the necessary administrative, technical and organisational measures to ensure that information is protected, prevent unauthorised access to information and protect it from modification, dissemination or destroying. The Financial Intelligence Unit shall keep information on transactions for at least five years. Processing of the information received by the Financial Intelligence Unit is not included in the personal data processing register of the Data State Inspectorate.

Chapter X

Cooperation between the Financial Intelligence Unit and Public and Local Government Institutions

Article 54. The Duty to Cooperate for Public and Local Government Institutions

All public and local government institutions shall have a duty to provide the Financial Intelligence Unit, in due course established by the Cabinet of Ministers, with the requested information that is necessary to fulfil its functions. When exchanging information with the Financial Intelligence Unit, the person who processes data shall be prohibited from disclosing to other natural or legal persons the fact of information exchange and the content of information, except in the cases when information is provided to pre-trial investigation institutions, the Office of the Prosecutor or the court.

Article 55. Cooperation between the Financial Intelligence Unit and Pre-Trial Investigation Institutions, the Office of the Prosecutor or the Court

The Financial Intelligence Unit shall submit information to pre-trial investigation institutions, the Office of the Prosecutor or the court, where this information creates reasonable suspicion that the respective person has committed a criminal offence, including that of money laundering, terrorist financing or an attempt thereof.

Article 56. Satisfying the Request for Information

(1) On request, the Financial Intelligence Unit shall provide information to a body performing investigatory operations, a pre-trial investigation institution or the Office of the Prosecutor,

where the legacy and motivation of the request has been assessed and accepted by the Prosecutor General or specially authorised prosecutors, and to the court, where the request complies with the requirements of this Law, where at least one of the following has been initiated in respect of the criminal offence: [10 December 2009]

- 1) criminal proceedings have been instituted in due course of the Criminal Procedure Law;
- 2) an investigatory records case has been initiated in due course of the Investigatory Operations Law.

(2) On request by the State Revenue Service, the Financial Intelligence Unit shall provide to it information available to it that, in accordance with regulatory provisions, is necessary to verify the declarations of public officials and, in accordance with other laws, is necessary to verify the declarations of other natural persons, where there is a reasonable suspicion that the public official or other natural person has disclosed false information about his/her property status or income.

Article 57. Responsibility for Requesting Information

(1) The person requesting information and a specially authorised prosecutor who accepts the request shall be responsible for the motivation for requesting information.

(2) The Financial Intelligence Unit may publish the provided information as soon as the respective person is brought to trial in a criminal case.

Article 58. Using of Information

The public institutions referred to in this Chapter shall use the information provided to them by the Financial Intelligence Unit only for the purposes it has been received for.

Chapter XI Advisory Board of the Financial Intelligence Unit

Article 59. The Tasks of the Advisory Board

The Advisory Board shall be set up to facilitate the operation of the Financial Intelligence Unit and coordinate its cooperation with pre-trial investigation institutions, the Office of the Prosecutor, the court and the persons subject to this Law, and its tasks shall be as follows:

- 1) to coordinate the cooperation of public institutions, the persons subject to this Law and their supervisory and control authorities for the fulfilment of the requirements of this Law;
- 2) to develop proposals for the needs of the Financial Intelligence Unit to perform its tasks as set out in this Law;
- 3) to prepare and submit to the Financial Intelligence Unit proposals on amendments to the list of indicators of unusual transactions;
- 4) on request by the Prosecutor General or on its own initiative, to notify the Prosecutor General on the performance of the Financial Intelligence Unit and submit proposals for its improvement.

Article 60. Composition of the Advisory Board

(1) The Advisory Board shall be comprised of the following:

- 1) two representatives appointed by the Minister of Finance, of which one shall be from the State Revenue Service;
- 2) one representative appointed by each of the following:
 - a) the Minister of Interior,
 - b) the Minister of Justice,
 - c) the Bank of Latvia,
 - d) the Financial and Capital Market Commission,
 - e) the Association of Latvian Commercial Banks,
 - f) the Latvian Insurers Association,
 - g) the Latvian Association of Certified Auditors,
 - h) the Latvian Council of Sworn Notaries,
 - i) the Latvian Council of Sworn Advocates,
 - j) the Supreme Court.

(2) Meetings of the Advisory Board shall be chaired by the Prosecutor General.

(3) The Advisory Board invites the director of the Financial Intelligence Unit and experts to its meetings.

(4) The Financial Intelligence Unit shall ensure the record keeping of the Advisory Board.

Chapter XII

Coordination of the Prevention of Money Laundering and Terrorist Financing

Article 61. The Coordinating Body

(1) The Financial Sector Development Council shall be the coordinating body and shall coordinate and improve the cooperation of public institutions and the private sector in the prevention of money laundering and terrorist financing.

(2) The Cabinet of Ministers shall determine the composition, functions, tasks, rights, the decision-making procedure and the work organisation of the Financial Sector Development Council.

Chapter XIII

International Cooperation

Article 62. Information Exchange

(1) The Financial Intelligence Unit shall be entitled on its own initiative or on request to exchange information with authorised foreign institutions that exercise duties equivalent in essence to those referred to in Paragraph 1 of Article 50 and in Article 51 hereof and with foreign or international institutions combating terrorist financing on the issues of the control of the movement of terrorist-related funds, where:

- 1) data confidentiality is ensured and data is used only for mutually agreed purposes;
- 2) it is guaranteed that information is used only for preventing and detecting offences that are subject to criminal punishment in Latvia.

(2) To exchange information with the institutions and bodies referred to in Paragraph 1 hereof, the Financial Intelligence Unit shall be entitled to sign cooperation contracts and agree on the procedure for the exchange of information and the content of information. In addition to the restrictions laid down in Paragraph 1 hereof, the Financial Intelligence Unit shall be entitled to set other restrictions and conditions for using the information provided by it to the authorised foreign institutions and international institutions, and request information on the use of such information. Information is provided for analysis, and the consent of the Financial Intelligence Unit shall be necessary in accordance with the requirements of Paragraph 1 hereof to pass it further.

(3) The Financial Intelligence Unit shall be entitled to refuse, fully or in part, from the exchange of information or from giving its consent to passing information further in the following cases:

- 1) this may harm the sovereignty, security, public order or other national interests of Latvia;
- 2) there are reasonable grounds to believe that a person will be prosecuted or punished because of his/her race, religion, citizenship, ethnic origin or political opinions;
- 3) this would be explicitly incommensurate in respect of the legal interests of the Latvian state or of a person;
- 4) a person that is included in the list of persons suspected for involvement in terrorist activities that is compiled by the countries or international organisations recognised by the Cabinet of Ministers, and has committed a criminal offence in the territory of the country that has requested exchanging or passing further of information, is the citizen of that country and has not committed a criminally punishable offence in Latvia.

(4) The Financial Intelligence Unit may request that the institutions of other countries that are not referred to in Paragraph 1 hereof submit information that is needed to analyse the received reports on unusual or suspicious transactions.

(5) The Financial Intelligence Unit shall submit information to foreign investigation institutions and courts in due course of international contracts on mutual legal assistance in criminal cases and via the public institutions of the Republic of Latvia indicated therein; this information shall refer only to offences that are criminally punishable in the Republic of Latvia, where the international contracts on mutual legal assistance in criminal cases do not establish otherwise.

Article 63. Issuing of Orders

(1) On request of authorised institutions of other countries or international institutions preventing terrorism, the Financial Intelligence Unit shall be entitled to issue orders in due course of Chapter V hereof.

(2) The Financial Intelligence Unit shall be entitled to issue an order where the information in the request creates reasonable suspicion that a criminal offence is taking place, including a criminal offence of money laundering, of terrorist financing or of an attempt thereof, and where such order would be issued if a report on unusual or suspicious transactions was received in due course of this Law.

Transitional Provisions

1. With this Law taking effect, the Law "On the Prevention of Laundering of Proceeds Derived from Criminal Activity" (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1998, No. 3, 2000, No. 14, 2002, No. 16, 2004, No. 2, 2005, No. 13, 2006, No. 12) shall become ineffective.

2. The persons subject to this Law shall perform customer identification and establish the beneficial owner, as set out in this Law, in respect of those customers with whom the business relationship is valid and this has not been done, by July 1, 2009 the latest, or discontinue the business relationship by that date.

3. The following documents shall be effective until the date the new provisions by the Cabinet of Ministers become effective, but not after January 1, 2009:

- 1) Provisions No. 213 of June 2, 1998 of the Cabinet of Ministers "Provisions on the Remuneration System of the Employees of the Financial Intelligence Unit",
- 2) Provisions No. 497 of December 29, 1998 of the Cabinet of Ministers "Procedure whereby Public Institutions Report Information to the Financial Intelligence Unit",
- 3) Provisions No. 127 of March 20, 2001 of the Cabinet of Ministers "Provisions on the List of Indicators of Unusual Transactions and the Reporting Procedure",
- 4) Provisions No. 731 of August 29, 2006 of the Cabinet of Ministers "Provisions on Countries and International Organisations whose Compiled Lists Include Persons Suspected of Committing an Act of Terrorism or of Participating Therein".

4. The persons subject to this Law that, pursuant to Paragraph 2 of Article 45 hereof, are supervised by the State Revenue Service and who have started their operation by the date this Law becomes effective shall notify the territorial unit of the State Revenue Service in writing of their operations within 30 business days of this Law taking effect.

5. The provisions of Article 41 hereof in respect of the rights to request and, free of charge, receive information necessary to fulfil the requirements of this Law from registers and information systems shall become effective simultaneously with the relevant amendments to the effective laws. Until these amendments take effect, the persons subject to this Law as referred to in Article 41 hereof shall be entitled to request and receive information from the Invalid Documents Register, the Penal Register and the Population Register in accordance with the legal norms that are effective until this Law taking effect.

6. Information referred to in Article 41 hereof from the Penal Register shall be provided free of charge as of January 1, 2010.

7. Remuneration (salary, etc) for 2009 prescribed hereof shall be laid down as set out in the law "On Remuneration of State and Local Government Institutions Officials and Employees in 2009". [12 December 2008]

8. The provisions of Paragraph 2¹ of Article 32 hereof, amendments to the introduction to Paragraph 3 and Subparagraph 3 of Paragraph 3 of Article 32 regarding 40 days term, Subparagraph 4 of Paragraph 8 of Article 32, Paragraph 1¹ of Article 34, amendments to Paragraph 2 of Article 34, as well as amendments to Paragraph 1 of Article 39 in regard to notification of customers on the orders issued by the Financial Intelligence Unit referred to in Paragraph 2¹ of Article 32 hereof are not applicable to reports of the subjects of this Law sent to the Financial Intelligence Unit by December 31, 2009. [10 December 2009]

Informative Reference to the European Union Directives

This Law incorporates legal norms deriving from:

1) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

2) Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.