COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES AND THE FINANCING OF TERRORISM (MONEYVAL)

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Mutual Evaluation Report - Annexes

Anti-Money Laundering and Combating the Financing of Terrorism

UKRAINE

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LIST OF ANNEXES

ANNEX I – List of abbreviations

AML	Anti-Money Laundering
Basic Law	Law of Ukraine on the Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime
CC	Criminal Code
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CPC	Criminal Procedure Code
CTR	Cash Transaction Reports
CvC	Civil Code
DNFBP	Designated Non-Financial Businesses and Professions
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GDP	Gross domestic product
OPG	General Prosecutor's Office
IAS	Information Analytical System Software
IN	Interpretative Note
IT	Information Technology
IWG	Interagency Working Group
LEA	Law Enforcement Agency
MER	Mutual evaluation report
MIA	Ministry of Interior
ML	Money laundering
MLA	Mutual Legal Assistance
MOF	Ministry of Finance
MOLI-UA	Joint project of the Council of Europe and the European Commission against money laundering and Terrorist financing in Ukraine
MOU	Memorandum of Understanding
NBU	National Bank of Ukraine
NCCT	Non-cooperative countries and territories
NPO	Non profit organisation
OECD	Organisation for Economic Co-operation and Development
PCA	Partnership and Co-operation Agreement
PEP	Politically Exposed Persons
SCFM	State Committee for Financial Monitoring
SDFM	State Department for Financial Monitoring
SCFSMR	State Commission on Financial Services Markets Regulation
SCS	State Customs Service
SCSSM	State Commission on the Securities and Stock Market
SCU	Supreme Court of Ukraine
SRO	Self-Regulatory Organisation
SSU	Security Service of Ukraine
STA	State Tax Administration
STRs	Suspicious transaction reports
UAH	Ukrainian Currency – Hryvnia
UN	United Nations
UNSCR	United Nations Security Council Resolutions
USD	United States Dollar

ANNEX II - Details of all bodies met on the on-site mission (Ministries, other government authorities or bodies, private sector representatives and others)

Kiev

1. SCFM of Ukraine (headquarters)
2. Ministry of Justice
3. Ministry of Finance
4. Ministry of Foreign Affairs
5. Ministry of Interior
6. Security Service
7. National Bank
8. State Customs Service
9. Administration of the State Border Service of Ukraine
10. State Commission on Securities and Stock Market of Ukraine
11. State Commission on Financial Services Market Regulation of Ukraine
12. State Tax Administration
13. Supreme Court of Justice
14. General Prosecutor's Office
15. State Committee on Regulatory Policy and Entrepreneurship of Ukraine
16. National Depository of Ukraine
17. Ukrposhta
18. Association of Registrars and Depositories
19. Association of Ukrainian Banks
20. League of Insurance Organisations of Ukraine
21. Association of Gambling Business Actors
22. Casinos representatives
23. Representatives of commercial banks, insurance companies, securities traders, credit union, asset management company, leasing company, Representatives of pawnshops,
24. Western Union

Simferopol

1. Council of Ministers of the Autonomous Republic of Crimea
2. Regional subdivision of SCFM in the Autonomous Republic of Crimea and Sevastopol
3. Central Directorate of the Ministry of Interior
4. State Tax Administration & Tax Militia
5. Representatives of commercial banks, insurance companies, pawnshops, securities traders (compliance officers)

Lviv

1. Regional subdivision of SCFM in Lvivska Oblast and regional subdivision of Training and Methodical center in Lvivska Oblast
2. Central Directorate of the Ministry of Interior
3. State Tax Administration
4. Security Service of Ukraine
5. Prosecutor's Office
6. Representatives of commercial banks, insurance companies, asset management company, pawnshops, casino representative

Donetsk

1. Regional subdivision of SCFM in Donetska Oblast
2. Central Directorate of the Ministry of Interior
3. State Tax Administration
4. Security Service of Ukraine
5. Prosecutor's Office
6. Regional office of the Central Bank
7. Representatives of commercial banks, insurance companies, pawnshops, securities traders, asset management company, commodity exchange, casino

ANNEX III – Copies of key laws, regulations and other measures[1]

1. *Law of Ukraine on prevention and counteraction to the legalisation (laundering) of the proceeds from crime (Basic Law)*

(With amendments introduced by the Laws of Ukraine
dated 24 December 2002 # 345-IV,
dated 6 February 2003 # 485-IV,
dated 18 May 2004 # 1726-IV,
dated 1 December 2005 # 3163-IV)

This Law shall regulate the relations in the area of prevention and counteraction to the infiltration into the legal turnover of the proceeds from crime, and this Law shall be aimed at fight against the financing of terrorism.

Section I. GENERAL PROVISIONS

Article 1. Definitions

The following definitions shall be used in this Law:

a) proceeds shall mean any economic benefit resulting from the commitment of a socially dangerous illicit act that precedes the legalization (laundering) of proceeds and consisting of material property, or titles, also movable or immovable property, and legal papers that confirm the title to such property or a share in it;

b) socially dangerous illicit act that precedes the legalization (laundering) of proceeds shall mean the act punishable under the Criminal Code of Ukraine by imprisonment for three years or more (except under Articles 207 and 212 of the Criminal Code of Ukraine), or the act which is a criminal offence punishable under the criminal law of a foreign state and for which criminal liability is prescribed by the Criminal Code of Ukraine, if such act resulted in obtaining the proceeds from crime;

c) legalization (laundering) of the proceeds shall mean any actions, specified by Article 2 of this Law, taken to disguise as legal the possession, use or disposal of the proceeds, or the actions taken to conceal the sources of origin of such proceeds;

d) financial transaction shall mean any transaction involving the processing or securing of any payment through an entity of initial financial monitoring, including:

- making or withdrawing a deposit;
- money transfer from one account to another;
- currency exchange;
- services related to the issuing, purchase or sale of securities and other kinds of financial assets;
- granting or receiving a loan or a credit;
- insurance (reinsurance);
- provision of financial guarantees and liabilities;
- trust management of securities portfolio;
- financial leasing;
- issue, circulation, payment (dissemination) of the state and other kinds of cash lottery;
- services related to the issue, purchase, sale or servicing of checks, bills of exchange, credit cards, postal money transfer orders and other payment instruments;
- opening of an account.

[1] The texts compiled in this annex are unofficial translations.

e) compulsory financial monitoring shall mean the measures taken by the specially authorized executive agency for financial monitoring in order to analyze the information on financial operations submitted by the entities of initial financial monitoring, as well as the measures on checking such information pursuant to the laws of Ukraine;

f) internal financial monitoring shall mean the activity of entities of initial financial monitoring on detection, pursuant to this Law, of financial operations subject to compulsory financial monitoring, also other financial operations that may be connected with legalization (laundering) of the proceeds.

Article 2. Acts related to the legalization (laundering) of proceeds

According to this Law, the legalization (laundering) of proceeds shall mean any acts taken to conceal or disguise the illegal origins of money or any other property, or possession thereof, titles to such money and property, their sources, location or movement, and shall also mean the acquiring, possession or use of money or any other property provided a person realizes that they were the proceeds.

Article 3. Scope of the Law

This Law shall apply to the citizens of Ukraine, foreigners and stateless persons, also the legal entities, their branches, offices and other separate units that are engaged in financial transactions both in Ukraine and abroad pursuant to the international treaties of Ukraine.

Section II. THE SYSTEM OF FINANCIAL MONITORING

Article 4. The system of financial monitoring and financial monitoring entities

The system of financial monitoring shall consist of two levels: the initial and state level.
The following shall be the entities of initial financial monitoring:

a) banks, insurance and other kinds of financial institutions;
b) payment organizations, members of payment systems, acquiring and clearing institutions;
c) commodity, stock and other exchanges;
d) professional operators in securities market;
e) joint investment institutions;
f) gambling and pawn institutions and legal entities holding any kinds of lottery;
g) enterprises, institutions that manage investment funds or non-governmental pension funds;
h) communication companies and associations, other non-crediting institutions that transfer funds;
i) other legal entities that process financial transactions according to law.

The following shall be the entities of state financial monitoring:

a) central executive authorities and the National Bank of Ukraine which, pursuant to the law, regulate and supervise the activity of legal entities engaged in financial transactions;
b) specially authorized executive agency for financial monitoring: the state executive body functioning within the Ministry of Finance of Ukraine, hereinafter referred to as the Authorized Agency;
c) Specially Authorized Agency of executive power on financial monitoring – central agency of executive power with special status (further – the Authorized Agency).

Article 5. Tasks and duties of the entities of initial financial monitoring

In pursuance of this Law, an entity of initial financial monitoring shall:

- identify the person engaged in the financial transaction subject to financial monitoring pursuant to this Law; or the person who opens an account (including a deposit account) on the basis of documents submitted in accordance with the established procedure or if there are reasons to believe that the information regarding person's identification should be clarified;
- detect and register financial transactions subject to financial monitoring pursuant to this Law;

- submit to the Authorized Agency the information on a financial transaction subject to compulsory financial monitoring within three working days from the moment of its registration;
- assist the personnel of the Authorized Agency in analysis of transactions subject to compulsory financial monitoring;
- provide, according to the laws, additional information at the Authorized Agency's request related to the financial transactions that have become the object of financial monitoring, including the information that is classified as bank and commercial secret, not later than within three working days from the moment of receiving the request;
- assist the entities of state financial monitoring in analyzing the financial transactions subject to financial monitoring;
- take measures to prevent disclosure (including disclosure to persons whose financial transactions are being checked) of information that is submitted to the Authorized Agency, also any other kinds of information on financial monitoring (including the facts of submission of such information);
- keep the documents on identification of the persons who carried out the financial transaction subject to financial monitoring pursuant to this Law, as well as all documents on financial transactions for five years after conducting such financial transaction.

An entity of initial financial monitoring in accordance with the requirements of current legislation and regulations of the Authorized Agency shall establish the rules for conducting the internal financial monitoring and assign an employee in charge of the monitoring.

Such employee shall be independent in his/her activity and accountable only to the head of an entity of initial financial monitoring; at least once in a month, the employee shall inform his/her superior about uncovered financial transactions subject to financial monitoring and measures taken, including those related to:

- Elaboration and permanent updating of internal financial monitoring regulations and programs of monitoring implementation allowing for the laws in force and resolutions of the Authorized Agency;
- Training of personnel to detect the financial transactions subject to financial monitoring pursuant to this Law through proper education and practical studies;
- Application of internal financial monitoring.

Article 6. Identification of the persons engaged in financial transactions

An entity of initial financial monitoring shall, on the basis of submitted original documents or their duly certified copies, identify the persons engaged in financial transactions subject to financial monitoring pursuant to this Law.

The following data shall be established for the purposes of identification:

- for physical persons: surname, first name, patronymic, date of birth, series and number of passport (or other identification document), date of its issue and issuing agency, place of residence and identification number from the State Register of Natural Persons – Payers of Taxes and Other Compulsory Payments;
- for legal entities: name, legal address, state registration documents (including statutory documents, information about officers and their functions, etc.), identification code from the Unified State Register of Enterprises and Organizations of Ukraine, references of the bank which opened the account and account number.

The following information shall be provided for the purpose of identification of nonresidents:

- for physical persons: surname, first name, patronymic (if any), date of birth, passport series and number (or other identification document), date of its issue and issuing agency, citizenship, place of residence or temporary stay;
- for legal entities: full name, location and references of the bank that opened the account and account number.

An entity of initial financial monitoring shall also be provided with a copy of legalized quotation from trade, banking or judicial register or proof of registration by local authorities of foreign state regarding registration of the legal entity, certified by a notary.

Identification of persons shall not be required in the following cases:

financial transaction is conducted by previously identified persons;

making of agreements between the banks registered in Ukraine.

In case when a person represents another person or if an entity of initial financial monitoring has doubts about whether a person acts in its own name or a beneficiary is another person, an entity of initial financial monitoring shall identify, according to the provisions of this Article and other laws that regulate such procedure, the person, on behalf of which the financial transaction is executed, or the beneficiary.

Article 7. The right of an entity of initial financial monitoring to refuse financial transaction

Prior or after a financial transaction, an entity of initial financial monitoring shall determine whether the financial transaction is subject to financial monitoring pursuant to this Law. If such financial transaction is detected, it shall be registered by a relevant entity of initial financial monitoring. To do this, the person performing the financial transaction, the type of financial transaction and the reasons for it, its date and amount shall be entered in the register. The procedure of registration of the financial transaction subject to financial monitoring pursuant to this Law shall be established for banks by the National Bank of Ukraine, for other entities of financial monitoring by the Cabinet of Ministers of Ukraine.

An entity of initial financial monitoring shall have the right to refuse financial transaction if such entity finds that the financial transaction is subject to financial monitoring pursuant to this Law; in such case, an entity of initial financial monitoring shall identify the persons engaged in the financial transaction, its nature and submit this information to the Authorized Agency.

Article 8. Submission of the information about financial transaction

The procedure of submission of information on financial transactions subject to compulsory financial monitoring to the Authorized Agency shall be established for banks by the National Bank of Ukraine, and for other entities of initial financial monitoring by the Cabinet of Ministers of Ukraine.

Submission of the information by the entities of initial financial monitoring to the Authorized Agency shall not represent a violation of bank or commercial secret.

The entities of initial financial monitoring, their officials and other personnel shall not be disciplinary, administratively and criminally liable or subject to civil penalties for submission of information about a financial transaction to the Authorized Agency, if they acted pursuant to this Law, even if such actions caused damage to legal entities or individuals, as well as for other actions related to implementation of this Law.

It is prohibited for employees of the entities of initial financial monitoring who have submitted to the Authorized Agency information on any financial transaction subject to financial monitoring pursuant to this Law, to inform about it the persons engaged in financial transactions or any other third persons.

Violation of paragraph 4 of this Article by employees of entities of initial financial monitoring shall be subject to liability pursuant to the laws of Ukraine.

If employees of the entity of initial financial monitoring engaged in financial transaction have any reasonable doubts that a certain financial transaction is carried out to legalize (launder) the proceeds, this entity shall inform the Authorized Agency of such transaction.

If the entities of initial financial monitoring engaged in financial transactions suspect or should have suspected that such financial transactions are related with or intended for financing of terrorist activity, terrorist acts or terrorist organizations, they shall immediately inform the Authorized Agency and the law-enforcement bodies defined by the laws about such financial transactions.

The information submitted under this Law shall be restricted. This information shall be exchanged, disclosed and protected in accordance with the laws by the Authorized Agency, entities of initial financial monitoring, and the executive agencies and the National Bank of Ukraine responsible for regulation and supervision of entities of initial financial control in accordance with the laws.

The Authorized Agency shall not transfer to anybody the information that contains commercial or bank secret, which has been submitted by the entities of initial financial monitoring with the exception of cases, provided by the Article 13 of this Law.

Article 9. Registration of financial transaction subject to compulsory financial monitoring

A financial transaction subject to compulsory financial monitoring, concerning which the information was submitted, shall be registered by the Authorized Agency. The registration procedure shall be established by the Cabinet of Ministers of Ukraine.

Article 10. Powers of central executive bodies and the National Bank of Ukraine with regard to financial monitoring

The entities of state financial monitoring (with the exception of the Authorized Agency), which, pursuant to the laws, perform the functions of regulation and supervision of the entities of initial financial monitoring, shall include the National Bank of Ukraine, the State Securities and Stock Exchange Commission and a specially authorized executive body that regulates the financial services markets.

The entities of state financial monitoring indicated in paragraph 1 of this Article shall:

- demand that the entities of initial financial monitoring fulfil the tasks and duties as per this Law;
- check the quality of professional training of the employees and heads of units in charge of internal financial monitoring, also take due measures specified by this Law;
- check, during supervision, the observance of legislation on prevention and counteraction to the legalization (laundering) of the proceeds, financing of terrorism, take due measures according to the established procedure and this Law;
- inform the Authorized Agency on detected cases of violation of relevant legislation by the entities of initial financial monitoring;
- ensure storage of the information submitted by the entities of initial and state financial monitoring and by law-enforcement bodies;
- coordinate with the Authorized Agency all regulations relating to implementation of this Law;
- submit to the Authorized Agency information and documents essential for fulfilment of its tasks and duties (with the exception of the information on private life of citizens) according to the procedure prescribed by the laws.

Section III. Financial transactions subject to compulsory and internal financial monitoring

Article 11. Financial transactions subject to compulsory financial monitoring

A financial transaction shall be subject to compulsory financial monitoring if its amount equals or exceeds UAH 80,000, or equals or exceeds the sum in foreign currency equivalent to UAH 80,000 if such financial transaction also has one or more indications specified in this Article:

- transfer of funds to anonymous (numbered) account abroad and transfer of funds from anonymous (numbered) account from abroad, as well as transfer of funds to account opened with a financial institution in a country included into the list of offshore zones by the Cabinet of Ministers of Ukraine;
- purchase (sale) of checks, traveller's checks or other similar payment facilities for cash;

- placement or transfer of funds, granting or receiving a credit (loan), performing financial transactions with securities when at least one of the parties is a physical or legal entity that is registered, located or resident in a country (territory) that does not take part in international cooperation in the area of prevention and counteraction of the legalization (laundering) of the proceeds from crime and financing of terrorism, or if one of the parties has an account with a bank registered in such country (territory). The list of such countries (territories) shall be fixed in accordance with the procedure established by the Cabinet of Ministers according to lists, approved by the international organizations engaged in counteraction to the legalization (laundering) of the proceeds from crime and financing of terrorism. The said list shall be published;
- transfer of funds in cash abroad with a request to give the recipient the funds in cash;
- placement of funds to an account in cash with their subsequent transfer to another person during the same or the next trading day;
- placement of funds to an account or writing off the funds from an account of the legal entity which period of activity does not exceed three months from the day of registration of such entity, or placement of funds to an account or writing off the funds from an account of the legal entity provided the transactions on such account were not conducted from the date of its opening;
- opening an account with placing the funds to it for the benefit of a third person;
- transfer of funds abroad by a person in cases when no foreign economic contract was concluded;
- exchange of banknotes, particularly of foreign currency, for banknotes of another nominal value;
- carrying out financial transactions with bearer securities not placed in depositaries;
- purchase of securities for cash;
- payment of insurance compensation to a person or receipt of insurance premium;
- payment of lottery, casino or other gambling winnings;
- placement of precious stones, metals and other valuables to a pawn shop.

Article 12. Financial transactions subject to internal financial monitoring

A financial transaction shall be subject to internal financial monitoring provided it has one or more indications specified by this Article:

1. Nonstandard or excessively complicated financial transaction that has no evident economic sense or obvious legal aim, including:
a) receipt by an entity of initial financial monitoring of funds from a person that proposes or agrees to receive the interest on deposit, which is significantly lower than the current interest rate fixed by the bank, or payment of commission (payment for conducting financial transactions with this person’s funds) in the amount that is higher than that the one fixed by the entity of initial financial monitoring in terms of similar deposits and financial transactions;
b) a person insists on conducting a transaction according to rules that differ from those established by the laws and internal documents of the entity of initial monitoring relating to the essence of such transaction or the terms of carrying out such transaction;
c) a person introduces considerable changes into the previously agreed pattern of financial transaction right before its conduction, especially changes pertaining to the movement of funds or other kinds of property, including repeated changes of bank references of beneficiary after the first order for transfer of funds was issued or payment documents endorsed, as well as issuing order for transfer of funds to beneficiary using two or more bank accounts of other persons;
d) a person submits unverifiable information;
e) impossibility to identify person’s counteragents, acceptance of funds (payment documents for payment of such funds) from a person that transfers the funds to another party of a civil law agreement, which results in return of funds without conducting of a financial transaction due to the failure to locate such other party or due to the refusal of such party to accept the funds;
f) person's (customer's) refusal to provide the information specified by the laws and internal documents of an entity of initial financial monitoring;
g) regular conclusion of short-term agreements by a person or the use of other derivative financial instruments, particularly those that do not envisage the provision of basic assets, pertaining to the financial transactions with one or several counteragents resulting in permanent profit or permanent losses of the customer;

h) acceptance of funds (or payable financial instruments) by an entity of initial financial monitoring from a person who repeatedly exchanges securities for other securities within the same year without receiving or providing cash indemnity related to such exchange;
i) emergence of insured accident within a short period of time established by the specially authorized executive body that regulates the financial services markets, after conclusion of an insurance contract;

2. Noncompliance of a financial transaction with the activity of legal entity defined by statutory documents of such entity, including:
a) sudden increase of the account balance amount not directly connected with the person's activity with further transfer of such amount to another entity of initial financial monitoring or if the balance amount is used for purchase of foreign currency (with transfer in favor of a nonresident) or bearer securities;
b) absence of clear connection between the nature and kinds of a person's activities with the services for which the customer applies to an entity of initial financial monitoring;
c) regular presentation of checks issued by a nonresident bank and endorsed by a nonresident, for collection payment provided such practice is inconsistent with the customer's activity which is known to an entity of initial financial monitoring;
d) placement to a person's account of a large number of payments from natural persons in the amount not exceeding the sum indicated in Article 11 of this Law, including those through the cash department of an entity of initial monitoring, provided that the person's activity does not involve rendering services to population or collection of compulsory and voluntary payments.
e) considerable increase of the amount of cash being transferred to account of the person provided the person usually effected cashless settlements.
f) placement to the account of a considerable amount of cash by a person whose income or activity make it impossible to conduct a financial transaction in such amount;
g) single-time sale (purchase) by a person of a large block of shares that do not freely circulate at organized market provided the person is not a professional operator at securities market and the securities are not given to the person as compensation for the arrears of a counteragent.

3. Repeated financial transactions, the nature of which gives grounds to believe that their aim is to evade the procedures of compulsory financial monitoring established by this Law, including:
a) regular placement of cash to a person's account (if the person is a legal entity and such placement is not connected with its main activity), with further transfer of the entire sum or its bigger part within one trading day or the next day to a customer's account opened at another entity of initial financial monitoring, or in favour of third persons, including non-residents;
b) a person orders to conduct a financial transaction through a representative (intermediary), if such representative (intermediary) fulfils the person's order without direct (personal) contact with an entity of initial financial monitoring.

Internal financial monitoring can also be applied to other financial transactions, when an entity of initial financial monitoring has grounds to believe that a financial transaction is aimed at legalization (laundering) of proceeds.

Article 12 -1. Prevention and counteraction to terrorist financing

Entity of initial financial monitoring is obliged to suspend execution of financial transaction if its participant or beneficiary is enlisted to the list of persons, related to terrorist activity, and within the same day to report about it to the Authorized Agency. Such suspension of financial transactions shall be performed for a period up to two working days.

The procedure for suspension of financial transactions shall be established within its competence by the entities of financial monitoring which provide regulation and supervision over entities of initial financial monitoring.

The Authorized Agency can take a decision on further suspension of such transaction up to five working days and is obliged to inform immediately about it the entity of initial financial monitoring and also law enforcement authorities, determined by the legislation. If the Authorized Agency takes no relevant decision

during the period, envisaged by the part one of this Article, the entity of initial financial monitoring shall recommence execution of financial transaction.

The procedure for composition of the list of persons related to terrorist activity shall be determined by the Cabinet of Ministers of Ukraine. The reasons for enlisting of a legal or physical person to the relevant list shall be the following:

- sentence of court in force, concerning conviction of the physical person for committing crimes, envisaged by the Article 258 of the Criminal Code of Ukraine;
- information on organizations and physical persons related to terrorist organizations or terrorists, prepared by the UN Security Council;
- sentences of courts (court decisions), decisions of other competent agencies of foreign states concerning organizations and physical persons, related to execution of terrorist activity, acknowledged by Ukraine according to the international agreements of Ukraine.

List of persons, related to execution of terrorist activity, shall be introduced to the entities of initial financial monitoring by the Authorized Agency within procedure agreed with other entities of state financial monitoring".

Section IV. TASKS, FUNCTIONS AND RIGHTS OF THE AUTHORIZED AGENCY

Article 13. Tasks and functions of the Authorized Agency

The following shall be the tasks of the Authorized Agency:

- collection, processing and analysis of the information on the financial transactions subject to compulsory financial monitoring;
- participation in implementation of the state policy in the domain of prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;
- creation and support of operation of a single state information system on prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;
- cooperation, interaction and information exchange with the state authorities, competent bodies of other countries and international organizations in the said domain;
- representation of Ukraine, according to the established procedure, in international organizations dealing with prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism.

In accordance with the tasks assigned to it, the Authorized Agency shall:

- make proposals on elaboration of legislative acts, take part, according to the established procedure, in elaboration of other regulations relating to prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;
- receive, at its request, the information essential for fulfilment of its tasks from the executive bodies, local self-government authorities and business entities;
- clear with the executive bodies, other state authorities engaged in prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;
- submit, within its jurisdiction, relevant materials to law-enforcement bodies, in accordance with their competence, given the proofs that a financial transaction may involve the legalization (laundering) of the proceeds and financing of terrorism;
- take part in international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of such proceeds and financing of terrorism;
- analyze the methods and financial patterns of the legalization (laundering) of the proceeds and financing of terrorism;
- provide the coordination and guidance of activity of entities of initial financial monitoring in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;

- analyze the efficiency of measures taken by the entities of initial financial monitoring to prevent and counteract to the legalization (laundering) of the proceeds and financing of terrorism;
- assist detection of indications of using the proceeds in financial transactions;
- register financial transactions subject to financial monitoring in the manner prescribed by the laws;
- participate, on the instruction of the Cabinet of Ministers of Ukraine, in elaboration of relevant international treaties of Ukraine;
- perform other functions pursuant to the tasks assigned to it.

Article 13-1. Political independence of the Authorized Agency.

The Head of the Authorized Agency shall be appointed and discharged according to the procedure established by the laws.
The use of the Authorized Agency for party, group or personal interests shall be forbidden.
The activities of parties, movements and other civic unions having political purposes shall be forbidden within the Authorized Agency.
The membership of officials and personnel of the Authorized Agency in such unions shall be withdrawn for the term of their service or work under labor contract.
As an exception, personnel of the Authorized Agency working under labor contract may participate in trade unions.

Article 14. Rights of the Authorized Agency

The Authorized Agency shall have the right:

- to engage experts of central and local executive bodies, enterprises and institutions (with the consent of their heads) in consideration of the issues within its jurisdiction;
- to receive, according to the procedure established by the laws, the information (including the information containing bank or commercial secret) required for fulfilment of its tasks from executive bodies, local self-government authorities, enterprises and institutions;
- to receive, according to the procedure established by the laws, the information on elaboration and implementation of relevant measures from the state executive bodies and the National Bank of Ukraine which, pursuant to this Law, obtain generalized materials on financial transactions from the Authorized Agency;
- provide access (including automatic access) to databases of other entities of state financial monitoring and state executive bodies in the manner prescribed by the laws;
- conclude, in accordance with the procedure fixed by the law, international interdepartmental cooperation agreements with relevant bodies of other countries;
- issue regulations necessary for performing its tasks and functions as per Article 13 of this Law.

Section V. INTERNATIONAL COOPERATION IN THE DOMAIN OF PREVENTION OF THE LEGALIZATION (LAUNDERING) OF THE PROCEEDS

Article 15. The principles of international cooperation in the domain of prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism

International cooperation for the prevention and counteraction (laundering) of the proceeds and financing of terrorism shall be carried out in accordance with the procedures established by the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), other international treaties of Ukraine, this Law and other laws and regulations.

A request for international cooperation in the domain of prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism may be refused or delayed only on the basis and with due observance of the provisions of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990).

Article 16. Competence of state authorities concerning international cooperation in the area of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing

The Authorized Agency, according to the international agreements in force or the reciprocity principle, shall conduct international cooperation with relevant agencies of foreign states in the area of exchange of experience and information, related to prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing.

The Authorized Agency shall disclose information with restricted access to the relevant agency of foreign state on the conditions of ensuring by the latter of its protection at the level of the national standards and its use exclusively for the purposes of criminal justice in cases on legalization (laundering) of the proceeds or terrorist financing.

Execution by the Authorized Agency of a request of the relevant agency of foreign state shall constitute grounds for demand of information, needed for execution of the request (including banking or commercial secrecy), from state authorities, companies, institutions and organizations. Demand of the Authorized Agency for submission of information, needed for execution of a request of relevant agency of foreign state, shall contain reference to the number and date of registration of the request in the relevant register of the Authorized Agency.

The Ministry of Justice of Ukraine shall be entrusted with performance of international cooperation in the part of execution of court decisions concerning confiscation of the proceeds, while the General Prosecutor's Office of Ukraine shall be entrusted with execution of procedural actions in the framework of investigation of criminal cases on legalization (laundering) of the proceeds and terrorist financing.

Entities of state financial monitoring (except the Authorized Agency) shall on the grounds of international agreements of Ukraine conduct international cooperation with relevant agencies of foreign states concerning exchange of experience and information on regulation and supervision over the activity of financial institutions in the area of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing.

The Authorized Agency and other entities of state financial monitoring shall within their competence cooperate with the Financial Action Task Force (FATF), the Egmont group and other international organizations, activity of which is directed on performance of international cooperation in the area of prevention to legalization (laundering) of the proceeds and terrorist financing.

Section VI. LIABILITY FOR VIOLATION OF THIS LAW AND REINSTATEMENT OF RIGHTS AND LEGITIMATE INTERESTS

Article 17. Liability for violation of provisions of this Law

The persons guilty of violation of provisions of this Law shall be subject to criminal, administrative, disciplinary and civil liability pursuant to the law. They may be deprived of the right to conduct certain kinds of activity pursuant to the laws.

The legal entities that conducted financial transactions for legalization (laundering) of the proceeds or financed terrorism may be liquidated by a court ruling.

A fine up to one thousand untaxed minimal incomes may be imposed on any entity of initial financial monitoring for its failure to comply with the requirements set by this Law. Provided no agreement on payment of fine has been reached, the decision on imposition of fine or denial of such imposition shall be made by court at the request of the authority that regulates the activity of a subject of initial financial monitoring and issues licenses or other kinds of special permits.

Repeated violation of this Law by entities of initial financial monitoring shall result, by court ruling, in restriction, suspension or termination of a license or any other special permit for certain kinds of activity in the manner prescribed by the laws.

Article 18. Reinstatement of rights and legitimate interests

Upon a court order, the proceeds shall be confiscated by the State or returned to their owner whose rights and legitimate interests were violated, or their cost shall be compensated.

The agreements aimed at the legalization (laundering) of the proceeds and financing of terrorism shall be considered null and void in accordance with the procedure prescribed by the law.

The entities of initial financial monitoring, their executives and other employees shall not be liable for the damage inflicted on physical and legal entities as a result of performance of their official duties during financial monitoring, provided they did so within the limits of their duties and in the manner prescribed by this Law.

The damage, inflicted on a legal entity or a natural person by illegal actions of the state bodies as a result of taking actions to counteract the legalization (laundering) of the proceeds and financing of terrorism, shall be compensated from the State Budget of Ukraine.

Section VII. FINAL PROVISIONS

1. This Law shall come into force after six months from the date of its publication.

2. Until the laws of Ukraine and other regulations are brought in line with this Law, they shall apply only in the part not running counter to this Law.

3. Before the entry of this Law into force, the Cabinet of Ministers of Ukraine shall:
- submit proposals to the Verkhovna Rada of Ukraine on making necessary amendments ensuing from this Law to other legislative acts;
- harmonize its own regulations with this Law;
- decide on the matters ensuing from this Law;
- provide that the ministries and other central executive authorities revise their regulations that run counter to this Law;

4 . The National Bank of Ukraine shall harmonize its regulations with this Law and submit its proposals regarding amendments ensuing from this Law and other legislative acts for review by the Verkhovna Rada of Ukraine.

5. Articles 5, 6, 7 and 8 of this Law shall apply to casinos, gambling houses and pawnshops after approval of relevant procedures by the Cabinet of Ministers of Ukraine, but no later than on 1 January 2004, and shall apply to other entities of initial financial monitoring from the moment of entry of this Law into force.

6. The Administrative Code of Ukraine shall be amended as follows:

1) The Code shall be supplemented by Article 1669 of the following wording:

Violation of legislation on the prevention and counteraction to legalization (laundering) of the proceeds from crime.

Violation of requirements on identification of any person who conducts a financial transaction, violation of the procedure for registration of financial transactions subject to primary financial monitoring, failure to submit, untimely submission or submission of false information on such financial transactions to the specially authorized executive body in charge with financial monitoring, as well as failure to comply with the requirements for safekeeping of the documents related to identification of the persons that conduct financial transactions, and the documents related to financial transactions conducted by them,

shall be punishable by a penalty of fifty to one hundred untaxed minimum incomes of citizen imposed on officials of the entities of initial financial monitoring.

Disclosure of information submitted to the specially authorized executive body in charge of financial monitoring and of the fact that such information was submitted,

shall be punishable by penalty of one hundred to three hundred untaxed minimum incomes of citizens."

2) In Article 221 and paragraph 1 of Article 294, numbers "1667 and 1668" shall be replaced with numbers "1667 to 1669".

3) Subparagraph 1 of paragraph 1 of Article 255 shall be supplemented by the following sentences:
"Specially authorized executive body in charge of financial monitoring (Article 1669);
the State Commission for Securities and Stock Exchange (Article 1669)",

and, in subparagraph "The National Bank of Ukraine" (Articles 16411, 1667, 1668), the numbers "1667 and 1668" shall be replaced with the numbers "1667 to 1669".

7. The Law of Ukraine on Banks and Banking shall be amended as follows:

1) In Article 62:

the following subparagraph shall be added to paragraph 1(5) to the Specially authorized executive body in charge of financial monitoring at its request in writing in matters related to financial transactions subject to financial monitoring pursuant to the legislation on the prevention and counteraction to the legalization (laundering) of the proceeds from crime."

The words "to the special anti-organized crime units" in paragraph 8 shall be replaced by the words "to the Specially authorized executive body in charge with financial monitoring."

L. Kuchma President of Ukraine Kyiv 28 November 2002 # 249-IV

Legal system and related institutional measures

2. *Criminal Code (Excerpts)*

Chapter II. LAW ON CRIMINAL LIABILITY

Article 3. Ukrainian legislation on criminal liability

1. The Criminal Code of Ukraine, based on the Constitution of Ukraine and generally recognized principles and rules of international law, shall be the Ukrainian legislation on criminal liability.
2. The Ukrainian laws on criminal liability, adopted after the entry of this Code into force, shall be incorporated in this Code following its entry into force.
3. The criminality of any act and also its punishability and other criminal consequences shall be determined exclusively by this Code.
4. Application of the law on criminal liability by analogy shall be prohibited.
5. The laws of Ukraine on criminal liability must be consistent with provisions of existing international treaties, consent for the binding effect of which has been granted by the Verkhovna Rada of Ukraine.

Article 4. Operation of the law on criminal liability in time

1. The law on criminal liability shall enter into force ten days after its official promulgation, unless otherwise is provided in the law itself, but not prior to the day of its publication.
2. The criminality and punishability as well as other criminal legal consequences of an act shall be determined by such law on criminal liability as was in effect at the time of commission of the act.
3. The time of commission of a criminal offense shall be the time in which a person committed an act or omission provided for by the law on criminal liability.
(The Article amended by the Law # 270-VI (270-17) of 15.04.2008).

Article 5. Retroactive effect of the law on criminal liability in time

1. The law on criminal liability, which repeals the criminality of an act, lenifies criminal liability or otherwise improves the position of a person, shall be retroactive in time, that is it shall

apply to persons who had committed relevant acts before that law entered into force, including the persons serving their sentence or those who have completed their sentence but have a conviction.
2. The law on criminal liability that criminalizes an act, increases criminal liability or otherwise impairs the position of a person shall not be retroactive in time.
3. The Law on criminal liability, which partially commutes criminal liability or otherwise improves the position of a person and partially aggravates criminal liability or otherwise impairs the position of a person, shall be retroactive in so far as it commutes criminal liability or otherwise improves the position of a person.
4. Whenever, after a person has committed an act punishable under the present Code, the Law on criminal liability has been changed several times, the law, which decriminalizes such act, commutes criminal liability, or otherwise improves the position of a person shall be retroactive
(The Article amended by the Law # 270-VI (270-17) of 15.04.2008)

Article 6. The operation of the law on criminal liability in regard to offences committed on the territory of Ukraine

1. Any person who has committed an offense on the territory of Ukraine shall be criminally liable under this Code.
2. An offense shall be deemed to have been committed on the territory of Ukraine if it has been initiated, continued, completed or discontinued on the territory of Ukraine.
3. An offense shall be deemed to have been committed on the territory of Ukraine if the principal to such offense, or at least one of the accomplices, has acted on the territory of Ukraine.
4. Where a diplomatic agent of a foreign state or another citizen who, under the laws of Ukraine or international treaties the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine, is not criminally cognizable by a Ukrainian court commits an offense on the territory of Ukraine, the issue of his criminal liability shall be settled diplomatically.

Article 7. The operation of the law on criminal liability in regard to offenses committed by citizens of Ukraine or stateless persons outside Ukraine

1. Citizens of Ukraine and stateless persons permanently residing in Ukraine, who have committed offenses outside Ukraine, shall be criminally liable under this Code, unless otherwise provided by the international treaties of Ukraine, the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine.
2. Where the persons referred to in the first paragraph of this Article underwent criminal punishment for the committed criminal offenses outside Ukraine, they shall not be criminally liable for these criminal offenses in Ukraine.

Article 8. The operation of the law on criminal liability in regard to offenses committed by foreign nationals or stateless persons outside Ukraine

Foreign nationals or stateless persons not residing permanently in Ukraine, who have committed criminal offenses outside Ukraine, shall be criminally liable in Ukraine under this Code as provided for by the international treaties, or if they have committed grave or especially grave offenses punishable under the present Code against rights and freedoms of Ukrainian citizens or interests of Ukraine.
(*Article 8 as amended by the Law of Ukraine # 3316-IV (3316-15) of 12.01.2006)*

Article 9. Legal consequences of conviction outside Ukraine

1. A judgment passed by a foreign court may be taken into account where a citizen of Ukraine, a foreign national, or a stateless person have been convicted of a criminal offense committed outside Ukraine and have committed another criminal offense on the territory of Ukraine.
2. Pursuant to the first paragraph of this Article, the repetition of criminal offenses, or a sentence not served, or any other legal consequences of a judgment passed by a foreign court shall be taken into account in the classification of any new criminal offense, determination of punishment, in the discharge from criminal liability or punishment.

Article 10. Extradition of a person accused of a criminal offense and a person convicted of a criminal offense

1. Citizens of Ukraine and stateless persons permanently residing in Ukraine, who have committed criminal offenses outside Ukraine,

shall not be extradited to a foreign state for criminal prosecution and committal for trial.
2. Foreign nationals, who have committed criminal offenses on the territory of Ukraine and were convicted of these offenses under this Code, may be transferred to serve their sentences for the committed offenses in the state, whose nationals they are, where such transfer is provided for by the international treaties of Ukraine.
3. Foreign nationals or stateless persons not residing permanently in Ukraine, who have committed crimes outside Ukraine and stay on the territory of Ukraine, may be extradited to a foreign state for criminal prosecution and committal for trial, or transferred to serve their sentence, where such extradition or transfer is provided for by the international treaties of Ukraine.

Chapter III. CRIMINAL OFFENSE, ITS TYPES AND STAGES

Article 11. Notion of a criminal offense

1. A criminal offense shall mean a socially dangerous culpable act (action or omission) prescribed by this Code and committed by an offender.
2. Although an act or omission may have, technically, any elements of an act under this Code, it is not an offense if, due to its insignificance, it is not a social danger, i.e. it neither did nor could cause considerable harm to any natural or legal person, community, society or the state.

Article 12. Classification of criminal offenses

1. Depending on the gravity, criminal offenses shall be classified as minor offenses, medium grave offenses, grave offenses, or special grave offenses.
2. A minor criminal offense shall mean an offense punishable by imprisonment for a term up to two years or a more lenient penalty.
3. A medium grave offense shall mean an offense punishable by imprisonment for a term up to five years.
4. A grave criminal offense shall mean an offense punishable by imprisonment for a term up to ten years.
5. A special grave offense shall mean an offense punishable by more than ten years of imprisonment or a life sentence.

Article 13. Consummated and unconsummated criminal offenses

1. A consummated criminal offense shall mean an offense which comprises all elements of a criminal offense as prescribed by the relevant article of the Special Part of this Code.
2. An unconsummated criminal offense shall mean the preparation for crime and criminal attempt.

Article 14. Preparation for crime

1. The preparation for crime shall mean the looking out or adapting means and tools, or looking for accomplices to, or conspiring for, an offense, removing of obstacles to an offense, or otherwise intended conditioning of an offense.
2. Preparation to commit a minor criminal offense does not give rise to criminal liability.

Article 15. Criminal attempt

1. A criminal attempt shall mean a directly intended act (action or omission) made by a person and aimed directly at the commission of a criminal offense prescribed by the relevant article of the Special Part of this Code, where this criminal offense has not been consummated for reasons beyond that person's control.
2. A criminal attempt shall be consummated where a person has completed all such actions as he/she deemed necessary for the consummation of an offense, however, the offense was not completed for the reasons beyond that person's control.
3. A criminal attempt shall be unconsummated where a person has not completed all such actions as he/she deemed necessary for the consummation of an offense for the reasons beyond that person's control.

Article 16. Criminal liability for an unconsummated criminal offense

The criminal liability for the preparation for crime and a criminal attempt shall rise under Article 14 or 15 and that article of the Special Part of this Code which prescribes liability for the consummated crime.

Article 17. Voluntary renunciation in an unconsummated criminal offense

1. The voluntary renunciation shall mean the final discontinuation of the preparation for crime or a criminal attempt by a person of his/her own

will, where that person have realized that the criminal offense may be consummated.
2. A person who voluntarily renounced to consummate a criminal offense shall be criminally liable only if the actual act committed by that person comprised elements of any other offense.

Chapter IV. CRIMINALLY LIABLE PERSON (CRIMINAL OFFENDER)

Article 18. Criminal offender

1. A criminal offender shall mean a sane person who has committed a criminal offense at the age of criminal liability may rise under this Code.
2. A special criminal offender shall mean a sane person who has committed a criminal offense at the age of criminal liability may rise, if that offense may only be committed by a certain person.

Chapter V. GUILT AND ITS FORMS

Article 23. Guilt

Guilt shall mean a mental stance of a person in regard to the performed act or omission under this Code and to the consequences thereof, as expressed in the form of intent or recklessness.

Article 24. Intent and its forms

1. An intent may be direct or indirect.

2. The intent is direct where a person was conscious of the socially injurious nature of his/her act (action or omission), anticipated its socially injurious consequences, and wished them.

3. The intent is indirect where a person was conscious of the socially injurious nature of his/her act (action or omission), foresaw its socially injurious consequences, and anticipated, though did not wish them.

Article 25. Recklessness and its types

1. Recklessness subdivides into criminal presumption and criminal negligence.

2. Recklessness is held to be criminal presumption where a person anticipated that his/her act (action or omission) may have socially injurious consequences but carelessly expected to avoid them.

3. Recklessness is held to be criminal negligence where a person did not anticipate that his/her act (action or omission) may have socially injurious consequences, although ought to and could anticipate them.

Chapter VI. COMPLICITY

Article 26. The notion of complicity

Criminal complicity is the willful co-participation of several criminal offenders in an intended criminal offense.

Article 27. Types of accomplices

1. Organizer, abettor and accessory, together with the principal offender, are deemed to be accomplices in a criminal offense.

2. The principal (or co-principal) is the person who, in association with other criminal offenders, has committed a criminal offense under this Code, directly or through other persons, who cannot be criminally liable, in accordance with the law, for what they have committed.

3. The organizer is a person who has organized a criminal offense (or criminal offenses) or supervised its (their) preparation or commission. The organizer is also a person who has created an organized group or criminal organization, or supervised it, or financed it, or organized the covering up of the criminal activity of an organized group or criminal organization.

4. The abettor is a person who has induced any other accomplice to a criminal offense, by way of persuasion, subornation, threat, coercion or otherwise.

5. The accessory is a person who has facilitated the commission of a criminal offense by other accomplices, by way of advice, or instructions, or by supplying the means or tools, or removing obstacles, and also a person who promised in advance to conceal a criminal offender, tools or means, traces of crime or criminally obtained things, to buy or sell such things, or otherwise facilitate the covering up of a criminal offense.

6. The concealment of a criminal offender, tools or means of a criminal offense, traces of crime or criminally obtained things, or buying or selling such things shall not constitute complicity where they have not been promised in advance. Persons who have committed such acts shall be criminally liable only in cases prescribed by Articles 198 and 396 of this Code.

7. A promised failure to report a crime which is definitely known to be in preparation or in progress, prior to the consummation of such, shall not constitute complicity. Any such person shall be criminally liable only if the act so committed comprises the elements of any other criminal offense.

3. In event of a voluntary renunciation of any accomplice, the principal shall be criminally liable for the preparation of the criminal offense or for the attempted offense depending on the stage at which his act was precluded.

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4. The abettor is a person who has induced any other accomplice to a criminal offense, by way of persuasion, subornation, threat, coercion or otherwise.
5. The accessory is a person who has facilitated the commission of a criminal offense by other accomplices, by way of advice, or instructions, or by supplying the means or tools, or removing obstacles, and also a person who promised in advance to conceal a criminal offender, tools or means, traces of crime or criminally obtained things, to buy or sell such things, or otherwise facilitate the covering up of a criminal offense.
6. The concealment of a criminal offender, tools or means of a criminal offense, traces of crime or criminally obtained things, or buying or selling such things shall not constitute complicity where they have not been promised in advance. Persons who have committed such acts shall be criminally liable only in cases prescribed by Articles 198 and 396 of this Code.
7. A promised failure to report a crime which is definitely known to be in preparation or in progress, prior to the consummation of such, shall not constitute complicity. Any such person shall be criminally liable only if the act so committed comprises the elements of any other criminal offense.

Article 28. Criminal offense committed by a group of persons, or a group of persons upon prior conspiracy, or an organized group, or a criminal organization

1. A criminal offense shall be held to have been committed by a group of persons where several (two or more) principal offenders participated in that criminal offense, acting without prior conspiracy.
2. A criminal offense shall be held to have been committed by a group of persons upon prior conspiracy where it was jointly committed by several (two or more) persons who have conspired in advance, that is prior to the commencement of the offense, to commit it together.
3. A criminal offense shall be held to have been committed by an organized group where several persons (three or more) participated in its preparation or commission, who have previously established a stable association for the purpose of committing of this and other offense (or offenses), and have been consolidated by a common plan with assigned roles designed to achieve this plan known to all members of the group.
4. A criminal offense shall be held to have been committed by a criminal organization where it was committed by a stable hierarchical association of several persons (five and more), members or structural units of which have organized themselves, upon prior conspiracy, to jointly act for the purpose of directly committing

of grave or special grave criminal offenses by the members of this organization, or supervising or coordinating criminal activity of other persons, or supporting the activity of this criminal organization and other criminal groups.
(The Article amended by the Law # 270-VI (270-17) of 15.04.2008)

Article 29. Criminal liability of accomplices

1. The principal (or co-principals) shall be criminally liable under that article of the Special Part of this Code which creates the offense he has committed.
2. The organized, abettor and accessory shall be criminally liable under the respective paragraph of Article 27 and that article (or paragraph of the article) of the Special Part of this Code which creates an offense committed by the principal.
3. The features of character of a specific accomplice shall be criminated only upon such accomplice. Other circumstances that aggravate responsibility and are provided for by articles of the Special Part of this Code as the elements of a crime that affect the treatment of the principal's actions, shall be criminated only upon the accomplice who was conscious of such circumstances.
4. Where the principal commits an unconsummated criminal offense, other accomplices shall be criminally liable for complicity in an unconsummated crime.
5. Accessories shall not be criminally liable for the act committed by the principal, where that act was no part of their intent.

Article 30. Criminal liability of organizers and members of an organized group or criminal organization

1. An organizer of an organized group or criminal organization shall be criminally liable for all the criminal offenses committed by the organized group or criminal organization, if those offenses were part of his intent.
2. Other members of an organized group or criminal organization shall be criminally liable for the criminal offenses prepared or committed with their participation, regardless of the role each of them had in such offenses.

Article 115. Murder

1. Murder, that is willful unlawful causing death of another person, -
shall be punishable by imprisonment for a term of seven to fifteen years

2. Murder:
(1) of two or more persons;
(2) of a young child or a woman who, to the knowledge of the culprit, is pregnant;
(3) of a hostage or the kidnapped person;
(4) committed with special brutality;
(5) committed by a method dangerous to the lives of many persons;
(6) based on mercenary motives;
(7) based on hooligan motives;
(8) of a person or a person's close relative in relation to that person's official duties or public functions;
(9) committed to conceal or facilitate another crime;
(10) coupled with rape, or violent unnatural sexual intercourse;
(11) committed as a contracted murder;
(12) committed by a group of persons upon prior conspiracy;
(13) committed by a person who has previously committed a murder, other than a murder provided for by Articles 116-118 of this Code,
- shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment with forfeiture of property in the case provided for by subparagraph 6 of paragraph 2 of this Article.
(The Article amended by the Law # 270-VI (270-17) of 15.04.2008)

Article 116. Murder committed in the heat of passion

A murder committed in the heat of passion caused by unlawful violence, systematic harassment or grievous insult of the victim, -
shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.

Article 119. Negligent homicide

1. Negligent homicide, -
shall be punishable by restraint of liberty for a term of three to five years, or imprisonment for the same term.
2. Negligent homicide of two or more persons, -
shall be punishable by imprisonment for a term of five to eight years.

Article 121. Intended grievous bodily injury

1. Intended grievous bodily injury, that is a willful bodily injury which is dangerous to life at the time of infliction, or resulted in a loss of any

organ or its functions, or caused a mental disease or any other health disorder attended with a persisting loss of not less than one-third of working capability, or interruption of pregnancy, or permanent disfigurement of face, -
shall be punishable by imprisonment for a term of five to eight years.
2. Intended grievous bodily injury committed by a method characterized by significant torture, or by a group of persons, and also for the purpose of intimidating the victim or other persons, or committed as a contracted offense, or which caused death of the victim, -
shall be punishable by imprisonment for a term of seven to ten years.

Article 122. Intended bodily injury of medium gravity

Intended bodily injury of medium gravity, that is a willful bodily injury which is not dangerous to life and does not result in the consequences provided for by Article 121 of this Code, but which caused a lasting health disorder or a significant and persisting loss of not less than one-third of working capability,-
shall be punishable by correctional labor for a term up to two years, or restraint of liberty for a term up to three years, or imprisonment for a term up to three years.
2. The same actions committed for the purpose of intimidating the victim or his/her relatives, or coercion to certain actions, -
shall be punishable by imprisonment for a term of three to five years.

Article 127. Involving attesting witnesses

At least, two attesting witnesses should be present during search, removal, inspection, presentation of persons and objects for identification, reconstruction of situation and circumstances of an event, inventory of asset.
Attesting witnesses may be invited to participate in the examination if investigator finds it necessary.
Persons neutral to the case are invited as attesting witnesses. Victim, relatives of the suspect, accused, and victim, members of inquiry and pre-trial investigation agencies may not be attesting witnesses.
Attesting witnesses who are present during the conduct of the abovementioned investigative actions attest with their signatures that entries in the record conform to actions conducted.
An attesting witness's comments to investigative actions conducted should necessarily be entered on the record.
With appropriate grounds present, attesting witnesses shall be entitled to have their security ensured trough the enforcement of measures provided for in Ukrainian laws.
(Article 127 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 2857-XII (2857-12) of 15.12.92, # 1381-XIV (1381-14) of 13.01.2000).

Article 129. Investigator's considering petitions

Investigator considers petitions of the suspect, accused, their defense counsels, as well as victim and his/her representatives, civil plaintiff, civil defendant or their representatives about the conduct of any investigative actions within three days and satisfies them if circumstances whose establishment is required in such petitions have an importance for the case.
Results of petitions' consideration are communicated to the petitioner. A motivated decision is drawn up on the full or partial denial of the petition.
(Article 129 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 117-VIII
(117-08) of 30.08.71, # 6834-X (6834-10) of 16.04.84; in accordance with Law # 3780-XII (3780-12) of 23.12.93).

Article 130. Decision of the investigator and prosecutor

A motivated decision is drawn up on decisions taken by the investigator or prosecutor at the stage of pre-trial investigation in cases specified in the present Code, as well as in cases when investigator or prosecutor find it appropriate.
Such decision states place where, and time when, it was drawn up, position of the person who takes the decision, name of the person who takes the decision, identity of the case in which proceedings are conducted, as well as substantiation of the decision made and provision of the Code underlying the decision taken.

Chapter 12
BRINGING CHARGES AND INTERROGATION OF THE ACCUSED

Article 131. Prosecuting an individual as an accused

Investigator takes decision to prosecute an individual as an accused if there are sufficient proofs indicating at the commission of crimes by this individual.

Article 146. Handwriting his/her testimonies by the accused

If he/she so requires, the accused is given the possibility to handwrite his/her testimonies, and an appropriate note is entered in the record of interrogation. Investigator, having reviewed written testimonies of the accused, may ask him/her additional questions. Such questions and answers thereto are entered in the record. The accused and investigator attest the accuracy of written testimonies, questions, and answers thereto with their signatures.

Article 147. Suspension of the accused from office

Whenever an official is prosecuted for an official crime and when such person is prosecuted for another crime and if he/she can negatively affect the course of pre-trial investigation or judicial investigation, investigator is required to suspend him/her from office and take a motivated decision thereon.

Suspension from office is made upon prosecutor or his/her deputy's sanction. A copy of the decision should be directed to the place of work (service) of the accused for execution.

The issue of suspending from office persons who are appointed by the President of Ukraine is decided by the President of Ukraine based on motivated decision of the Prosecutor General of Ukraine.

Suspension from office is revoked by the decision of the investigator (prosecutor) whenever there is no longer need in such a measure.

(Article 145 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, as revised by Law # 358/95-BP (358/95-BP of 05.10.95).

Article 176. Record of identification

A record of identification of a person or an object and of identification results is drawn up as prescribed in Article 85 of the present Code. Such record should also contain information on the person of the identifying individual and that the latter has been admonished of criminal liability for refusal to testify and for knowingly misleading testimonies. The record should further state details of persons and objects being presented for identification and characteristic signs by which the identifying individual has identified the person or the object concerned.

If identification is conducted in accordance with rules specified in the fourth paragraph of Article 174 of the present Code, the record, in addition to information required by the present Article, should necessarily state that identification was made out of visual observation of the person to be identified, as well as narrate all circumstances and conditions under which such identification was conducted.

The record is signed by all persons who participated in the identification, attesting witnesses, and investigator. The record is attached photos if persons or objects presented for identification have been photographed.

(Article 176 as amended by Law # 1381-XIV (1381-14) of 13.01. 2000).

Article 185. Non-disclosure of circumstances related to private life of persons searched

During search or removal, investigator shall have the duty to take measures to prevent any disclosure of circumstances related to private life of persons searched and of other persons who live or temporary stay in this premise.

Article 186. Seizing objects and documents

During search or removal, only objects and documents of importance for the case, as well as valuables and property of the accused or suspect may be seized in order to secure the civil claim or possible forfeiture of asset. Objects and documents which were seized from circulation under law are subject to seizure irrespective of their relationship with the case.

Investigator should present all documents and objects to be seized to attesting witnesses and other persons present and list such documents and objects in the record of search or removal or in inventory attached thereto stating their name, number, seize, weight, material they are produced of, and individual signs. If necessary, objects and documents seized should be packed and sealed in the place where search or removal is conducted.

Article 189. A copy of the record of search or removal should be necessarily handed over

The second copy of the record of search or removal and the second copy of object

description is handed over to the person in whose premise search or removal was conducted and in the absence of the latter – to the representative of housing maintenance organization or local council of people's deputies.
When search or removal is conducted at an enterprise, institution, or organization, the second copy of the record and description is handed over to the representative of enterprise, institution, or organization concerned.
If the record contains comments on wrong actions during the search, investigator informs the prosecutor who supervises investigation thereon within two days.
(Article 189 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84).

Article 190. Inspection

In order to detect traces of crime and other exhibits, find out the situation in which a crime was committed and other circumstances of importance for the case, investigator inspects surrounding area, premises, objects, and documents.
In urgent cases, the place of crime may be inspected before instituting criminal proceedings. In such cases, criminal proceedings are instituted immediately after inspection of the place of crime if sufficient grounds are present therefor.
Investigator draws up a record of inspection.
Home or any other possession of a person may be inspected only upon a motivated decision of the judge rendered in compliance with Article 177, fifth paragraph, of the present Code. This judge's decision may not be challenged.
In urgent cases, when it comes to saving life and property or to hot pursuit of the persons suspected of having committed a crime, the home or any other possession of a person may be inspected, upon owner's consent, without judge's decision.
Court's decision is not required if inspection of the place of crime in the home or any other possession of a person in urgent cases is conducted upon owner's request or report of crime committed against him/her and in the absence of such person or impossibility to obtain his/her consent to urgent inspection of the place of crime.
In cases specified in the fifth and sixth paragraphs of the present Article, investigator should necessarily state in the record of inspection reasons for inspection without judge's decision and inform the prosecutor supervising pre-trial investigation that inspection of the home or any other possession of the person has been conducted and on its results within 24 hours after such action has been carried out.
(Article 190 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 117-VIII (117-08) of 30.08.71, in accordance with Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 199. Obtaining samples for expert examination

If necessary, investigator shall have the power to make a decision on seizing and taking samples of handwriting and other samples which are necessary for expert examination. A record of taking samples is drawn up.
Samples are stored in compliance with rules governing storage of exhibits (Articles 79-81 of the present Code).

Article 198. Carrying out expert examination in an expert institution

Having received the decision to conduct expert examination, head of the expert institution concerned assigns expert examination to one or several experts. These experts prepare their opinion of their own behalf and are personally liable therefor.

Article 201. Interrogation of an expert

After having reviewed the opinion, investigator may interrogate the expert concerned in order to obtain explanations or supplement the opinion. A record of expert interrogation is drawn up.

Article 209. Legalizing (laundering) proceeds from crime

1. Conducting financial transaction or concluding an agreement involving money or other property obtained as a result of committing a socially dangerous unlawful action which preceded legalization (laundering) of profits, as well as carrying out actions aimed at concealing or masking illegal origin of such money or other property or possession thereof, rights to such money or property, source of their origin, location, displacement, and acquiring, owing, or disposing of money or other property obtained as a result of committing a publicly dangerous

unlawful action which preceded legalization (laundering) of profits, -

shall be punishable by imprisonment for a term of three to six years, with deprivation of right to hold certain positions or engage in certain activities for a term up to two years, with forfeiture of money or other property obtained as proceeds from crime, and with confiscation of property.

2. Actions as referred to in paragraph 1 of the present Article, if committed repeatedly or by a group of individuals upon prior conspiracy, or if committed in large amounts, -

shall be punishable by imprisonment for a term of seven to twelve years, with deprivation of right to hold certain positions or engage in certain activities for a term up to three years, with forfeiture of money or other property obtained as proceeds from crime, and with confiscation of property.

3. Actions as referred to in paragraph 1 or 2 of the present Article, if committed by an organized group or if committed in large amounts, -

shall be punishable by imprisonment for a term of eight to fifteen years, with deprivation of right to hold certain positions or engage in certain activities for a term up to three years, with forfeiture of money or other property obtained as proceeds from crime, and with confiscation of property.

Note. 1. Under this Article, it is understood that a socially dangerous unlawful action which preceded legalization (laundering) of profits is considered to be an action which is punishable, under the Criminal Code of Ukraine, with imprisonment for a term of three and more years (except actions punishable under Articles 207 and 212 of the Criminal Code of Ukraine), or which is a crime under criminal statute of another State, such crime being punishable under the Criminal Code of Ukraine, and as result of which illegal proceeds were obtained.

2. Legalizing (laundering) proceeds from crime is considered to be committed in a large amount if the value of money or other property involved in the crime concerned exceeds six thousand non-taxable minimum incomes of citizens.

3. Legalizing (laundering) proceeds from crime is considered to be committed in an especially large amount if the value of money or other property involved in the crime concerned exceeds eighteen thousand non-taxable minimum incomes of citizens.

(*Article 209 as revised by Law # 430-IV (430-15) of 16.01.2003) – effective from 11.06.2003).*

Article 209-1. Willful violation of legislation related to preventing and counteracting legalization (laundering) proceeds from crime

1. Repeated willful failure to submit information on financial transactions or repeated willful submission of knowingly inaccurate information on financial transactions which are subject to internal or compulsory financial monitoring, to the public authority in charge of financial monitoring, -

shall be punishable by a fine in the amount of one thousand to two thousand non-taxable minimum incomes of citizens, or by restriction of freedom for a term of two years, or by imprisonment for the same term, with deprivation of right to hold certain positions or engage in certain activities for a term up to three years.

2. Illegal disclosure of any information to be provided to the public authority in charge of financial monitoring, by an individual who learned such information in line of his professional or official duty, -

shall be punishable by a fine in the amount of two thousand to three thousand non-taxable minimum incomes of citizens, or by restriction of freedom for a term up to three years, or by imprisonment for the same term, with deprivation of right to hold certain positions or engage in certain activities for a term up to three years.

(*Article 209-1 is added under Law # 430-IV (430-15) of 16.01.2003) – effective from 11.06.2003).*

Article 204. Establishing mental condition of the accused

If a case contains information that probable cause exists to believe that, during the commission of a publicly dangerous act, the accused was in the

state of insanity or had limited criminal capacity, as well as if he/she committed a crime having full criminal capacity but after the commission of crime fell ill of a mental disease which made him/her unable to realize what he/she was doing or to direct his/her actions, investigator assigns forensic psychiatric examination to establish mental condition of the accused.
(Article 204 as amended by Law # 2670-III (2670-14) of 12.07.2001).

Article 205. Sending the accused to in-patient examination

When forensic medical or forensic psychiatric examination requires long observation of the accused or surveying him/her, court, upon request of investigator as agreed with prosecutor, places him/her in the appropriate medical institution and takes an appropriate decision thereon.
The request is considered in compliance with Article 165-2, fifth paragraph; prosecutor, the accused, his/her defense counsel or legal representative may file an appeal against judge's decision with the Court of Appeals within 3 days. Filing the appeal does not preclude execution of judge's decision.
(Article 205 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84; as revised by Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 206. Grounds and procedure for suspension of pre-trial investigation

Pre-trial investigation in a criminal case is suspended when:

1) place where the accused stays in unknown;
2) mental or any other serious disease of the accused precludes completing proceedings in the case;
3) person of the offender is not established;
4) court suspends investigative actions for the time when complaint against decision to institute criminal proceedings is being considered.

In instances referred to in the first and second paragraphs of the present Article, pre-trial investigation may be suspended only after investigator has made a decision to prosecute an individual as an accused and conducted all investigative actions which are allowed in the absence of the accused, as well as taken measures to preserve documents and other possible proofs in the case.
In instances referred to the third paragraph of the present Article, pre-trial investigation may be suspended only after all necessary and practicable investigative actions have been conducted to establish the perpetrator of crime.
Pre-trial investigation is suspended by a motivated decision of investigator, and a copy of such decision is forwarded to the prosecutor. Whenever two or more accused are prosecuted in the case and grounds for suspension of the case relate not to all accused, investigator may disjoin and suspend the case related to particular accused or suspend all proceedings in the case.
(Article 206 as amended by Law # 462-V (462-16) of 14.12.2006).

Article 236. Challenging prosecutor's actions

Challenge against prosecutor's actions during his/her conducting pre-trial investigation or particular investigative actions in a case should be filed with a higher prosecutor who is required to dispose the same in the way and within time-limits prescribed in Articles 234 and 235 of the present Code.
Prosecutor's actions may be challenged before court.

(Provisions of the third paragraph of Article 236 - which make it impossible for the court to consider, at the stage of pre-trial investigation, challenges against decisions of investigator, prosecutor related to compulsory appearance under law, grounds and procedure for instituting criminal proceedings against a person – have become inoperative as unconstitutional based on Constitutional Court's decision # 3-рп/ 2003 (v003p710-03) of 30.01.2003). Challenges against prosecutor's actions are considered by trial courts during preliminary consideration of the case or during consideration of the case on its merits unless the present Code prescribes otherwise.

(Article 236 as amended by Laws # 2857-XII (2857-12) of 15.12.92, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 236-1. Challenging the decision to deny instituting criminal proceedings before court

Challenge against decision of the inquiry agency, investigator, prosecutor to deny instituting criminal proceedings shall be filed by the person

whose interests such decision affects or by his/her representative with district (city) court in the place where the issuing agency or official is located, within seven days after a copy of the decision or a notice of the prosecutor on the denial to reverse the decision has been received.

(Article 236-1 is added under Law # 2857-XII (2857-12) of 15.12.92, as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 236-2. Judge's considering the challenge against decision to deny instituting criminal proceedings

Challenge against decision of the prosecutor, investigator, and inquiry agency to deny instituting criminal proceedings shall be considered by a single judge within ten days from the date on which it has been received by court.

The judge directs to submit him/her materials based on which instituting criminal proceedings has been denied, reviews these materials and informs the prosecutor and the complainant then the challenge is considered. If necessary, the judge hears complainant's explanations. Record of court session should be kept during consideration of the challenge.

Having considered the challenge, the judge, depending on whether provisions of Article 99 of the present Code have been complied with or not, makes one of the following decisions:

1) reverses decision to deny instituting criminal proceedings and returns materials for additional verification;
2) dismisses the challenge.

Prosecutor, complainant may challenge judge's decision before Court of Appeals within seven days from the date of judge's decision.

A copy of judge's decision is forwarded to the person who took the challenged decision, prosecutor, and the complainant.

(Article 236-2 is added under Law # 2857-XII (2857-12) of 15.12.92; as modified by Laws # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001, # 3150-IV (3150-15) of 30.11.2005).

(Article 236-3 is omitted under Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

(Article 236-4 is omitted under Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 236-5. Challenging the decision to dismiss a case before court

Decision of the inquiry agency, investigator, prosecutor to dismiss criminal case may be challenged by the person whose interests such decision affects or by his/her representative before district (city) court in the place where the issuing agency or official is located, within seven days after a copy of the decision or a notice of the prosecutor on the dismissal of the complaint has been received.

(Article 236-5 is added under Law # 2857-XII (2857-12) of 15.12.92; as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 236-6. Judge's considering the challenge against decision to dismiss a case

Challenge against decision of the inquiry agency, investigator, prosecutor to dismiss the case shall be considered by a single judge within five days and, if the case is complicated, – within ten days from the date on which the dismissed case has been received by court.

The judge directs to submit him/her records of the case and, if appropriate, hears complainant's explanations.

The judge informs prosecutor and the complainant on the time when the challenge will be considered, prosecutor and the complainant being allowed to participate in the consideration of the challenge and present their arguments. Record of court session is kept during consideration of the challenge.

Having considered the challenge, the judge, depending on whether the case was dismissed in compliance with provisions of Articles 213 and 214 of the present Code or not, makes one of the following decisions:

1) dismisses the challenge;
2) reverses decision to dismiss the case and returns the case to prosecutor for renewing investigation or inquiry.

When reversing decision to dismiss the case and referring the case to prosecutor for renewing investigation or inquiry, the judge points out what circumstances should be ascertained in the course of pre-trial investigation.

Prosecutor, complainant may challenge judge's decision before Court of Appeals within seven days from the date of judge's decision.

A copy of judge's decision is forwarded to the person who took decision to dismiss the case, complainant, and prosecutor who denied renewing pre-trial investigation or inquiry.

(Article 236-6 is added under Law # 2857-XII (2857-12) of 15.12.92; as modified by Laws # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001, # 3150-IV (3150-15) of 30.11.2005, # 3150-IV (3150-15) of 30.11.2005).

Article 236-7. Challenging the decision to institute criminal proceedings before court

Decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings against the individual concerned or upon the fact of the commission of crime may be challenged before local court in the place where the issuing agency is located or the issuing official woks, in compliance with rules governing jurisdiction.

Challenge against decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings against the individual concerned may be filed with court by the person in whose respected criminal proceedings have been instituted, by his/her defense counsel or legal representative.

Challenge against decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings upon the fact of the commission of crime may be filed with court by the person whose interests are affected by criminal proceedings, his/her defense counsel or legal representative with sufficient substantiation of violation of rights and legitimate interests of the person concerned. Whenever judge finds that violation of rights and legitimate interests of the person concerned is substantiated insufficiently, the judge takes decision to deny consideration of the challenge. Denial to open proceedings does not waive the right re-apply to court.

The court accepts the challenge against decision to institute criminal proceedings throughout the entire period during which the inquiry agency, investigator, prosecutor proceeds the case till completion of pre-trial investigation.

(Article 236-7 is added under Law # 462-V (462-16) of 14.12.2006).

Article 236-8. Court's considering the challenge against decision to institute criminal proceedings

Challenge against decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings is considered by a single judge within five days from the date on which the court has received the challenge.

The judge takes decision on opening proceedings upon the challenge against decision to institute criminal proceedings within 24 hours from the date on which the court has received the challenge and a copy of judge's decision is forwarded to:

1) complainant, his/her defense counsel, or legal representative;
2) agency which instituted criminal proceedings or which is in charge of proceedings in the case;
3) prosecutor;
4) victim or the person upon whose application criminal proceedings have been instituted.

Decision to open proceedings should state:

1) time when, and place where, the challenge will be considered;
2) list of person who should necessarily appear before court;
3) actions which parties are required to carry out to ensure consideration of the challenge;
4) deadline for submitting to court materials based on which decision to institute criminal proceedings was taken.

In the decision to open proceedings, the judge should decide on the appropriateness of suspending investigative actions in the case for the time of consideration of the challenge.

Judge's decision to open proceedings takes legal effect upon rendering the decision and is subject to immediate execution.

The inquirer, investigator, prosecutor in charge of proceedings in the case is required to submit, within time-limit prescribed, to judge materials based on which decision to institute criminal proceedings was taken. Materials which are submitted to court should be described, filed, and numbered with indication of the position and name of the person who prepared the description.

In case of failure to submit, - without valid reasons, within time-limit prescribed by judge, - to court materials based on which decision to institute criminal proceedings was taken, the judge may find the absence of such materials as a ground for reversing the decision to institute criminal proceedings.

If the court by its decision decided to suspend investigative actions for the time of consideration of the challenge, period of consideration of the latter is not credited to the period of pre-trial investigation.

Duty to prove lawfulness of instituting criminal proceedings is assumed by prosecutor whose non-appearance in court session does not preclude consideration of the challenge.

Non-appearance of the complainant in court session without valid reasons and whose presence was found by judge mandatory shall be the ground for dismissing proceedings related to consideration of the challenge.

Judge considers the challenge in court session based on available records of the case.

In court session, having checked appearance of the parties, the judge:

1) examines materials based on which criminal proceedings were instituted;
2) hears explanations of the complainant, his/her defense counsels or legal representatives, victim or the person upon whose application criminal proceedings were instituted if they have appeared in court session;
3) hears prosecutor's opinion if he/she has appeared in court session;
4) if necessary, hears explanations of the person who issued decision to institute criminal proceedings.

Record of court session is kept during consideration of the challenge.

During consideration of the challenge, the parties may review materials which substantiate institution of criminal proceedings and may request that such materials be read out in court session.

When considering the challenge against decision to institute criminal proceedings, the court should verify the presence of motives and grounds for rendering the said decision, how legal are sources from which was obtained information underlying the decision to institute criminal proceedings and may not consider and dispose matters which should be decided by court during consideration of the case on its merits.

Having considered the challenge, the judge, depending on whether the case was instituted in compliance with provisions of Articles 94, 97 and 98 of the present Code or not, by his/her motivated decision:

1) dismisses the challenge;
2) satisfies the challenge, reverses decision to institute criminal proceedings, and takes decision to deny instituting criminal proceedings.

Taking legal effect by judge's decision to reverse decision to institute criminal proceedings means revoking measures of restraint, giving back removed objects, and restoring rights which were restricted for the time of pre-trial investigation.

A copy of judge's decision is forwarded to prosecutor, agency which instituted criminal proceedings, agency in charge of criminal proceedings, complainant, his/her defense counsel or legal representative, victim, and the person upon whose application criminal proceedings was instituted.

If the challenge is dismissed, records of the case are returned to pre-trial investigation. Copies of documents are kept in materials related to consideration of the challenge.

If decision to institute criminal proceedings is reversed and instituting criminal proceedings is denied, documents submitted to court are kept in records of the proceedings conducted on the challenge till the appropriate judge's decision takes legal effect. Thereafter, these materials are kept in court.

Judge's decision may be challenged by way of appeal before Court of Appeals within seven days from the date of the decision. Filing an appeal does not suspend execution of the judge's decision.

(Article 236-8 is added under Law # 462-V (462-16) of 14.12.2006).

Article 245. Assigning the case for trial

With sufficient grounds for trial of the case in court session present, the judge, without rendering in advance the decision on the guilt, makes decision to assign the case for trial.

The decision should state: place where, and date when, the decision was taken, judge's position and name, last name, first name and patronymic of the accused, grounds for assignment of the case for trial, provision of the Criminal Code under which charges were brought, and decision on other matters related to preparation of the case for trial.

Judge's decision may not be challenged and prosecutor may not submit objections thereto.

(Article 245 as amended by Law # 2464-XII (2464-12) of 17.06.92, as revised by Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 252 is omitted under Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001.

Article 253. Matters to be resolved by judge in connection with preparation of a case for trial

Having decided to assign a case for trial, the judge resolves the following matters:

1) appointment of a defense counsel when participation of the later is required;
2) alteration, revocation, or imposition of a measure of restraint;
3) finding a person legal representative of the accused, finding a person victim, defendant representative of the victim, plaintiff, defendant if such decision was not taken at the stage of investigation;
4) finding a victim civil plaintiff if the suit has not been brought during investigation;
5) list of person to be cited in court session, and obtainment of additional proofs;
7) provisional remedies to secure civil claim;
8) inviting a translator as the case may be;
10) trial in open court or in camera;
11) day and place of trial;
12) all other matters relating to preparation for trial.

With grounds present to believe that, in accordance with Article 299 of the present Code, only certain proofs are examined at the stage of trial or they are not examined at all, the judge may cite in court session only persons or direct to submit him/her only proofs whose interrogation or examination was requested in petitions of participants to trial.

At the stage of trial, the judge may not deny participants to trial in examination of proofs if the latter are appropriate and admissible.

(Article 253 as amended by Laws # 3780-XII (3780-12) of 23.12.93, # 1381-XIV (1381-14) of 13.01.2000, as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 255. Ensuring the right to review records of the case

After a case has been assigned to trial, the judge should ensure the prosecutor, defendant, his/her defense counsel, victim, civil plaintiff and their representatives, upon request of the latter, the possibility to review records of the case, while civil defendant and his/her representative – the right to review records relating to civil claim. All of the said persons may take notes from records of the case.

Records relating to protective measures enforced in respect of participants to criminal proceedings are not produced for review.

(Article 255 as amended under Laws # 1381-XIV (1381-14) of 13.01.2000, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 258. Act of terrorism.

1. Act of terrorism namely use of weapons, committing the explosion, arson or other actions dangerous for peoples life or health, or causing great damage or heavy consequences, in case when they were

committed in purpose of public security violation, intimidation of population, provocation of the military conflict, international complication, or with the aim to influence on official decisions or state or local authorities actions including officials of these bodies, public associations, juridical persons or to attract attention to definite political, religious or other opinions of guilty person (terrorist), and the threat of committing the same with the same purpose –

are subjects to the punishment of from 5 to 10 years imprisonment;

2. Same actions committed repeatedly or committed by the group of persons in preliminary collusion or when they result in great property damage or other heavy consequences -

are subjects to the punishment of from 7 to 12 years imprisonment;

3. Actions mentioned in the first or second part of this clause if they result in peoples death -

are subjects to the punishment of from 10 to 15 years imprisonment or imprisonment for life.

Article 258-1. Involvement in terroristic act commitment.

1. Involvement in terroristic act commitment or enforcement to terroristic act commitment with use of deception, blackmail, critical state of the person, or with the use or menace to use violence -

are subjects to the punishment of from 3 to 5 years imprisonment;

2. Actions mentioned in the first part of this clause committed to several persons or repeatedly or by the group of persons in preliminary collusion or by the state official with the use of his official status –

are subjects to the punishment of from 4 to 7 years imprisonment.

Article 258-2. Public appeals to commitment of the act of terrorism.

1. Public appeals to terroristic act commitment or dissemination, manufacturing or storage of materials with such appeals –

are subjects to the punishment of corrective works for up to 2 years or arrest for up to 6 month or discretion restriction for up to 3 years or same period imprisonment;

2. Same actions committed with the use of media –

are subjects to the punishment of up to 4 years discretion restriction or up to 5 years imprisonment with deny to occupy definite posts or to manage definite activity for a period up to 3 years.

Article 258-3. Establishment of terroristic group or terroristic organization.

1. Terroristic group or terroristic organization establishment, management or participation, as well as financial, organizational or similar assistance to establishment or to activity of the terroristic group or organization –

are subjects to the punishment of from 8 to 15 years imprisonment;

2. Person who has informed law-enforcement authorities about corresponding terroristic activity, assisted to stop or uncover crimes committed owing to establishment or activity of such group or organization, except organizer or leader, is not a subject to punishment.

Article 258-4. Assistance in commitment of the terroristic act.

1. Recruitment, financing (sponsoring), material support, arming, teaching (training) a person with the aim to commit a terroristic act as well as use a person with the same purpose –

are subjects to the punishment of from 3 to 8 years imprisonment.

2. Same actions committed to several persons or repeatedly or by the group of persons in preliminary collusion or by the state official with the use of his official status –

are subjects to the punishment of from 5 to 10 years imprisonment.

Article 263. Defendant's rights during trial

In court session, the defendant has the right to:

1) propose disqualifications;
1.1) collegiate trial of the case in instances specified by law;
2) have a defense counsel or to defend himself/ herself;
3) submit petitions and express his/her opinion with regard to petitions of other participants to trial;
4) produce evidence, request that the court attach documents to the records of the case, cite witnesses, assign expert examination and direct to submit other proofs;
5) give testimonies as to the merits of the case at any time during trial examination or waive giving testimonies and answering questions;
6) request that the court announce evidence available in the case;
7) put questions to other defendants, witnesses, expert, specialist, victim, civil plaintiff, and civil defendant;
8) participate in the examination of exhibits, inspection of scene of crime, and documents;
9) speak in court pleadings;
10) address the court with final statement.

(Article 263 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 3780-XII (3780-12) of 23.12.93, # 305/94-BP (305/94-BP) of 20.12.94, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 301. Announcing defendant's testimonies

Testimonies given by the defendant during inquiry, pre-trial investigation or trial may be announced by court both upon court's initiative and motion of the prosecutor and other participants to trial in the following instances:

1) if essential controversies in testimonies the defendant gave in during trial, pre-trial investigation or inquire are present;
2) if the defendant waived testifying during examination in court;
3) if the case is heard in the absence of the defendant.

Article 301-1. Moving to pleadings after defendant's examination

When, under Article 299, third paragraph, of the present Code, the court limits examination of actual circumstances of the case to examination of the defendant, the court, after having examined the defendant, complies with provisions of Article 317 of the present Code and moves to pleadings.

(Article 301-1 is added under Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001; as amended by Law # 2670-III (2670-14) of 12.07.2001).

Article 303. Examining a witness

Each witness is examined separately in the absence of witnesses who have not been examined.
Before examination each witness is asked questions in order to find out his/her relations with the defendant and the victim and is invited to tell everything he/she knows in the case.
After the witness has told everything he/she knows in the case, he/she is examined by prosecutor, victim, civil plaintiff, civil defendant, defense counsel, defendant, judge, and people's assessors.
Whenever a witness has been cited in court session upon prosecutor's motion or petition of other participants to trial, the witness is asked questions first by the participant to trial upon whose petition the witness has been cited.
Throughout the entire examination of the witness by participants to trial, the court may ask the witness questions to clarify and supplement his/her answers.
To ensure security of the witness to be examined, the court (judge), upon its own initiative or upon motion of the prosecutor, defense counsel or petition of the witness himself/ herself, passes a motivated ruling to examine the witness concerned with the use of technical means from another premise, including outside court's building, and to give participants to the process the right to listen his/her testimonies, ask questions and hear answers thereto.
If there is a risk that witness's voice can be identified, examination may be accompanied by acoustic noises.

If it appears impossible to examine the witness with the use of technical means, the court (judge) examines him/her in the absence of the defendant. Examined witness is removed from the courtroom.
After the defendant has returned in the courtroom, presiding judge makes him/her aware of testimonies which were given by the witness and gives him/her the possibility to provide explanations with regard to such testimonies.
Defendant and participants to trial may ask the witness questions.
The witness answers questions in the absence of the defendant.
Examined witnesses stay in courtroom and may not leave without presiding judge's permission till the trial is completed.
(Article 303 as amended by Laws # 1381-XIV (1381-14) of 13.01.2000, # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 306. Announcing witness's testimonies

Upon its own initiative or motion of the prosecutor or petition of other participants to trial, the court may announce testimonies the witness has given during inquiry, pre-trial investigation, or trial, in the following instances:

1) if essential controversies in testimonies the witness has given in during trial, pre-trial investigation or inquire are present;
2) witness's appearance is impossible for one or another reason;
3) if the case is heard in the absence of the witness as prescribed in Article 292, second paragraph, of the present Code.

Testimonies of the witness who has been examined under Article 292-1 of the present Code may also be announced in court session.
(Article 306 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 8627-X (8627-10) of 20.03.85, in accordance with Law # 1381-XIV (1381-14) of 13.01.2000).

Article 365. Extent to which court of appeals verifies the case

Court of appeals verifies the judgment, ruling or decision made by trial court within the scope of the appeal. Trial court's findings in respect of actual circumstances of the case which were not challenged and in whose respect proofs were not examined under Article 299 and Article 301-1 of the present Code are not subject to verification.
Whenever trial of the case gives grounds for taking a decision in favor of persons in whose respect appeals were not filed, the court of appeals is required to take such decision.

Article 368. Biased or incomplete inquiry, pre-trial investigation or trial examination

Inquiry, pre-trial investigation or trial examination in trial court are considered to be biased or incomplete if circumstances whose ascertainment can have essential importance for correctly resolving the case were not examined.
In any case, inquiry, pre-trial investigation or trial examination are considered to be biased or incomplete:

1) if certain persons were not questioned, documents, exhibits, and other proofs were not requested to be submitted and examined in order to confirm or deny circumstances having essential importance for correctly resolving the case;
2) when circumstances stipulated in the ruling of court which remanded the case for supplementary investigation or a new trial were not examined, save that it was impossible examine the same;
3) whenever necessity to examine a circumstance is attributable to new details established during appellate trial;
4) if details relating to the person of the convicted or acquitted individual were not established sufficiently fully.

Article 369. Findings of a trial court are inconsistent with actual circumstances of the case

A judgment or decision is considered to be inconsistent with actual circumstances of the case:

1) when court's findings are not confirmed by proofs examined in court session;
2) if the court ignored proofs which might have essentially affected its findings;
3) in so far as, with controversial proofs of essential importance for court's findings present, the judgment (decision) does not state why the court accepted one proofs and ignored the others;

4) whenever court's findings stated in the judgment (decision) contain essential controversies.

Based on these grounds, a judgment or decision should be reversed or changed only if inconsistency of court's findings with actual circumstances of the case might have affected the issue of the convicted person's guilt or acquitted person's innocence, the correct application of the criminal statute, the determination of sanction or enforcement of compulsory measures of educational or medical nature.

3. *Table – Designated categories of offences*

Designated categories of offences based on the FATF Methodology	**Offence (Criminal Code of Ukraine)**
Participation in an organised criminal group and racketeering;	Types of accomplices (Art. 27 CC) and the relevant Art. of CC form the Special Part, where there is qualifying feature – commitment of crime by organised criminal group (the organiser is also a person who has created an organised group or criminal organisation, or supervised it, or financed it, or organised the covering up o of the criminal activity of an organised group or criminal organisation. Creation of a criminal organization (Art. 255 CC)
Terrorism, including terrorist financing	Terrorist act (Art. 258 CC) punishment – imprisonment from 5 years till 15 years; Involving in the commission of a terrorist act (art. 258^1 CC) punishment – imprisonment from 3 years till 7 years; Public calls for the commission of a terrorist act (art. 258^2 CC) punishment – correctional works for a term up to 2 years or arrest for a term up to six months, or restriction of freedom for a term up to 3 years, or imprisonment for a term of up to 5 years, or restriction of freedom for a term up to 4 years with deprivation of right to hold certain positions or engage in certain activities for a term of up to 3 years. Setting up a terrorist group or terrorist organisation (art. 258^3 CC) punishment – imprisonment from 8 years till 15 years; Facilitating the commission of a terrorist act (art. 258^4 CC), punishment – imprisonment from 3 years till 10 years.
Trafficking in human beings and migrant smuggling;	Trafficking in human beings and any other illegal deal in respect of a human being (art. 149 CC), punishment – imprisonment from 3 years till 15 years with or without forfeiture of property; Illegal movement of persons across the state border of Ukraine (art. 332 CC), punishment – imprisonment from 2 years till 7 years with the forfeiture of transport or any other means used to commit the offence;
Sexual exploitation, including sexual exploitation of children;	Souteneurship/pimping or involving in prostitution (art. 303 CC), punishment – imprisonment from 3 years till 15 years, with or without forfeiture of property; Importation, making, sale or distribution of pornographic items (art. 301 CC), punishment –fine of 50 to 100 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, with the forfeiture of pornographic images or other items and means of their making and distribution, imprisonment of 3 years till 7 years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years.
Illicit trafficking in narcotic drugs and psychotropic substances;	Illegal production, making, purchasing, storage, transportation, sending or sale of narcotics, psychotropic substances or their analogues (art. 307 CC), punishment – imprisonment from 3 years till 10 years with the forfeiture of

	property
Illicit arms trafficking	Unlawful handling of weapons, ammunition or explosives (part 1 of art. 263 CC), punishment – imprisonment from 2 years till 7 years, or fine up to 50 tax-free minimum personal incomes, or by community service for the period from 120 to 240 hours, or by arrest for the period from 3 to 6 months, or by restriction of liberty for the period from 2 to 5 years.
Illicit trafficking in stolen and other goods	Acquiring, receiving, storing, or selling property obtained as proceeds from crime (art. 198 CC) punishment – arrest for a term up to 6 months, or restriction of freedom for a term up to 3 years, or imprisonment for the same term
Corruption and bribery	Abuse of authority or office (parts 2, 3 Art. 364 CC), punishment – imprisonment from 3 years and more; Excess of authority or official powers (Art. 365 CC) , punishment – correctional labor for a term up to 2 years, or restraint of liberty for a term up to 5 years, or imprisonment for a term of 2 years till 10 years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years; Taking a bribe (part 2, 3 Art. 368 CC), punishment – fine of 750 to 1,500 tax-free minimum incomes, or imprisonment for a term of 2 years till 15 years, with the forfeiture of property and with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years; Giving a bribe (part 2 Art. 369 CC), punishment – fine of 200 to 500 tax-free minimum incomes, or restraint of liberty for a term of 2 to 5 years, or imprisonment for a term of 3 years till 8 years with or without the forfeiture of property.
Fraud	fraud (parts 3, 4 Art. 190 CC), punishment – fine up to 50 tax-free minimum incomes, or community service for the period up to 240 hours, or correctional labor for a term up to 2 years, or restraint of liberty for a term up to 3 years, or imprisonment for a term of 8 years till 15 years and forfeiture of property
Counterfeiting currency	Making, storage, purchase, transportation, mailing, or bringing into Ukraine for selling purposes, or sale of counterfeit money, government securities or state lottery tickets (Art. 199 CC) , punishment – imprisonment from 3 years till 12 years, with forfeiture of property;
Counterfeiting and piracy of products	Unlawful manufacturing, storage, sale or transportation for selling purposes of excisable goods (parts 2, 3 Art. 204 CC) , punishment –fine of 1000 to 2000 tax-free minimum incomes, or imprisonment of 3 to 10 years, with seizure of goods so produced and forfeiture of assets and destruction of goods so manufactured and forfeiture of manufacturing equipment Breach of copyright and related rights (Art. 176 CC), punishment – fine in the amount of 2 to 3 thousand non-taxable minimum incomes of citizens or imprisonment for a term of 3 to 6 years, with or without deprivation of right to hold certain positions or engage in certain activities for a term of up to 3 years, with the forfeiture and destruction of all copies of works, physical media, computer software, databases, performances, phonograms, videograms, broadcast programs, and of equipment and instruments and materials which were specifically used for the production of the same
Environmental crime	Violation of environmental safety rules (Art. 236 CC), punishment – imprisonment for a term of 5 to 10 years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years; Destruction or impairment of forests (part 2 Art. 245 CC), punishment – imprisonment from 5 years till 10 years; Wilful destruction or impairment of territories protected by the State and sites of natural conservation (part 2 Art. 252 CC), punishment – imprisonment from 5 years till 12 years;

	Projection or exploitation of buildings without systems of environment protection (part 2 Art. 253 CC), punishment – restraint of liberty for 3 years till 5 years, or imprisonment for a term up to 5 years.
Murder, grievous bodily injury	Murder (Art. 115 CC) , punishment – imprisonment from 7 years till 15 years, or life imprisonment with forfeiture of property Negligent homicide (Art. 119 CC), punishment – restraint of liberty for a term of 3 till 5 years, or imprisonment for the term of 5 years 8 years; Intended bodily injury (Art. 121 CC), punishment – shall be punishable by imprisonment for a term of 7 to 10 years; Intended bodily injury of medium gravity (part 2 of Art. 122 CC), punishment – imprisonment from 3 years till 10 years; Torture (Art. 127 CC), punishment – imprisonment for a term of 12 to 15 years, or life imprisonment; Threat to kill (part 2 Art. 129 CC), punishment – imprisonment from 3 years till 5 years; Infection with HIV or any other incurable contagious disease (parts 3, 4 Art. 130 of the CC), punishment – imprisonment from 3 years till 10 years; Professional misconduct causing infection of a person with HIV or any other incurable contagious disease (part 2 Art. 131 CC) , punishment – imprisonment for a term of 3 to 8 years with deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years;
Kidnapping, illegal restraint and hostage-taking	Illegal confinement or abduction of a person (part 3 Art. 146 of the CC), punishment – imprisonment from 5 years till 10 years; Hostage taking (Art. 147 of the CC), punishment – imprisonment from 5 years till 15 years
Robbery or theft	Theft (parts 3, 4, 5 Art. 185 CC), punishment – imprisonment from 3 years till 12 years with the forfeiture of property; Robbery (parts 2, 3, 4, 5 Art. 186 CC), punishment – imprisonment from 4 years till 13 years with the forfeiture of property;
Smuggling	Smuggling (Art. 201 CC), punishment – imprisonment from 3 years till 12 years with the forfeiture of smuggled items and forfeiture of property; Smuggling of narcotics, psychotropic substances, their analogues or precursors (Art. 305 CC), punishment – imprisonment from 3 years till 12 years, with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors, and forfeiture of property ;
Extortion	Extortion (Art. 189 CC) , punishment – restraint of liberty for a term up to five years, or imprisonment for a term of 7 to 12 years with the forfeiture of property.
Forgery	Forgery of documents, stamps, seals or letterheads, and sale or use of forged documents (Art. 358 CC), punishment – fine up to 50 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up two years, or imprisonment for a term of up to five years
Piracy	Piracy (Art. 446 CC), punishment – imprisonment for a term of 5 years till 15 years with the forfeiture of property, ;
Insider trading and market manipulation	

4. *Criminal Procedure Code (Excerpts)*

Article 29. Ensuring compensation for the damage caused by a crime, and execution of judgment in terms of asset forfeiture

With sufficient information present that a crime has caused material damage or that a health care institution incurred expenses for in-patient treatment of the victim of crime, the inquiry agency, investigator, prosecutor, and court are required to ensure security for the claim.

Prosecutor brings or maintains the civil suit which the victim brought to compensate for damages caused by the crime if it is required by the protection of state interests and interests of citizens who, because of the state of their health and for other valid reasons, are unable to protect their rights.

(Third paragraph of Article 29 is omitted under Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

In criminal proceedings related to the crime for which additional sanction in the form of asset forfeiture may be imposed, the inquiry agency, investigator, prosecutor is required to take measures to ensure possible forfeiture of the accused's assets.

(Article 29 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Law # 2857-XII (2857-12) of 15.12.92, # 3132-XII (3132-12) of 22.04.93, # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

(Article 30 is omitted under Law # 2857-XII (2857-12) of 15.12.92)

Article 31. The way in which courts, prosecutors, investigators, and inquiry agencies interact with appropriate foreign authorities

The way in which courts, prosecutors, investigators, and inquiry agencies interact with appropriate foreign authorities and the way in which their mutual requests are executed is prescribed in Ukrainian laws and international treaties of Ukraine.

(Article 31 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Law # 2857-XII (2857-12) of 15.12.92).

Chapter 5

EVIDENCE

Article 64. Circumstances to be proved in criminal proceedings

During pre-trial investigation, inquiry, and trial, should be proved in court:

1) occurrence of crime (time, place, the way in which, and circumstances under which, a crime has been committed);
2) guilt of the accused in the commission of crime and motives thereto;
3) circumstances which affect the degree of severity of the crime, as well as circumstances which characterize the personality of the accused, commute or aggravate the punishment;
4) nature and amount of damage caused by the crime, as well as the amount health institution spent on in-patient treatment of the victim.

(Article 64 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 117-VIII (117-08) of 30.08.71, by Laws # 3132-XII (3132-12) of 22.04.94, # 2670-III (2670-14) of 12.07.2001).

Article 65. Evidence

Evidence in a criminal case means various factual information based on which the inquiry agency, investigator, and court establish the presence or absence of a socially dangerous act, the guilt of the offender, and other circumstances of importance for a correct resolution of the case.

Such information is established by testimonies given by a witness, victim, and suspect, accused; expert's opinion, exhibits, records of investigative and judicial actions, records with appropriate attachments drawn up by competent

authorities as a result of operational-detective activities, and other documents.

(Article 65 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84, in accordance with Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 66. Collecting and producing evidence

The inquirer, investigator, prosecutor and court, in cases in which they conduct proceedings, shall have the authority to summon, as prescribed in the present Code, any persons as witness and victims for questioning or as experts for preparing opinions; request that enterprises, institutions, organizations, officials, and citizens produce objects and documents which can establish factual data necessary in the case; request conducting audits, request that banks submit information containing bank secret in respect of legal and physical persons according to the procedure and in the amounts prescribed in the Law of Ukraine "On Banks and Banking Activities" (2121-14). Such requests are binding on all citizens, enterprises, institutions, and organizations.

Evidence may be produced by a suspect, accused, his/her defense counsel, prosecutor, victim, civil plaintiff, civil defendant, and their representatives, as well as by any citizens, enterprises, institutions, and organizations.
In situations prescribed by law, the inquirer, investigator, prosecutor, and court, in cases in which they conduct proceedings, may charge agencies that conduct operational-detective activities with carrying out operational-detective operations or using means for obtaining factual data which can be evidence in a criminal case.

(Article 66 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84, in accordance with Laws # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001, # 2922-III (2922-14) of 10.01.2002).

Article 67. Evaluating evidence

Court, prosecutor, investigator, and inquirer evaluate evidence according to their moral certainty which is based on thorough, complete and objective examination of the totality of circumstances in the case, being guided by law.

Any evidence produced to court by the prosecutor, investigator, and inquirer don't have probative value.

(Article 67 as amended by Law # 2857-XII (2857-12) of 15.12.92).

Article 68. Testimonies of witnesses

Every person who is known as being aware of circumstances related to the case may be summoned to appear as witness.

A witness may be questioned about circumstances to be established in a given case, inclusive of facts which characterize the personality of the accused or suspect and his/her relationship therewith.

Information reported by a witness from unknown source may not be evidence. If testimonies of a witness are based on communications by other individuals, such individuals should be questioned either.

(Article 68 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84).

Article 69. Persons who may not be examined as witnesses and persons who have the right to waive testifying as witnesses

The following persons may not be examined as witnesses:

1) lawyers and other specialists in law who are legally entitled to provide legal assistance in person or upon power of attorney of a legal person; notaries, doctors, psychologists, clergymen – about what came to their knowledge in the discharge of professional activities unless the person who entrusted them such information has released them from the duty to keep professional secrets;

2) defense counsel of the suspect, accused, defendant, representative of the victim, plaintiff, civil defendant – about

circumstances which came to their knowledge during the provision of legal assistance to their clients;

3) persons who, in accordance with forensic psychiatric or forensic medical examination, may not correctly perceive facts which have probative value and give testimonies about the same because of their physical or mental disabilities;

4) witness who, under Article 52-3 of the present Code, testifies under a pseudonym – about his/ her real details;

5) a person in possession of information o real details on the witness who, under Article 52-3 of the present Code, testifies under a pseudonym – about such information.

The following persons may waive testifying as witnesses:

1) family member, close relatives, persons adopted by, and adopters of, the suspect, accused, defendant;

2) a person who, with his/her testimonies, would incriminated himself/herself, his/her family members, close relatives, the adopted person, adopter in having committed a crime;

Without their consent, may not be examined as witnesses the persons who enjoy diplomatic immunities, as well as members of diplomatic missions – without consent of the diplomatic representative.

The inquirer, investigator, prosecutor, and court, before examining persons referred to in the first and second paragraphs of the present Article, are required to advice them of the right to waive testifying, which is entered into the record of examination or court records.

(Article 69 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84, in accordance with Law # 3780-XII (3780-12) of 23.12.93, as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 78. Exhibits

Exhibits include objects which were instruments of crime, retained traces of crime or were a target for criminal actions, money, valuables, and other proceeds from crime, as well as all other objects which can help resolving a crime and identifying those guilty or denying charges or commuting liability.

(Article 78 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84).

Article 79. Retaining exhibits

Exhibits should be thoroughly inspected, to the extent possible, photographed, described in details in the record of inspection and attached to the records of the case by a decision of the inquirer, investigator, prosecutor or court's ruling. Exhibits are retained with records of the case save bulky goods which are retained in the inquiry agency, pre-trial investigation agency and court or are transferred in custody of the appropriate enterprise, institution, or organization.

When transferring a case from one inquiry or pre-trial investigation agency to another one, when referring a case to the prosecutor or court, as well as when referring a case from one court to another, exhibits are transferred together with records of the case.

In some instances, exhibits, before the case is resolved in court, may be returned to their owners if it proves to be possible without compromising successful proceedings in the case.

(Article 79 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84).

Article 80. Retention periods for exhibits

Exhibits are retained till the judgment takes legal effect or till the expiration of time-limit for challenging the decision or ruling on case closure.

Documents – exhibits should be retained with records of the case all time; persons concerned, enterprises, institutions, and organizations are provided copies of such documents upon their requests.

If litigation with regard to ownership for the objects which are exhibits arises, such objects are retained till court's decision made on this litigation by way of civil proceedings takes legal effect.

Perishable exhibits, as well as exhibits which cannot be returned to their owner are immediately transferred to state or cooperative organizations for sale. If thereafter there is a need to return such exhibits, organizations which have obtained them replace them with the same objects or repay their cost at state prices effective at the time when such objects should be returned.

Article 81. Deciding the issue of exhibits

The issue of exhibits is decided by court's judgment, ruling or decision, or decision of the inquiry agency, investigator, and prosecutor to close the case and:

1) instruments of crime belonging to the accused are confiscated;
2) objects taken out of circulation are transferred to the appropriate institutions or destroyed;
3) objects which have no value and cannot be used are destroyed or may be transferred to the persons concerned upon their request;
4) money, valuables, and other proceeds from crime are assigned in public revenue;
5) money, valuables, and other proceeds which were target of criminal acts are returned to their lawful owners and, when such owners are not established, this money, valuables, and other proceeds are recycled into the public domain.

Litigation with regard to ownership for objects to be returned is decided by way of civil proceedings.

Article 82. Records of investigative and judicial actions and other mediums relating to such actions

Records of investigative and judicial actions drawn up as prescribed in the present Code, mediums where procedural actions have been recorded with technical devices constitute a source of evidence insofar as circumstances and facts of importance for the resolution of the case are confirmed therein.

(Article 82 as amended in accordance with Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 83. Documents

Documents constitute a source of evidence if circumstances of importance for the case are stated or attested therein. When documents contain elements referred to in Article 78 of the present Code they are exhibits.

Article 97. Obligation to accept applications and reports of crimes and the way in which the same are considered

Prosecutor, investigator, inquiry agency, or judge are required to accept applications and reports of crimes which have been committed or are being prepared, including in cases which do not fall within their competence.

Prosecutor, investigator, inquiry agency, or judge is required, within three days, to take one of the following decisions on the application or report of crime:

1) institute criminal proceedings;
2) deny instituting criminal proceedings;
3) refer the application or report of crime to appropriate authority;

At the same time, all possible measures are taken to prevent or suppress the crime. With appropriate grounds present, which confirm that a real treat exists to the life and health of the person who reported the crime, it is necessary to take required measures to have applicant's security ensured, as well as security of his/her family members and close relatives if attempts to exert influence on the applicant are made through threats or any other illegal actions.

If it is necessary to verify an application or report of crime before instituting criminal proceedings, such verification is made by the prosecutor,

investigator, or inquiry agency within 10 days by way of taking explanations from particular citizens or officials or by directing to submit required documents.

An application or reports of crimes can be verified, prior to instituting criminal proceedings, trough operational - detective operations. Specific operational – detective activities as specified in Ukrainian legislative acts are conducted upon court's authorization which is issued in response to the submission of the chief (his/her deputy) of the operational unit concerned, such submission being subject to the consent of the prosecutor. The judge passes a ruling on issuance of such authorization and such ruling may be challenged as prescribed in Articles 177, 178, and 190 of the present Code.

(Article 97 as amended by Laws # 1381-XIV (1381-14) of 13.01.2000, # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 98. Instituting criminal proceedings

With reasons and grounds referred to in Article 94 of this Code present, prosecutor, investigator, inquiry agency, or judge are required to take decision on instituting criminal proceedings, such decison stating reasons and grounds for instituting criminal proceedings, provision of criminal statute under which criminal proceedings are instituted, as well as further course of action of such proceedings.

If the perpetrator of crime has been identified upon institution of criminal proceedings, criminal proceedings should be instituted against such perpetrator.

Proceedings referred to in Article 27, first paragraph, of the present Code are instituted by the people's judge concerned while in cases specified in Article 27, third paragraph, of the present Code – by the prosecutor.

After proceedings have been instituted:

1) prosecutor sends the case to pre-trial investigation or inquiry;
2) investigator starts pre-trial investigation while inquiry agency begins inquiry;
3) court assigns to trial the case related to crime referred to in Article 27, first paragraph, of the present Code.

(Article 98 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 358/95-BP (358/95-BP) of 05.10.95, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 98-1. Measures of restraint against a person in whose respect criminal proceedings have been instituted

When criminal proceedings are instituted against a person, prosecutor (judge) shall have the power to take decision thereby such person is prohibited from leaving the limits of Ukraine till pre-trial investigation or trial is completed and a motivated decision (ruling) should be passed thereon.

(Article 98-1 is added under Law # 358/95-BP (358/95-BP) of 05.10.95).

Article 99. Denial to institute criminal proceedings

With grounds for instituting criminal proceedings absent, prosecutor, investigator, inquiry agency, or judge takes a decision to deny instituting criminal proceedings and inform the persons, enterprises, institutions, organizations concerned thereon.

If verification of an application or report does not establish grounds for instituting criminal proceedings but records of verification contain information on the presence of an administrative or disciplinary misdemeanor or any other breach of public order, prosecutor, investigator, inquiry agency, judge may, after having denied instituting criminal proceedings, send the application or report to the public society organization, Service in charge of Juveniles, labor collective or owner of the enterprise, institution or organization or authority designated by such owner so that they take appropriate measures of influence, or may transfer materials for imposition of administrative penalties as prescribed by law.

(Article 99 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 2857-XII (2857-12) of 15.12.92, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001, # 2670-III (2670-14) of 12.07.2001).

Article 99-1. Challenging decisions to deny instituting criminal proceedings

Decision made by the investigator and inquiry agency to deny instituting criminal proceedings may be challenged before the appropriate prosecutor and, if such decision was made by the prosecutor, – before a higher prosecutor. The challenge should be filed by the person concerned or by his/her representative within seven days after the receipt of a copy of the decision.

Decision made by the prosecutor, investigator and inquiry agency to deny instituting criminal proceedings may be challenged by the person concerned or by his/her representative before court as prescribed in Article 236-1 of the present Code.

Decision made by the judge to deny instituting criminal proceedings may be challenged by the person concerned or by his/her representative by way of appeal within seven days after the receipt of a copy of the decision.

(Article 99-1 is added under Law # 2857-XII (2857-12) of 15.12.92, as modified by Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 100. Prosecutor's supervision of legality of instituting criminal proceedings

Prosecutor supervises the legality of instituting criminal proceedings.

Investigator and inquiry agency are required to send a copy of the decision to institute criminal proceedings or to deny instituting criminal proceedings to the prosecutor within 24 hours.

If proceedings have been instituted without legal grounds, prosecutor dismisses the case and, if investigative actions have not been conducted in the case, overturns the decision to institute criminal proceedings.

In case of ill-grounded denial to institute criminal proceedings by the investigator or inquiry agency, prosecutor takes a decision thereby he/she overturns the decision made by the investigator or inquiry agency and institutes criminal proceedings.

(Fifth paragraph of Article 100 is omitted under Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

(Article 100 as amended by Laws # 2857-XII (2857-12) of 15.12.92, # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Chapter 9

INQUIRY AND PRE-TRIAL INVESTIGATION AGENCIES

Article 101. Inquiry agencies

The following are inquiry agencies:

1) Militia;

1-1) Tax militia - in cases related to tax (mandatory payments) evasion, evasion of contributions for general state pension insurance, as well as in cases related to concealing currency earnings;

2) Security Service agencies – in cases which fall under their jurisdiction according to law;

3) chiefs of command bodies of the Military Justice Service of the Military Forces of Ukraine and their deputies responsible for inquiry – in cases related to crimes committed by servicemen of the Military Forces of Ukraine and those liable to military service during training development sessions, by civilian employees of the Military Forces of Ukraine in line of duty or crimes committed in the place of deployment of military units, and commanders (chiefs) of military units, formations, and chiefs of military institutions – in cases related to crimes committed by their subordinates and those liable to military service during training development sessions as well as in cases related to crimes committed by civilian employees of the Military Forces of Ukraine in line of duty or crimes committed in the place of deployment of military units, formations, institution or at military sites;

3-1) captains of ships – in cases related to crimes committed by their servicemen, as well as in cases related to crimes committed by civilian employees of the Military Forces of Ukraine in line of duty outside the limits of Ukraine;

4) Customs agencies – in cases related to smuggling;

5) chiefs of penitentiary institutions, investigative isolation wards, medical-labour prophylactic establishments - in cases related to crimes against the established order of service committed by the staff of such institutions, as

well as in cases related to crimes committed in the location of such institutions;

6) State fire safety agencies – in cases related to fires and violations of fire safety regulations;

7) Border Guard Service agencies – in cases related to illegally crossing the State Border;

8) captains of sea crafts navigating outside territorial waters of Ukraine.

(Article 101 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, # 8627-X (8627-10) of 20.03.85, in accordance with Laws # 2857-XII (2857-12) of 15.12.92, # 2468-XII (2468-12) of 17.06.92, # 85/98-BP (85/98-BP) of 05.02.98, # 1134-XIV (1134-14) of 08.10.99, # 662-IV (662-15) of 03.04.2003 – eff. 01.08.2003 року, # 743-IV (743-15) of 15.05.2003, # 2377-IV (2377-15) of 20.01.2005, # 3108-IV (3108-15) of 17.11.2005).

Article 102. Pre-trial investigation agencies

Investigators of prosecutor's offices, investigators of Interior agencies, investigators of tax militia, and investigators of Security Service agencies are pre-trial investigation agencies.

(Article 102 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 13.06.63, # 117-VIII (117-08) of 30.08.71, in accordance with Laws # 2857-XII (2857-12) of 15.12.92, # 85/98-BP (85/98-BP) of 05.02.98).

Chapter 10

INQUIRY

Article 103. Powers of inquiry agency

Inquiry agencies are responsible for conducting necessary operational – detective activities aimed at establishing indicia of crime and identifying its perpetrators.

Inquiry agency immediately informs prosecutor on the crime detected and inquiry started.

(Article 103 as amended by Law # 3351-XII (3351-12) of 30.06.93).

Chapter 11

PRE-TRIAL INVESTIGATION - GENERAL PROVISIONS

Article 111. Pre-trial investigation

Pre-trial investigation in conducted in all cases save cases related to crimes referred to in Article 27, first paragraph, and Article 425 of the present Code where pre-trial investigation is conducted in cases related crimes committed by a juvenile or a person who is unable to enjoy his/her right to defense because of his/her physical or mental disabilities, as well as when prosecutor or court finds it appropriate.

(Article 111 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 2631-VII (2631-07) of 18.03.70, # 140-IX (140-09) of 04.09.75, # 1593-IX (1593-09) of 22.12.76, # 6347-XI (6347-11) of 03.08.88, # 5822-XI (5822-11) of 29.04.88, # 6976-XI (6976-11) of 14.12.88, as revised by Law # 3351-XII (3351-12) of 30.06.93).

Article 112. Competence

In cases related to crimes punishable under Articles 115, 116, 117, 118, 119, 120, 137, 140, 141, 142, 143, 144, 145, 146, 152, 157, 158, 158-1, 159, 159-1, 160, 161, 162, 163, 166, 168, second paragraph, Articles 170, 171, 172, 173, 175, 176, third paragraph, 177, third paragraph, Articles 182, 183, 184, second paragraph, Articles 209, 229, third paragraph, 233, 234, 235, 236, 237, 238, 244, 253, 271, 272, 273, 274, 275, 276, 281, 335, 336, 338, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 392, 397, 398, 399, 400, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 438, 439, 441, 445 of the Criminal Code of Ukraine (2341-4), as well as in all cases related to crimes committed by officials who hold especially important offices under Article 9, first paragraph, of the Law of Ukraine "On Civil Service" (3723-12) and by persons who hold positions of the 1 – 3 category, by members of law enforcement authorities, - pre-trial investigation is conducted by investigators of prosecutor's offices. Investigators of prosecutor's offices may investigate other crimes upon decision of the Prosecutor General of Ukraine,

his/her deputies, oblast prosecutor, and prosecutors assimilated to them.

In cases related to crimes punishable under Articles 121, 122, 123, 124, 126, second paragraph, Articles 127, 128, 129, 130, 131, 132, 133, second and third paragraphs, Articles 134, 135, 136, 138, 139, 147, 148, 149, 150, 151, 153, 154, 155, 156, 165, 167, 168, first paragraph, Articles 169, 174, 176, first and second paragraphs, 177, first and second paragraphs, Articles 178, 179, 180, 181, 184, first paragraph, 185, second, third, fourth, and fifth paragraphs, 186, second, third, fourth, and fifth paragraphs, Article 187, 188, second and third paragraphs, Article 188-1, Article 189, 190, second, third, and fourth, paragraphs, Articles 192, 193, 194, second paragraph, 194-1, second and third paragraphs, Articles 195, 196, 197, 198, 199, 200, 202, second paragraph, 203, second paragraph, Article 203-1, Article 204, 205, second paragraph, Articles 206, 207, 209, 213, second paragraph, Articles 214, 215, 217, 219, 220, 221, 222, 223, 224, 225, second paragraph, 226, second paragraph, Articles 227, 228, 229, first and second paragraphs, Articles 231, 232, 232-1, 233, 234, 235, 239, 240, 241, 242, 243, 245, second paragraph, 248, second paragraph, 249, second paragraph, Articles 251, 252, 254, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 295, 296, second, third, and fourth paragraphs, Articles 297, 298, 298-1, 299, 300, 301, 302, 303, 304, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 337, 339, 340, 341, 344, 352, 353, 354, 355, 357, 358, 360, 361, 361-1, 361-2, 362, 363, 363-1, 389, 390, 391, 393, 394 of the Criminal Code of Ukraine, as well as in all cases related to crimes committed by juveniles, - pre-trial investigation is conducted by investigators of Interior agencies.

In cases related to crimes punishable under Articles 109, 110, 111, 112, 113, 114, 201, 209, 258, 258-1, 258-2, 258-3, 258-4, 261, 294, 305, 328, 329, 330, 332, 333, 334, 359, 361, 361-1, 361-2,
362, 363, 363-1, 422, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine pre-trial investigation is conducted by investigators from the Security Service of Ukraine. Whenever investigation of crimes punishable under Articles 328, 329, and 422 reveals crimes punishable under Articles 364, 365, 366, 367, 423, 424, 426 of the Criminal Code of Ukraine (2341-14), committed by the person under investigation or by any other person, if they are linked to crimes committed by the person under investigation, such crimes are investigated by investigators from the Security Service of Ukraine, including crimes committed by officials who hold especially important offices under Article 9, first paragraph, of the Law of Ukraine "On Civil Service" (3723-12) and by persons who hold positions of the 1 – 3 category of civil servants, and by members of law enforcement authorities.

In cases related to crimes punishable under Articles 204, 207, 208, 209, 212, second, third, and fourth paragraphs, 212-1, second, third, and fourth paragraphs, Articles 216 and 218 of the Criminal Code of Ukraine, - pre-trial investigation is conducted by investigators from the tax militia. Whenever investigation of these crimes reveals crimes punishable under 192, 200, 201, 202, 203, 205, 213, 215, 219, 220, 221, 222, and 358 of the Criminal Code of Ukraine committed by the person under investigation or by any other person, if they are linked to crimes committed by the person under investigation, such crimes are investigated by investigators from the tax militia.

In cases related to crimes punishable under Articles 191, 210, 211, 255, 256, and 257 of the Criminal Code of Ukraine (2341-14), - pre-trial investigation is conducted by the agency which instituted criminal proceedings. Whenever investigation of these and other crimes reveals crimes punishable under Articles 364, 365, 366, 367, 368, 369, 370 of the Criminal Code of Ukraine (2341-14), linked to crimes in whose respect criminal proceedings are instituted, they are investigated by the agency which instituted criminal proceedings.

In cases related to crimes punishable under Articles 209-1, 384, 385, 386, 387, 388, 396 of the Criminal Code of Ukraine, - pre-trial investigation is conducted by the agency in whose competence falls the crime in respect of which criminal proceedings were instituted.

If criminal proceedings reveal other crimes committed by the person under investigation or by any other person, if they are linked to crimes committed by the person under investigation and which do not fall within the competence of the agency conducting pre-trial investigation, in case the disjoinder is impossible, the prosecutor who

supervises pre-trial investigation determines the competence over such crimes in his/her decision.

(Article 112 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 18.11.63 (677a-06), of 18.01.66, # 1879-VIII (1879-08) of 03.07.73, # 2718-VIII (2718-08) of 17.06.74, # 3086-IX (3086-09) of 16.02.78, # 2942-X (2942-10) of 24.12.81, # 6591-X (6591-10) of 29.02.84, # 6834-X (6834-10) of 16.04.84, # 8627-X (8627-10) of 20.03.85, # 704-XI (704-11) of 01.08.85, # 1432-XI (1432-11) of 10.12.85, # 2444-XI (2444-11) of 27.06.86, # 2753-XI (2753-11) of 18.08.86, # 4392-XI (4392-11) of 31.07.87, # 4452-XI (4452-11) of 21.08.87, # 4981-XI (4981-11) of 25.11.87, # 4995-XI (4995-11) of 01.12.87, # 5397-XI (5397-11) of 10.02.88, # 5723-XI (5723-11) of 14.04.88, # 6976-XI (6976-11) of 14.12.88, # 7226-XI (7226-11) of 06.03.89, # 7373-XI (7373-11) of 14.04.89, # 7617-XI (7617-11) of 16.06.89, # 8711-XI (8711-11) of 19.01.90, # 8918-XI (8918-11) of 07.03.90, # 9082-XI (9082-11) of 20.04.90, # 9166-XI (9166-11) of 04.05.90, # 596-XII (596-12) of 26.12.90, # 597a-XII (597a-12) of 26.12.90, # 647-XII (647-12) of 18.01.91, # 661-XII (661-12) of 28.01.91, # 1255-XII (1255-12) of 25.06.91, # 1434a-XII (1434a-12) of 25.08.91, Law of UkSSR # 1255-XII (1255-12) of 03.07.91, Laws # 1564-XII (1564-12) of 18.09.91, # 1974-XII (1974-12) of 12.12.91, # 2354-XII (2354-12) of 15.05.92, # 2468-XII (2468-12) of 17.06.92, # 2547-XII (2547-12) of 07.07.92, # 2613-XII (2613-12) of 17.09.92, # 2703-XII (2703-12) of 16.10.92, # 2935-XII (2935-12) of 26.01.93, # 2936-XII (2936-12) of 26.01.93, # 2947-XII (2947-12) of 28.01.93, # 3039-XII (3039-12) of 03.03.93, # 3351-XII (3351-12) of 30.06.93, # 3582-XII (3582-12) of 11.11.93, # 3785-XII (3785-12) of 23.12.93, # 3888-XII (3888-12) of 28.01.94, # 4043-XII (4043-12) of 25.02.94, # 218/94-BP (218/94-BP) of 20.10.94, # 246/94-BP (246/94-BP) of 15.11.94, # 299/94-BP (299/94-BP) of 16.12.94, # 64/95-BP (64/95-BP) of 15.02.95, # 282/95-BP (282/95-BP) of 11.07.95, # 323/96-BP (323/96-BP) of 12.07.96, # 386/96-BP (386/96-BP) of 01.10.96, # 388/96-BP (388/96-BP) of 02.10.96, # 530/96-BP (530/96-BP) of 20.11.96, # 44/97-BP (44/97-BP) of 05.02.97, # 552/97-BP (552/97-BP) of 07.10.97, # 85/98-BP (85/98-BP) of 05.02.98, # 210/98-BP (210/98-BP) of 24.03.98, 1288-XIV (1288-14) of 14.12.99, # 1381-XIV (1381-14) of 13.01.2000, # 1587-III (1587-14) of 23.03.2000, # 1685-III (1685-14) of 20.04.2000, # 1945-III (1945-14) of 14.09.2000, # 1981-III (1981-14) of 21.09.2000, # 2114-III (2114-14) of 16.11.2000, # 2181-III (2181-14) of 21.12.2000 – eff. 1 April 2001, # 2247-III (2247-14) of 18.01.2001, # 2362-III (2362-14) of 05.04.2001, # 2409-III (2409-14) of 17.05.2001, as revised by Law # 2670-III (2670-14) of 12.07.2001, as amened by Laws # 2953-III (2953-14) of 17.01.2002, # 430-IV (430-15) of 16.01.2003 - eff. 11.06.2003, # 669-IV (669-15) of 03.04.2003, # 850-IV (850-15) of 22.05.2003, # 903-IV (903-15) of 05.06.2003, # 1125-IV (1125-15) of 11.07.2003, # 1703-IV (1703-15) of 11.05.2004, # 1723-IV (1723-15) of 18.05.2004, # 2289-IV (2289-15) of 23.12.2004, # 2598-IV (2598-15) of 31.05.2005, # 3108-IV (3108-15) of 17.11.2005, # 3169-IV (3169-15) of 01.12.2005, # 3504-IV (3504-15) of 23.02.2006, # 3480-IV (3480-15) of 23.02.2006, # 170-V (170-16) of 21.09.2006, # 534-V (534-16) of 22.12.2006 }.

Article 113. Beginning pre-trial investigation

Pre-trial investigation begins only after criminal proceedings have been instituted and is conducted as prescribed in the present Code.

Investigator is required to immediately proceed to investigation in the case he/she instituted himself/herself or in the case which was referred to him/her. If investigator institutes the case himself/herself and takes over proceedings in this case, a decision is drawn up to institute criminal case and take over proceedings therein. If investigator takes over proceedings in the case he/she instituted earlier, the investigator takes a separate decision to take over such proceedings.

Investigator sends a copy of the decision to take over proceedings in the case to the prosecutor within 24 hours.

Article 114. Investigator's powers

When conducting pre-trial investigation, investigator takes all decisions related to investigation and investigative actions on his/her own except when law requires obtaining consent of the court (judge) or prosecutor, and is fully

responsible for conducting them timely and within the scope of law.

Whenever investigator disagrees with prosecutor's instructions with regard to prosecuting an individual as an accused, determining the nature of crime and scope of charges, referring the case to court or dismissing the case, investigator shall have the power to submit the case to a higher prosecutor with his/her written comments. In such a case, the prosecutor either revokes instructions of the lower prosecutor or assigns investigation in this case to another investigator.

Within cases he/she investigates, investigator may give assignments and instructions to inquiry agencies with regard to conducting detective and investigative actions and request assistance of inquiry agencies in the conduct of particular investigative actions. Such investigator's assignments and instructions are binding upon inquiry agencies.

In cases where pre-trial investigation is mandatory, investigator may proceed to pre-trial investigation at any time without waiting till inquiry agencies conduct actions specified in Article 104 of the present Code.

Decisions the investigator makes under law in the criminal case he/she investigates are binding upon all enterprises, institutions, organizations, officials, and citizens.

When conducting various investigative actions, investigator may use typewriting, audio recording, stenography, filming, and video recording.

(Article 114 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 8.01.66, # 6834-X (6834-10) of 16.04.84, in accordance with Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 114-1. Powers of Chief of Investigation

Chief of Investigation exercises control of investigative actions aimed at resolving and preventing crimes, takes measures to ensure thorough, complete and objective pre-trial investigation in criminal cases.

Chief of Investigation should verify criminal cases, give instructions to the investigator as to the conduct of pre-trial investigation, prosecution of an individual as an accused, determination of the nature of crime and scope of charges, direction of the case, conduct of particular investigative actions, transfer the case from one investigator to another, assign investigation of the case to several investigators, as well as participate in the conduct of pre-trial investigation and conduct pre-trial investigation in person taking benefit of investigator's powers.

Chief of Investigation gives the investigator binding written instructions.

Challenging these instructions does not affect execution of the same except as provided for in Article 114, second paragraph, of the present Code.

Prosecutor's instructions in criminal cases which are given as prescribed in the present Code shall be binding on the Chief of Investigation. Challenging these instructions before a higher prosecutor does not affect execution of the same.

(Article 114-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada of 18.01.66).

Article 120. Time-limits for pre-trial investigation

Pre-trial investigation in criminal cases should be completed within two months. This time-limit runs from instituting criminal proceedings till presentment of the case to the prosecutor together with an indictment or decision to refer the case to court for the latter to consider imposition of compulsory measures of medical nature or till dismissal or suspension of proceedings in the case. In case of failure in the completion of investigation, district, city prosecutor, military prosecutor of the army, flotilla, body of troops, garrison and the prosecutor assimilated thereto may extend this time-limit up to three months.

In especially complicated cases, the time-limit prescribed in the first paragraph of the present Article may be extended up to six months by the prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv, military prosecutor of the region, fleet, and prosecutor assimilated thereto or their deputies based on investigator's motivated decision.

Thereafter, the Prosecutor General of Ukraine or his/her deputies may extend time-limit for pre-trial investigation only in exceptional cases.

When court remands a case for supplementary investigation and when a dismissed case is reopened, time-limit for supplementary investigation is fixed by the prosecutor who supervises investigation in the case up to one month from taking charge of proceedings. Further extensions of this time-limit are made in accordance with regular procedure.

Rules laid down in the present Article do not apply to cases in which perpetrator of crime has not been identified. Time-limit for investigation in such cases starts running from the day on which perpetrator of crime has been identified.

(Article 120 as revised by Law # 1960-XII (1960-12) of 10.12.91, as amended by Laws # 2857-XII (2857-12) of 15.12.92, # 3351-XII (3351-12) of 30.06.93, # 658-IV (658-15) of 03.04.2003).

Article 121. Non-disclosure of information relating to pre-trial investigation

Information relating to pre-trial investigation may be disclosed only upon permission of the investigator or prosecutor and in the amount they find it possible.

As appropriate, investigator advises witnesses, victim, civil plaintiff, civil defendant, defense counsel, expert, specialist, translator, attesting witnesses, as well as other persons present during the conduct of investigative actions of their duty not to disclose information relating to pre-trial investigation without his/her consent. Those guilty of disclosure of information relating to pre-trial investigation are criminally liable under Article 387 of the Criminal Code of Ukraine.

(Article 121 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Law # 2670-III (2670-14) of 12.07.2001).

Article 125. Obligation to secure civil claim and forfeiture of asset under law

Upon civil plaintiff's petition or upon his/her own initiative, investigator is required to take measures to secure civil claim brought in a criminal case, as well as potential civil claim and draw up a decision thereon.

In cases related to crimes punishable under law with forfeiture of asset, investigator is required to take measures to ensure enforcement of the judgment in terms of possible forfeiture of asset and draw up a decision thereon.

Article 126. The way in which a civil claim and forfeiture of asset are secured

Civil claim and potential forfeiture of asset are secured through attachment of deposits, valuables, and other asset of the accused or suspect or persons who are materially liable for his/her acts wherever such deposits, valuables, and other asset are located, as well as through removal of attached asset. Deposits of the said persons may be attached only upon court's decision.

Attached asset are subject to inventory and may be transferred in custody of enterprises, institutions, organizations or family members of the accused or other persons. Persons who took attached asset in custody are warned about criminal liability for asset conservation, such warning being made against signed acknowledgment.

Primary necessities which are used by the person subject to inventory and by his/her family members are not subject to inventory. List of such necessities is attached in the Annex to the Criminal Code of Ukraine (2002-05).

With regard to attached asset and its transfer in custody, an appropriate record is drawn up and signed by the person who conducted inventory, attesting witnesses and the person who assumed custody of the attached asset. A list of assets transferred in custody is attached to the record, such list being signed by the said persons.

In case of need, a specialist is invited to assess the value of the asset inventoried; such specialist signs the record and the list of assessed asset.

Attachment is revoked by investigator's decision whenever there is no longer need in such a measure.

(Article 126 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Law # 2631-IV (2631-15 of 02.06.2005).

Chapter 16

SEARCH AND REMOVAL

Article 177. Grounds for search and authorization thereof

Search is conducted when probable cause exists to believe that crime instrument, illegally obtained goods and valuables, as well as other objects and documents of importance for establishing the truth in a case or securing a civil claim remain in a certain premise or place or are kept by a person.

Search is also conducted when there are sufficient data that wanted persons, dead bodies or animals stay in a certain premise or place.

Search is conducted upon motivated decision of the investigator or upon prosecutor or his/her deputy's sanction, except home or any other possession of a person.

In urgent cases, a search, except home or any other possession of a person may be conducted without prosecutor's sanction but with further information submitted to the prosecutor within 24 hours about the search conducted and its results.

Home or any other possession of a person, except urgent cases, is conducted only upon a motivated decision of a judge. When it is necessary to conduct a search, investigator, upon prosecutor's consent, files an appropriate request with the court in the place where investigation is conducted. The judge promptly considers the request and records of the case and, if necessary, hears investigator, prosecutor and, with sufficient grounds present, takes a decision to conduct the search or dismisses the request for search. Judge's decision to conduct a search may not be challenged. Judge's decision to dismiss the request for search may be challenged by the prosecutor before the Court of Appeals within three days from the date of the decision.

In urgent cases, when it comes to saving life and property or to hot pursuit of the persons suspected of having committed a crime, the home or any other possession of a person may be searched without judge's decision. In such cases, the record should state reasons for the search without judge's decision. Investigator forwards a copy of the search record to the prosecutor within 24 hours after this action has been conducted.

(Article 177 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 178. Grounds for removal and authorization thereof

Removal is conducted when there is accurate information that objects or documents of importance for the case remain with a certain person or in a certain place.

Removal is conducted upon motivated decision of the investigator.

Documents containing state and/or bank secret may be removed only upon motivated decision of judge and in the way agreed with head of the institution concerned.

Compulsory removal under law from a home or any other possession of a person, as well as removal of a document relating to final process is conducted only upon judge's motivated decision which should be made in accordance with Article 177, fifth paragraph, of the present Code.

(Article 178 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001; as modified by Laws # 2922-III (2922-14) of 10.01.2002, # 2252-IV (2252-15) of 16.12.2004, # 3538-IV (3538-15) of 15.03.2006 }).

Article 179. Objects and documents should necessarily be produced (delivered)

Officials and citizens may not refuse producing or delivering documents or copies thereof or any other objects requested by investigator during search or removal.

Documents containing state and/ or bank secret are delivered and inspected in compliance with rules which ensure protection of state and/ or bank secret.

(Article 179 as amended by Law # 2922-III (2922-14) of 10.01.2002).

Article 180. Time when search and removal are conducted

Searches and removals, except urgent cases, should be conducted in daytime.

Article 181. Persons in whose presence search and removal are conducted

Search and removal are conducted in the presence of two attesting witnesses and the tenant of the premise concerned and, in the absence of the latter, - in the presence of a representative of housing maintenance organization or local council of people's deputies.

Search and removal in premises occupied by enterprises, institutions, and organizations are conducted in the presence of their representatives. During search, as far as possible, there should be present the person whose premise is searched or full age member of his/her family and, if necessary, the victim.

Persons whose premise is searched, attesting witnesses, and appropriate representatives should be advised of their right to be present during all actions conducted by investigator and make statements in connection with such actions; these statements should be entered in the record.

(Article 181 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84).

Article 182. Conditions for search and removal in premises of diplomatic missions

In premises occupied by diplomatic missions, as well as in premises where members of diplomatic missions and their families who enjoy diplomatic immunities live, search and removal may be conducted only upon consent of the diplomatic representative.

Consent of diplomatic representatives for search and removal is sought through the Ministry of Foreign Affairs of Ukraine.

Search and removal in the said premises are necessarily conducted in the presence of a prosecutor and Foreign Ministry's representative.

Article 183. The way in which search and removal are conducted

Before the search or removal, investigator produces the decision to the persons who occupy the premise concerned or to representative of the enterprise, institution, or organization where search or removal is conducted and suggests that they deliver objects or documents named in the decision, as well as show the place where the wanted criminal hides. If they refuse satisfying investigator's request, investigator conducts coercive search or removal. Whenever persons who occupy the premise concerned are unavailable, decision to conduct search or removal is produced to a representative of the housing maintenance organization or local council of people's deputies, and search or removal is conducted in their presence.

When conducting search, investigator shall have the power to open closed premises and repositories if the owner refuses opening them. In so doing, investigator should avoid causing unnecessary damage to doors, locks, and other objects.

Investigator may prohibit persons who are present in the premise during the search or removal, as well as persons who entered the premise during search or removal from leaving the premise and communicating one with another till the search or removal has been completed.

If necessary, investigator shall have the right to invite members of Interior and required specialists to participate in the search.

(Article 183 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada of 18.01.66, # 6834-X (6834-10) of 16.04.84).

Article 184. Searching a person and removing objects and documents therefrom

With grounds referred to in Article 177, first paragraph, of the present Code present and in view of removing objects and documents which can have probative value and are kept by a certain person, investigator may conduct a search of person and remove such objects or documents therefrom.

The person is searched and objects and documents are removed therefrom as prescribed in Article 177 and 178 of the present Code.

The person may be searched and objects and documents removed therefrom without an appropriate decision in the following cases:

1) when a suspect is physically captured by officials authorized thereto if probable cause exists to believe that the apprehended person has a weapon on him/her or any other objects which endanger surrounding people or attempts to free himself/ herself from proofs which incriminate him/her or any other person whatsoever in the commission of crime;
2) upon apprehension of a suspect;
3) upon committing a suspect, accused to custody;
4) with sufficient grounds present to believe that the person - who is in the premise where a coercive search or removal is conducted – hides objects or documents on him/her which are of importance for establishing the truth in the case.

Persons who participate in the conduct of these investigative actions should be of the same sex as the person who is being searched.

Search of an officer who is on active list of an intelligence agency of Ukraine in line of his/her duty shall be conducted in the presence of official representatives of such agency.

(Article 184 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84, as revised by Law # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001; as modified by Law # 3111-III (3111-14) of 07.03.2002).

Article 185. Non-disclosure of circumstances related to private life of persons searched

During search or removal, investigator shall have the duty to take measures to prevent any disclosure of circumstances related to private life of persons searched and of other persons who live or temporary stay in this premise.

Article 186. Seizing objects and documents

During search or removal, only objects and documents of importance for the case, as well as valuables and property of the accused or suspect may be seized in order to secure the civil claim or possible forfeiture of asset. Objects and documents which were seized from circulation under law are subject to seizure irrespective of their relationship with the case.

Investigator should present all documents and objects to be seized to attesting witnesses and other persons present and list such documents and objects in the record of search or removal or in inventory attached thereto stating their name, number, seize, weight, material they are produced of, and individual signs. If necessary, objects and documents seized should be packed and sealed in the place where search or removal is conducted.

Article 187. Arresting correspondence and reading out information from communications channels

Correspondence may be arrested and information read out from communication channels only if probable cause exists to believe that letters, telegraph and other correspondence of the suspect or accused to other persons or from other persons to the suspect or accused, as well as information they exchange through telecommunication facilities contain data relating to the crime committed or documents and objects having probative value and unless it is impossible to obtain such information otherwise.

Correspondence which may be arrested includes letters of all types, postal packets, parcels, postal containers, postal money orders, telegrams, radiograms, etc.

Correspondence may be arrested and information read out from communication channels in view of preventing a crime prior to instituting criminal proceedings.

With grounds referred to in the first paragraph of this Article present, investigator, upon agreement with prosecutor, applies to the president of the Court of Appeals in the place where investigation is conducted for ordering arrest on the correspondence or reading out information from communication channels. President of the Court of Appeals or his/her deputy considers the motion, reviews records of the case, if necessary hears investigator, hears prosecutor’s opinion and thereafter, with grounds for taking such a

decision present, passes a ruling to order the arrest of correspondence or the reading out of information from communication channels or to dismiss such motion. This decision may not be challenged and prosecutor may not file any complaint against it.

Decision to arrest correspondence should state the criminal case and grounds for conducting such investigative actions, last name, first name, and patronymic of the person whose correspondence will be intercepted, accurate address of such person, types of postal telegraph items to be arrested, period of arrest, name of telecommunication agency charged with intercepting correspondence and informing investigator thereon.

Decision to read out information from communication channels should state the criminal case and grounds for conducting such investigative actions, last name, first name, and patronymic of the person from whose channels information will be read out, accurate address of such person, types of channels, reading out period, name of agency charged with reading out information and informing investigator thereon.

Decision to arrest correspondence or read out information from communication channels is forwarded by investigator to the head of the appropriate agency and is binding thereon.

Head of the appropriate agency intercepts correspondence or reads out information from communication channels and informs investigator thereon within 24 hours.

Arrest on correspondence is revoked while reading out information from communication channels terminated after the expiration of the period fixed for the conduct of such investigative actions by judge's decision. Investigator revokes the arrest of correspondence or terminates reading out information from communication channels whenever such measures are no longer needed, upon dismissal of the criminal case or referral to prosecutor as prescribed in Article 255 of the present Code.

Decision is taken in a manner to ensure non-disclosure of details of pre-trial investigation or operational-detective operations.

(Article 12 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84; as revised by Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001, as amended by Law # 2670-III (2670-14) від 12.07.2001).

Article 187-1. Inspection and removal of the correspondence and examination of information read out from communication channels

Correspondence is inspected in the telecommunication agency upon court's decision in the presence of attesting witnesses from among employees of this agency and, in case of need, with participation of a specialist. In the presence of the said individuals, investigator opens and inspects intercepted correspondence.
Should documents or objects having probative value be found, investigator conducts removal of the correspondence concerned or limits himself/herself to making copies from the messages concerned. In the absence of documents or objects having probative value, investigator instructs to deliver the correspondence inspected to the addressee or to keep it till the date he/she fixes.
Investigator draws up a record of each occurrence of inspecting, removing or keeping the correspondence. The record shall necessarily state which kind of messages have been inspected, what has been removed therefrom and what should be delivered to the addressee or temporarily kept and from what messages copies have been made.
Examination of information read out from communications channels, if necessary, is conducted with involvement of a specialist. Investigator listens or otherwise analyzes contents of the information obtained and draws up a record thereon. In case of detection of data having probative value, the record should reproduce the appropriate part of recording and thereafter investigator by his/her decision finds the medium of information obtained as a proof and attaches it to records of the case.
(Article 187-1 is added under Law # 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Article 188. Record of search and removal
Investigator draws up a record of search or removal in two copies in compliance with Article 85 of the present Code. The record states grounds for search or removal; premise or other place where search or removal has been conducted; the person liable to search or removal; investigator's actions and search or removal results. In respect of each object which is subject to seizure, there

should be stated where exactly such object was found and under which circumstances.

All statements and comments made by those present during search or removal with regard to investigator's actions should be entered in the search or removal record. Both copies of the record and description of objects seized are signed by investigator, the person in whose premise search or removal was conducted and persons who were present during search or removal.

Article 189. A copy of the record of search or removal should be necessarily handed over

The second copy of the record of search or removal and the second copy of object description is handed over to the person in whose premise search or removal was conducted and in the absence of the latter – to the representative of housing maintenance organization or local council of people's deputies.

When search or removal is conducted at an enterprise, institution, or organization, the second copy of the record and description is handed over to the representative of enterprise, institution, or organization concerned.

If the record contains comments on wrong actions during the search, investigator informs the prosecutor who supervises investigation thereon within two days.

(Article 189 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X
(6834-10) of 16.04.84).

Chapter 21
PROSECUTORIAL SUPERVISION OF HOW THE INQUIRY AND PRE-TRIAL INVESTIGATION COMPLY WITH LAW

Article 227. Prosecutorial powers to supervise how the inquiry and pre-trial investigation comply with law

When observing how the inquiry and pre-trial investigation comply with law, the prosecutor within the scope of his/her competence:

1) requires from inquiry and pre-trial investigation agencies, for verification, records of criminal cases, documents, materials, and other information on crimes committed, progress of inquiry, pre-trial investigation, and identification of persons who have committed crimes; at least once per month, verifies how legislative provisions relating to the receipt, registration, and disposition of statements and reports on crimes committed or prepared to be committed are complied with;

2) revokes illegal and ill-grounded decisions of inquirers and investigators;

3) gives written instructions concerning investigation of crimes; imposition, alteration or revocation of a measure of restraint, determination of the nature of crime, conduct of separate investigating actions, and search for people who have committed crimes;

4) directs the inquiry to execute decisions on apprehension, compulsory appearance under law, placement in custody, search, removal, retrieval of criminals, execution of other investigative actions, as well as instructs to take necessary measures to resolve crimes, identify offenders in cases proceeded by the prosecutor or prosecutor office's investigator;

5) takes part in the inquiry and pre-trial investigation and, when necessary, conducts investigative actions or full investigation in any case personally;

6) authorizes search, suspension of the accused from office and other actions of investigator and inquiry agency in instances specified in the present Code;

7) extends time-limits for investigation in cases and according to procedure prescribed in the present Code;

7-1) gives consent to, or files with the court, the motion to impose a measure of restraint in the form of custody, as well as to extend custody period as prescribed in the present Code;

8) returns criminal cases to the pre-trial investigation together with his/her instructions as to the conduct of supplementary investigation;

9) in view of ensuring the most complete and objective investigation, withdraws any case from the inquiry agency and assigns the same to investigator, transfers the case from one pre-trial investigation agency to another one, from one investigator to another;

10) suspends the inquirer or investigator from conducting inquiry or pre-trial investigation if they have broken law during investigation of the case;

11) initiates criminal proceedings or denies instituting the same; dismisses or suspends proceedings in criminal cases; gives consent to dismissing a criminal case by the investigator when the present Code so allows; approves indictments; refers criminal cases to court;

12) decides on admitting defense counsel in the case;

Prosecutor also exercises other powers specified in the present Code.

Instructions prosecutor gives to inquiry and pre-trial investigation agencies under the present Code in connection with instituting proceedings in criminal cases and investigating them are binding upon such agencies. Challenging instructions given before a higher prosecutor does not preclude their execution except as provided for in Article 114, second paragraph, of the present Code.

(Article 227 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 986-VIII
(986-08) of 30.08.72, # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 3351-XII (3351-12) of 30.06.93, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 228. Prosecutor's verifying the case together with indictment

Having received from the inquiry the case and the indictment, prosecutor shall have the duty to verify:

1) whether the occurrence of crime had place;
2) whether the incriminated act contains constituent elements of crime;
2-1) whether requirements of the present Code in respect of ensuring the right of a suspect and the accused to defense were met by the inquiry and pre-trial investigation;
3) whether there are circumstances in the case which entail dismissal of the case under Article 213 of the present Code;
4) whether charges were brought with regard to all criminal acts by the accused;
5) whether all persons to whom the commission of crime was incriminated have been prosecuted as the accused;
6) whether the nature of acts by the accused was determined correctly under criminal statute;
7) whether legal provisions were complied with during preparation of the indictment;
8) whether the measure of restraint was imposed correctly;
9) whether measures were taken to ensure compensation of damage caused as a result of crime, and possible forfeiture of asset;
10) whether causes and conditions which contributed to the commission of crime were identified and whether measures were taken to eliminate them;
11) whether the inquiry and pre-trial investigation complied with all other provisions of the present Code.

(Article 228 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada # 117-VIII
(117-08) of 30.08.71, # 6834-X (6834-10) of 16.04.84, in accordance with Laws 3351-XII (3351-12) of 30.06.93, # 3780-XII (3780-12) of 23.12.93).

Article 229. Prosecutor's decision in the case with indictment

Having verified the case with indictment, prosecutor or his/her deputy takes one of the following decisions:

1) approves the indictment or prepare a new one;
2) reminds the case to the inquiry or investigator together with his/her written instructions for conducting supplementary investigation;
3) dismisses the case and draws up a decision thereon in compliance with Article 214 of the present Code.

Prosecutor or his/her deputy may change investigator's list of persons to be cited in court session, as well as revoke or alter previously imposed measure of restraint or order a measure of restraint if such measure was not imposed, or, in cases provided for in the present Code, raise before court the issue of committing to custody as measure of restraint.

(Article 229 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 3351-XII (3351-12) of 30.06.93, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 230. Prosecutor draws up a new indictment

Whenever prosecutor or his/her deputy disagrees with the indictment, he/she may prepare a new indictment; in such a case, previous indictment should be removed from records of the case.

(Article 230 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84).

Article 231. Prosecutor changes charges

When it is necessary to change a charge for more severe one or for the charge which essentially changes the charge brought under actual circumstances, prosecutor or his/her deputy returns the case to investigator for conducting supplementary investigation and bringing a new charge.

If change in original charge does not entail application of penal provision with more severe sanction and does not result in essentially changing the charge brought under actual circumstances, prosecutor or his/her deputy draws up a decision stating changes introduced in the indictment.

(Article 231 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Law # 3351-XII (3351-12) of 30.06.93).

Article 232. Prosecutor refers the case to court

Having approved the indictment prepared by investigator or having prepared a new indictment, prosecutor refers the case to court having jurisdiction thereof and informs the court whether he/she finds it appropriate to prosecute on behalf of the state.

Concurrently, prosecutor or his/her deputy informs the accused on to what court the case has been referred.

On exceptional basis, if a case is particularly complicated or important and falls within jurisdiction of district (city), interdistrict (circuit) court, garrison military tribunals, prosecutor of the Autonomous Republic of Crimea, oblast, city of Kyiv or Sevastopol, military prosecutor (assimilated to oblast prosecutor) and their deputies may refer such case to the Supreme Court of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City Courts, military tribunal of region, Naval Forces, respectively.

Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, oblasts, city of Kyiv and prosecutors assimilated to them, their deputies, district, city prosecutors and prosecutors assimilated to them have the right to withdraw a criminal case from court if the case has not been preliminary tried.

(Article 232 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada # 6834-X (6834-10) of 16.04.84, in accordance with Laws # 2857-XII (2857-12) of 15.12.92, # 3351-XII (3351-12) of 30.06.93, # 4018-XII (4018-12) of 24.02.94, # 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 232-1. Prosecutor's actions in cases he/she received from investigator in respect of referring to court to decide on the release from criminal prosecution

Having received the case from investigator which was transferred as prescribed in Articles 7, 7-1, 7-2, 7-3, 8, 9, 10, and 11-1 of the present Code, prosecutor verifies how fully investigation was conducted, how legal is the decision, and takes one of the following decisions:

1) gives written consent to investigator's decision and refers the case to court;
2) reverses investigator's decision and returns him/her the case together with written instructions;
3) changes investigator's decision or takes a new decision.

(Article 232-1 is added in accordance with Law # 3787-XII (3787-12) of 23.12.93, as amended by Law # 2670-III (2670-14) of 12.07.2001).

Article 233. Time-limits for prosecutor's considering cases submitted by the inquiry or investigator

Having received a case from inquiry or investigator, prosecutor is required to consider the case and give appropriate directional thrust thereto.

5. *Supreme Court Resolution No. 5 on Court Practice of Application of Legislation on Criminal Responsibility for Legalisation of Proceeds from Crime (15.04.2005)*

UNOFFICIAL TRANSLATION
PLENARY SUPREME COURT OF UKRAINE RESOLUTION
15.04.2005 № 5

On court practice of application of legislation on criminal responsibility for legalization (laundering) of proceeds from crime

In order of correct and uniform application by courts of legislation on criminal responsibility for legalisation (laundering) of proceeds from crime and in connection with issues that arise in judicial practice when this category of cases are being handled the Plenary Supreme Court of Ukraine **decided:**

1. To draw attention of judges to the fact that in accordance to part 1, Article 209 of the Criminal Code of Ukraine (2341-14) (hereinafter referred to as - CC) receiving of proceeds from the commitment of the socially dangerous illicit act (hereinafter - predicate offence), as defined by paragraph 1, Note to Article 209 of CC, is an indispensable condition of rising liability for legalization (laundering) of proceeds from crime.

Within the sense of paragraph 1, Note to Article 209 of CC (2341-14) the predicate offence may be:

- an act that is an offence, as defined by CC (2341-14), and is punishable by deprivation of liberty of a minimum 3 years as provided for by the relevant Article of this CC;
- an act that is an offence as defined by effective criminal legislation of other country if the same action is punishable by deprivation of liberty of a minimum 3 years as provided for by CC of Ukraine (2341-14).

In accordance with Article 209 criminal responsibility is not excluded in case of statutory indemnity of a person who committed a predicate offence (in connection with the time limitation, use of amnesty, etc.) or failure to be brought to the responsibility (for example, in connection with death), and proceeds from the predicate offence became the subject of legalisation.

Offences, punishable by Articles 207 and 212 of CC (2341-14) independently of what parts of these Articles they are qualified and kind of punishment cannot be defined as predicate offences.

2.According to part 1, Article 209 of the CC (2341-14) the criminal liability is imposed in case of commitment, at least one of the following actions, preceded legalization (laundering) of proceeds:

1) financial operation with money or any other property, obtained from predicate offence or entering the agreement in respect of them;
2) actions directed to conceal or disguise:
   a) illegal origin of such money or any other property;
   b) their ownership;
   c) financial and property rights;
   d) sources of their origin;
   e) location;
   f) transfer;
3) obtaining, ownership or use of such assets or other property.

Responsibility for the abovementioned actions arises only in case if money or any other property that are the subject of legalization had been obtained from the predicate offence (provided for by paragraph 1 of the Note to Article 209 of the CC (2341-14), that preceded legalization (laundering) of the proceeds from crime) and these actions were committed on purpose with the aim to justify belongings, using, commanding assets or property, their obtaining or concealment the source of their origin.

3. To draw attention of judges to the fact that it doesn't matter if the money or any other property from the predicate offence have been received on the territory of Ukraine or out of its bounds as far as they can be legalized both in Ukraine and abroad. As such, provisions of Articles 6-8 of the CC (2341-14) on operation of criminal law in space have to be taken into account when a criminal-legal assessment of both predicate offence and legalization of proceeds is made.

4. Proceeds, specified by Article 209 of the CC (2341-14), shall mean any economic benefit resulting from predicate offence consisting of material property or titles, also movable or immovable property, and legal papers that the title to such property or a share in it, as provided for by paragraph 2, part 1, article 1 of the Law "On prevention and counteraction to the legalization (laundering) of the proceeds from crime" № 249-IV of 28 November 2002 (hereinafter referred to as – the Law № 249-IV)

5. Legalization (laundering) of proceeds from crime, specified by the disposition of part 1, Article 209 of the CC (2341-14), shall mean any acts taken to conceal or disguise the illegal origins of money or any other property or possession thereof, titles to such money any property, their sources, location, movement and shall also mean the acquiring, possession or use of money or any other property with the aim to give legitimate character to possession or use of them, and also acts taken to conceal the source of their origins and making of financial operations with proceeds or any other property, provided a person realizes that they were the proceeds from crime, as provided for by the Law № 249-IV).

6. Commitment of financial transaction with money from predicate offence, in accordance with paragraph 5, Article 1, Law № 249-IV, shall mean any transaction involving processing or securing any payment through an entity of initial financial monitoring. Meanwhile, the list of the main types of financial transactions, mentioned in the abovementioned paragraph, is not exhaustive as far as other types of financial transactions may be the subjects of such monitoring. Particularly, financial transaction may be processed both through an entity of initial financial monitoring and any other entities of economic management (Article 55, Commercial Code of Ukraine). The following by-laws that regulate legal relations in this sphere have to be addressed in order for all types of financial transactions to be covered to the utmost:
Law on Foreign Economic Activity, No 959-XII *of 16 April 1991, Law on Securities and Stock Exchange, No1201-XII of 18 June 1991, Law on Insurance, No*85/96-BP of 7 March 1996 (in wording of the Law *No* 2745-III of 4 October 2001), *Law on the Banks and Banking Activity, No* 2121-III of 7 December 2000, *Law on Financial Services and State Regulation of the Markets of Financial Services, No 2664-III of 12 July 2001*.

7. Making of agreement on money or any other property resulting from commitment of predicate crime – means commitment of any legal actions regarding them, e.g. actions directed at acquiring, changing or suspending civil rights and obligations (Article 202 of the Civil Code of Ukraine) in the order, specified by this Code independently of their types – bilateral/multilateral (named as agreements) and unilateral as well.
As specified by Article 209 of the CC (2341-14), responsibility arises in the cases when a culprit commits only one financial transaction with money or any other property from predicate offence or makes at least one agreement regarding them.

8. Actions taken to conceal or disguise the illegal origin of money or any other property resulting from predicate offence or possession thereof, titles to such money and property, their sources, location, movement shall mean any actions of a person for the purpose to conceal and disguise the fact of acquisition of such assets or any other property that preceded legalization (laundering) of such assets, committed by both a person himself/herself who acquired such assets or property in such a way and any other person.
Such actions may be directed at: changing legal status of the money or any other property by means of fabrication of the papers certifying titles to such property; receiving of fabricated papers for purchase of the property; making of the civil-legal agreements (simulated buying in the thrift shop, Lombard etc.); processing of the titles on the dummy persons; making sham agreements on granting credits or different services – juridical, auditing and etc.; placement of funds to an accounts of juridical and natural persons, including offshore areas; money transfer from one account to another – if all the mentioned actions were not the means of commitment of the predicate offence.

9. Acquiring money or property known to be obtained from a predicate action, and possession thereof shall mean receiving them in actual possession or economic running under ineffective legal actions (by which receiving such assets or property and possession thereof have got a justified character and allegedly legal status thereof) i.e. the person's acquiring, possession of the titles to such assets or property, provided a person realizes that they were obtained by other persons from crime.
Use of money or any other property from predicate offence shall mean such use or disposal, which is not necessarily connected with financial transaction or making an agreement regarding them, as far as such

actions are mentioned in disposition of paragraph 1, Article 209 of the CC (2341-14) as independent ways of commitment of the crime. Mentioned assets or property can be used, in particular, during economic management, including entrepreneur activity.
Use of money or any other property from predicate offence for the purpose of economic management shall mean their use in the process of legal output of products, rendering of services, selling entities of economic management, registered as those in the established by law order, i.e.: 1) investing economic activity with the mentioned assets or any other property (their including into statute fund of such entity or free of charge transfer, investment into joint economic management etc.); 2) purchase of input materials, and other property to be used in economic management at the expense of the assets; 3) use of such property as half-finished goods, input materials, etc.
Use of the mentioned money and property may be connected/unconnected with their alienation, i.e. passing on to the other persons.

10. Money or any other property shall not be meant as those obtained from predicate offence, if a person didn't seize them (didn't receive) from commitment a crime, but illegally concealed them, didn't pass on to the state, although obliged to do this, including: assets, which have not been paid as taxes; dues and fees; other compulsory payments; unreturned or concealed proceeds in foreign currency from exportation of the goods (works, services) or hidden goods and other tangible property, obtained from such income, as far as it goes about illegal (criminal) disposal of money and other property (if the titles for them were obtained legally), but not illegal acquiring.
Import of contraband goods and other articles in Ukraine, specified by disposition of part 1, Article 201 of the CC, and assets from financial operations with use of bank accounts of enterprises, which have fictitious characters but not from the predicate offence, shall not be recognized as the subject of legalization, if they were legally obtained abroad.
Money or any other property, obtained by official person from the operations, specified by subparagraphs 8.6.1-8.6.3, paragraph 8.6 Art. 8 of the Law "*On the order of extinction of tax payers' obligations to the budget and state specialized funds*» without written permission of a taxing body, with the assets, which are in tax lien and will be used then by the entity of economic management - juridical person in economic activity, as far as they have legal origin, shall not be a subject of legalization.
Money (despite its amount), obtained from subsidies, subventions, donation or credit resulting from providing the creditors, specified by this norm of the Law, with false information on the side of the entities, specified by the disposition of part 1, Art. 222 of the CC, shall not be meant as the subject of legalization, though such money is the subject of next actions, enlisted by Art. 209 of the CC, as far as this money is legally obtained and the crime, elements of which are stipulated by the part 1, Art. 222 of the CC, does not comprise all the signs of predicate offence, provided for part 1, Note to Art. 209 of the CC.

11. To give explanations to the courts that bringing of a person to the criminal responsibility under Art. 209 of the CC is possible both: if the fact of obtaining by a person of money or any other property from predicate offence is adjudged by the relevant procedural documents (court judgment or resolution, determination on statutory indemnity of a person, closing the case on non-exculpatory grounds etc.) and if he/she has not been brought to the criminal responsibility for predicate offence. If latter: a person is brought to the criminal responsibility both for predicate offence and legalization (laundering) of money or any other property obtained from commitment of the predicate offence, i.e. on a charge of the cumulative offences, provided a person realizes that he/she commit legalization of such money (property), as far as a person realizes the laundering of assets (property).

12. For the purpose to resolve a question on "corpus delicti", provided for by Art. 209 of the CC, it is necessary to define that a person committed one of the actions, specified by part 1 of this Article, with money or any other property obtained from predicate offence in order to justify possession, management or use of them, acquiring, concealing or disguising their illegal origin or ownership, titles to them, sources of their origin, location, transfer or she/he committed a financial transaction or made an agreement.
In the process of settlement of a question on existence of the signs of this "corpus delicti" in actions of a person who did not commit a predicate offence, the courts have to determine the availability of evidence of the fact that such a person who committed one of the actions, specified by part 1 of Article 209 of the CC, realized that money or any other property had been obtained by other persons from crime.

13. Effective legislation does not identify the minimum of money amount or value of any other property as a subject of legalization, which provides with the grounds to bring to the criminal responsibility under Article 209 of the CC. For the purpose of making a criminal-legal assessment of actions, specified by part 1 of this Article, committed in respect of money or any other property of insignificant size, it is necessary to proceed from the provisions of part 2, Art. 11 of the CC (misdemeanor) and to take into account the size of income resulting from crime.

14. Crime, punishable by part 1, Art. 209 of the CC, shall be meant as completed from the moment of commitment of any action (under this Article) directed at justifying the possession, use, management, acquisition of such money or any other property, and concealing or disguising of illegal origin of such money or any other property, titles to them, sources of their origins, location, transfer as well as commitment of financial transaction or making an agreement in respect of them.

15. A physical sane person who reached the age of sixteen and – as for some legal actions - even obtained a full legal capacity in the cases and order, established by law, and was not restricted in his/her legal capacity or deprived it by the court, may be a subject of crime, elements of which are provided for by Article 209 of the CC.
Only a person who didn't commit a predicate offence, provide him/her realizes that money and any other property had been obtained by other persons illegally, may be subject of the crime, if it committed in the forms of any actions, specified by part 1, Article 209, CC. The person who committed such action bears responsibility only for commitment of financial transaction with money or any other property or making an agreement with respect to them, as well as for commitment of actions directed to hide or conceal illegal origin of such money or any other property, possession thereof, titles to them, sources of their origin, location, transfer; but for use of such money or any other property – only in the case, if it concerned commitment of financial transaction or making an agreement.

16. Actions of a person who is not a subject of initial financial monitoring, as specified by Article 4 of the Law *No* 249-IV, including the crime property trafficking by other persons shall not be meant as the elements of legalization of money or any other property, obtained from crime (Art. 209, CC), if such property is not being granted a legally obtained character. Depending on the specified circumstances of the case the mentioned actions comprise signs of a theft (in the form of abetting), or "corpus delicti", as provided for by Article 198 CC.

17. To explain the courts that, if differentiation between crimes (responsibility for those is provided for by Articles 198 and 209 of the CC (2341-14)) is being made one should first and foremost proceed from their subject. The subject of the first one is the property obtained from the crime. The subject of the latter – only the property, obtained from commitment of a predicate offence, which as specified the CC's provisions, and punishable by deprivation of liberty of a minimum 3 years, and property from crime on the territory of other states. The objective is a crucial factor in differentiation between these crimes. As specified by Article 209 of the CC (2341-14), the objective of actions with money or any other property is to grant them a legal status, and there is no requirement as to granting such a status to the property for actions, specified by Article 198 of the CC. If actions, punishable by this article, are committed with the purpose to grant the property a legal status, they fall under qualification by Article 209 of the CC. The subject of the crime, "corpus delicti" of which is specified by Article 198 of the CC, is only the person who didn't obtain the property from crime, and, as specified by Article 209 of the CC, it can be a person who obtained money or any other property from crime, as well as a person who previously promised to commit actions, provided for by this Article for the purpose of legalization of money or any other property obtained from commitment of a predicate offence.

18. Use of money or any other property, obtained from a predicate offence, while committing illegal (including criminal) activities, does not constitute a "corpus delicti", provided for by Article 209 of the CC, as far as they don't get a legal status in this case. An exception is: use of money, obtained from drug, psychotropic substances, their analogs or precursors trafficking, punishable by Article 306 of the CC.

19. An action, committed by a group of two or more persons in their capacity of accomplices upon their prior conspiracy to legalize (launder) proceeds from predicate offence, shall be qualified as commitment of the crime upon prior conspiracy. It is not necessary that all the persons commit the same

(identical) actions, as specified by Article 209 of the CC, for the purpose of existence of this qualifying sign. The mentioned sign will also exist in the case, if one person commits any of alternative actions, specified by part 1 of Article 209 of the CC (2341-14), and other persons – any other actions.

20. Actions of persons, who participated in the process of legalization (laundering) of proceeds, as organizers, instigators or abettors, if they are not simultaneous accomplices, shall be qualified by the relevant parts of Article 27 and article 209 of the CC (2341-14).

21. If in the process of consideration of the criminal case on a charge of a person's commitment of crime, which elements are specified by Article 209 of the CC, money or any other property are established as those obtained from a predicate offence, they will be the subject of restitution to the legal owner or transferring to the state's revenue under paragraph 5, part 1, Article 81 of the CPC of Ukraine.

22. Judicial Chamber in Criminal Cases of the Supreme Court of Ukraine, courts of appeal have to regularly study and generalize practice of consideration of this type cases and take well-timed steps to eliminate the disclosed mistakes in the courts' operation.

6. *Code of Administrative Offences (Excerpts)*

Article 159 Violation of the market trade regulations

Violation of the market trade regulations entails either a warning/caution or a penalty at the rate from one- to threefold nontaxable minimum individual income for individuals and either a warning or a penalty at the rate of from three- to sevenfold nontaxable minimum individual income for officials.

Article 160-2 Illegal trade

Illegal trade, i.e. purchase or sale of goods or other products avoiding the established procedure for registration, with the purpose of gaining hidden profit, provided this profit does not exceed sevenfold nontaxable minimum individual income, entails a penalty at the rate from five- to twenty-fivefold nontaxable minimum individual income and confiscation of both goods and sales revenues.

Article 162 Violation of regulations for foreign exchange transactions

Illegal purchase, sale, exchange or use of currency either for payment or for collateral entails either a warning or a penalty at the rate from thirty- to forty-fourfold nontaxable minimum individual income and confiscation of currency.

Article 163 Violation of laws and other regulations for issue of securities

Failure to comply with requirements of laws and other regulations for issue of securities entails imposing a penalty on the issuer's officials, irrespective of its type of ownership, at the rate from ten- to one-hundredfold nontaxable minimum individual income and on issuer's founders or members or their officials at the rate from fifty- to two-hundredfold nontaxable minimum individual income.

Article 163-1 Violation of procedure for tax accounting and reporting

Failure of competent officials of companies, institutions, and organizations to keep tax accounting or to comply with procedure for tax accounting as established by the applicable legislation, including failure to submit audit report in due time, as required by the applicable legislation of Ukraine, or delayed submission thereof entails a penalty at the rate from five- to tenfold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from ten- to fifteen-fold nontaxable minimum individual income.

Article 163-2 Failure to submit or delayed submission of payment orders for transferring taxes and fees (mandatory payments)

Failure of competent officials of companies, institutions, and organizations to submit or delayed submission of payment orders for transferring taxes and fees (mandatory payments) shall entail a penalty at the rate from five- to tenfold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from ten- or fifteen-fold nontaxable minimum individual income.

Article 163-3 Failure to fulfil legal requirements of competent officials of the State Tax Administration

Failure of top officials and responsible officers of companies, institutions, and organizations, including institutions of the National Bank of Ukraine, commercial banks, and other financial and credit institutions, to fulfil legal requirements of competent officials of the State Tax Administration listed in paragraphs 5 - 8 of the first part of Article 11 of the Law of Ukraine on State Tax Administration of Ukraine, shall entail a penalty at the rate from five- to tenfold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from ten- to fifteen-fold nontaxable minimum individual income.

Article 163-4 Failure to comply with procedure for taxation of individual income and for payment of individual income tax and failure to submit income statements

Either failure to deduct individual income tax from income payable to employees or failure to transfer it to the budget or transfer of individual income tax at the expense of companies, institutions, and organizations (except for events when such transfers are allowed by the applicable legislation), or failure to submit or delayed submission to the state tax inspectors of established forms of employee income statements shall entail either a warning/caution or a penalty imposed on responsible officers of companies, institutions, and organizations and on self-employed persons at the rate from two- to threefold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail imposing a penalty at the rate from three- to fivefold nontaxable minimum individual income on responsible officers of companies, institutions, and organizations and on self-employed people.

Article 164. Violation of the procedure for carrying out economic activity

Carrying out of activity with signs of entrepreneurship without state registration as a business entity, or execution of business activity subject to licensing according to law without a license, - shall be punished by imposition of a penalty in amount from 3 to 5 tax-free allowances of citizens along with confiscation of the produced items, instruments of production and primary products, or without the last.
Actions envisaged by the part 1 of this Article executed by a person who used to be administratively punished for the same offence during a year, - shall be punished by imposition of penalty in the amount from 5 to 8 tax-free allowances of citizens along with confiscation of the produced items, instruments of production and primary products, or without the last.

Article 164-1 Failure to comply with procedure for submitting income statements and income-and-expense accounting

Either failure of individuals to submit or delayed submission of income statements, or provision of any false or misleading information, or failure to keep income-and-expense accounting in due manner and time as required by the applicable legislation of Ukraine shall entail either a warning/caution or a penalty at the rate from three-to eightfold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from five- to eightfold nontaxable minimum individual income.

Article 164-2 Violation of financial laws and regulations for financial activities

Either understatement, concealment or defrauding of foreign exchange and other income, nonproductive profit and losses, or failure to keep or undue keeping of accounting, or reporting of whatever false or misleading financial data, or failure to report financial statements or to make inventory of monetary funds and stocks in due time and manner, or any violation of regulations for cash transactions, or interference with and obstruction of inspections and audits conducted by employees of the State Audit Service of Ukraine, or failure to take measures on reimbursement of losses arising from inadequate accounting, misuse or fraud shall entail a penalty at the rate from eight- to fifteen-fold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from ten- to twenty-fold nontaxable minimum individual income.

Article 164-3. Unfair Competition

Unlawful copying of form, package, external design, as well as imitation, copying or direct reproducing of goods of other entrepreneur, unauthorized exploitation of his name -
invokes penalty in the amount from 30 to 44 untaxed minimum personal incomes, together with the confiscation of goods produced as well as fittings and raw materials used for such a production.

Intentional dissemination of unreliable or inaccurate information or data, which can affect the business reputation or cause economic damages of another entrepreneur, -
invokes penalty in the amount from 5 to 9 untaxed minimum personal incomes.

The obtainment, exploitation, disclosure of commercial secret as well as confidential information, aimed at causing harm to business reputation or economic damages, to another entrepreneur, -
invokes penalty in the amount from 9 to 18 untaxed minimum personal incomes.

Article 164-4 Delay in delivery of sales revenues

Failure of trading companies that sell goods for cash, irrespective of their type of ownership, to deliver sales revenues in due time as established by the regulations for settlement and cash transactions shall entail imposing on the responsible officers a penalty at the rate from seventeen- to eighty-fold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from forty-three to seventy-five-fold nontaxable minimum individual income.

Article 166-1 Abuse of market monopoly

Imposing unfavorable and disparate contracts and agreements on counter parties or additional conditions not related to the subject of agreement, including high-pressure selling of goods not required by the counter party, limitation or suspension of manufacture, withdrawal of goods from circulation for creating or

keeping deficiency thereof or for setting monopolistic prices, partial or complete refusal of sale or purchase of goods at the absence of alternative sources of supply or sale, for creating or keeping deficiency thereof or for setting monopolistic prices, any other deeds targeted towards preventing access to or exit from the market of other business entities, setting of monopolistic prices, tariffs or rates for goods or discriminatory prices that limit rights of certain consumer groups shall entail imposing on top managers of companies, associations, partnerships or providers of loans/credits a penalty at the rate up to fifteen-fold nontaxable minimum individual income and on self-employed persons up to thirty-fold nontaxable minimum individual income.

Article 166-2 Illegal business contracts

Making contracts and agreements providing for setting or keeping monopolistic prices/tariffs, discounts, surcharges, extra charges, or for sharing the market by territory, range of goods, sales or purchase volume or by consumer groups or by other parameters whatsoever, for the purpose of monopolization, removal from market or prevention of access to the market for other buyers, sellers, or agents shall entail imposing a penalty on top managers of companies, associations, partnerships or providers of loans/credits a penalty at the rate up to fifteen-fold nontaxable minimum individual income and on self-employed persons up to thirty-fold nontaxable minimum individual income.

Article 166-3 Discrimination of business entities by government authorities

Prohibition of incorporation of new companies or other business entities in any sphere of activities whatsoever, or limitation of some types of activities, manufacture of some types of goods for the purpose of preventing competition, compulsion of businessmen to join associations, concerns, interregional or industrial unions or to make priority contracts, priority delivery of goods to certain consumer groups, to make decisions on centralized distribution of goods resulting in the market monopoly, prohibition of sale of goods from one region of the country in other region thereof, granting of tax or other privileges to some business entities resulting in the market monopoly on certain goods, limitation of rights of business entities to purchase or to sell goods, prohibition or limitation of activities of some business entities or business groups shall entail a penalty imposed on the responsible officials at the rate up to fifteen-fold nontaxable minimum individual income.

Article 166-4 Violation of procedure for reporting information and implementation of orders and instructions of the Antimonopoly Committee of Ukraine and its territorial offices

Failure to report or reporting of false or misleading information to the Antimonopoly Committee of Ukraine and its territorial offices by officials of government authorities and self-governing bodies, or by directors of enterprises, associations, and partnerships or by top managers of lending institutions or by self-employed persons shall entail imposing a penalty on officials and top managers of companies, associations, partnerships or providers of loans/credits at the rate up to sevenfold nontaxable minimum individual income and on self-employed persons up to twenty-fold nontaxable minimum individual income.

Evasion by persons specified in the first part hereof of fulfillment of orders of the Antimonopoly Committee of Ukraine or its territorial offices or failure to do it in due time shall entail imposing a penalty at the rate up to six-fold nontaxable minimum individual income on officials and directors and up to sixteen-fold nontaxable minimum individual income on self-employed persons.

Article 166-5 Violation of the banking law, regulations of the National Bank of Ukraine or making high-risky transactions that may threaten interests of bank depositors or lenders

Breach of the banking law, regulations of the National Bank of Ukraine or making high-risky transactions that may threaten interests of bank depositors or lenders committed by bank top managers or responsible officers of institutions subject to supervision of the National Bank of Ukraine shall entail a penalty at the rate from fifty- to one-hundred-fold nontaxable minimum individual income.

Article 166-6 Failure to report financial and accounting statements in the course of liquidation of legal entity

Either failure to report or delayed reporting or reporting of false or misleading data in financial statements and liquidation balance sheet in the course of liquidation of the legal/corporate entity committed by a chairman of the liquidation commission or a liquidator or by other responsible officers engaged therein shall entail a penalty at the rate from thirty- to sixty-fold nontaxable minimum individual income.

Breach of the established procedure for accounting of economic and business operations related to liquidation of legal/corporate entity, including appraisal of property and undertakings of legal/corporate entity and compilation of the liquidation balance committed by responsible officers shall entail a penalty at the rate from thirty- to sixty-fold nontaxable minimum individual income.

Evasion of organization of accounting of economic and business operations related to liquidation of legal/corporate entity, including appraisal of property and undertakings of legal/corporate entity and compilation of liquidation balance committed by a chairman of the liquidation commission or a liquidator or by other responsible officers engaged therein shall entail a penalty at the rate from forty- to one-hundred-fold nontaxable minimum individual income.

Deeds specified in the first, second or third part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from fifty- to one-hundred-and-twenty-fold nontaxable minimum individual income.

Article 166-7 Interference with or obstruction of bank provisional administration or liquidation

Any prevention of a bank provisional administrator or a liquidator from access to bank’s assets, books, registers, files or dossiers shall entail a penalty at the rate from three-hundred- to five-hundred-fold nontaxable minimum individual income.

Article 166-8 Unauthorized banking activities

Unauthorized banking activities (without the respective license) shall entail a penalty at the rate from one-hundred- to two-hundred-fold nontaxable minimum individual income.

Article 166-9 Breach of the anti-money laundering law (the law on prevention and combating of legalization of proceeds of crime)

Failure to comply with the know-your-customer procedure or procedure for registration of financial operations subject to financial monitoring or reporting of false or misleading information on financial operations to the competent financial monitoring body or failure to keep KYC files, dossiers and documents related to financial transactions in due manner shall entail imposing a penalty on responsible officers of entities subject to primary financial monitoring at the rate from fifty- to one-hundred-fold nontaxable minimum individual income.

Unauthorized disclosure of information reported to the competent financial monitoring body or disclosure of the fact of reporting shall entail a penalty at the rate from one-hundred- to three-hundred-fold nontaxable minimum individual income.

Article 166-10 Breach of procedure for issuing permits and authorizations

Failure of licensing authority or administrator of economic entity to notify or delayed notification of decision on refusal to issue a permit, license or authorization in time established by the applicable legislation shall entail a penalty at the rate from twenty- to fifty-fold nontaxable minimum individual income.

Failure of licensing authority to make decision on issuing a permit, license, or authorization in due time or failure of administrator of economic entity to notify of issue of a permit, license, or authorization in due time as established by the applicable legislation shall entail imposing on the responsible officers a penalty at the rate from twenty- to fifty-fold nontaxable minimum individual income.

Deeds specified in the first and second parts hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail a penalty at the rate from fifty- to seventy-fold nontaxable minimum individual income.

Unreasonable refusal of licensing authority to issue a permit, license of authorization for the sake of economic entity shall entail a penalty at the rate from twenty- to fifty-fold nontaxable minimum individual income.

Article 166-11 Breach of the law related to state registration of corporate entities and self-employed persons

Failure to make state registration of corporate entity or self-employed person or to issue the certificate of state registration in due time as established by the applicable legislation shall entail imposing a penalty on the responsible officers at the rate from twenty- to forty-fold nontaxable minimum individual income.

Article 166-12 Breach of the law on licensing some types of business activities

Failure to issue license for specific business activity to be licensed in due time as established by the applicable legislation shall entail imposing a penalty on the responsible officers at the rate from twenty- to forty-fold nontaxable minimum individual income.

Article 188-6 Failure to fulfil legal requirements of the competent supervisory body in the sphere of labor regulation or interference with its activities

Failure to fulfill legal requirements of competent supervisory body in the sphere of labor regulation, including removal of violation of the labor law and mandatory social insurance, or interference with its activities shall entail imposing on the responsible officers a penalty at the rate from ten- to fourteen-fold nontaxable minimum individual income.

Article 189-1 Breach of the procedure for production, utilization, and sale of precious metals, precious gems, organogenic gems, and semiprecious gems

Failure to comply with requirements for production, rates of loss of precious metals, precious gems, organogenic gems, and semiprecious gems in the course of production; or absence of records or undue recording thereof; failure to provide due conditions for storage of produced precious metals, precious gems, organogenic gems, and semiprecious gems; and breach of regulations for their sale shall entail imposing a penalty at the rate from eight- to twenty-fold nontaxable minimum individual income on responsible officers of enterprises, companies, organizations, and self-employed persons.

Breach of approved rates of utilization or processing loss of precious metals, precious gems, organogenic gems, and semiprecious gems in the course of production, or rates of their return in the form of scrap in the course of production; or absence of records or undue recording thereof; or failure to provide due conditions for storage of produced precious metals, precious gems, organogenic gems, and semiprecious gems in the course of production; or breach of regulations for their sale or collection or scrapping shall entail imposing a penalty at the rate from eight- to twenty-fold nontaxable minimum individual income on responsible officers of enterprises, companies, organizations, and self-employed persons.

Article 202 Breach of the frontier regime or regime of crossing Ukraine’s border

Breach of the frontier regime or regime of passing through Ukraine's border crossings shall entail a warning or imposing a penalty at the rate up to threefold nontaxable minimum individual income on individuals and from three- to sevenfold nontaxable minimum individual income on officials.

Article 212-2 Breach of the law on national secret

Breach of the law on national secret, including:

1) Failure to comply with procedure for disclosure of the national security information to foreign state or international organization, as established by the applicable legislation;

2) Dissemblance of information on:

Environment conditions, quality of foodstuff or consumer goods;

Disasters, catastrophes, acts of God and other force majeure events that either have occurred or may occur in the future and threaten security of population;

Health status, living standards, including quality of foodstuff, clothing, housing, medical services and social security, as well as social and demographic indices, legal order status, education and culture status;

Facts of human right abuse;

Illegal deeds of government, self-governing bodies, and their officials;

Other information to be disclosed according to the law and international treaties, as ratified by the Verkhovna Rada of Ukraine;

3) Unreasonable dissemblance of information;

4) Assignment of secrecy label or security classification to tangible carriers of confidential or other secret information which is not the national security information or failure to assign secrecy label to tangible carriers of national security information, or unreasonable cancellation or degradation of secrecy of tangible media;

5) Breach of procedure for authorization and access to the national security information, as established by the applicable legislation;

6) Failure to protect the national security information or failure to exercise due control over the protection of the national security information;

7) Unauthorized activities related to the national security information, placement of state orders for works and mobilization activities related to the national security information with government or self-governing bodies or with enterprises, institutions, and organizations not duly authorized therefor;

8) Failure to comply with requirements of the national secret protection law in the course of international cooperation and visits of foreign delegations, groups or individual foreign passport holders or stateless persons;

9) Failure to comply with regulations and requirements for cryptographic and technical protection of secret information that may result in loss of its integrity or disclosure through technical channels shall entail imposing a penalty at the rate from one- to threefold nontaxable minimum individual income on individuals and from three- to tenfold nontaxable minimum individual income on officials.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail imposing a penalty at the rate from three- to eightfold

nontaxable minimum individual income on individuals and from five- to fifteen-fold nontaxable minimum individual income on officials.

Article 212-3 Violation of the right-to-know law

Unreasonable refusal to provide information or failure to provide complete information in due time and manner, or provision of false or misleading information, provided such information is to be delivered upon request of individuals or corporate entities, as established by the Laws of Ukraine on Information, On Requests of Individuals, and On Access to Court Decisions shall entail imposing a penalty on officials at the rate from fifteen- to twenty-fivefold nontaxable minimum individual income.

Deeds specified in the first part hereof committed by a person whom the penalty was imposed on within one year for the same violation shall entail imposing on officials a penalty at the rate from twenty-five- to fifty-fold nontaxable minimum individual income.

Note. Officials subject to the Law of Ukraine on Combating of Corruption shall be liable for such deeds in compliance with the Law on Combating of Corruption.

Article 213 Bodies and officials authorized to try administrative offenses

Administrative offense cases shall be tried by:

1) Administrative commissions under executive committees of village, town or city councils;

2) Executive committees of village, town or city councils;

3) Deleted;

4) Regional, district, or city courts (judges);

5) Law enforcement bodies, state inspections and other duly authorized bodies/officials as specified herein.

Article 222 Internal affairs bodies (police)

Internal affairs bodies (police) shall try cases related to the following administrative offenses: violation of the civil order, passport regime, road traffic regulations, regulations for use of transport facilities and safety cargo transportation, illegal sale or purchase of petrol and other fuel and lubricants (Part 1 of Article 44, Articles 80 and 81 (in respect of over-content of pollutants in exhausted gas of transport facilities), part 2 of Article 106-1, parts 2, 3, and 4 of Article 109, Articles 110, 111, part 3 of Article 114, part 1 of Article 115, Article 1162, part 2 of Article 117, parts 1 and 2 of Article 119,parts 1,2, 4, and 5 of Article 121, Articles 121-1, 121-2, parts 1 and 2 of Article 122, parts 1 and 2 of Article 123, Articles 124-1 - 126, parts 1,2, and 3 of Article 127, part 1 of Article 127-1, Articles 128 - 129, parts 1,2, and 5 of Article 133, Article 133-1, part 2 of Article 135, Article 136 (except for violations related to motor vehicles), Article 137, parts 1, 2, and 3 of Article 140, Articles 161, 164-4, 173, Article 175-1 (except for violations committed in areas prohibited according to resolutions of village, town or city council), Articles 176, 177, parts 1 and 2 of Article 178, Articles 189-2, 192, 194, 195, and Articles 197 – 201 hereof).

The following bodies shall be entitled to act on behalf of internal affairs bodies (police) and to impose administrative penalties:

1) Chief officers or deputy chief officers of internal affairs bodies – for administrative offenses referred to in part 1 of Article 44, part 2 of Article 106-1, parts 1, 2, 3, and 4 of Article 109, Articles 110, 111, part 3 of Article 114, part 1 of Article 115, Article 116-2, part 2 of Article 117, parts 1 and 2 of Article 119, parts 1, 2, and 5 of Article 133, part 2 of Article 135, Article 136 (except for violation related to motor vehicles), Articles 137, 161, 164-4, 173, 203 hereof; chief officers or deputy chief officers of regional, city, and district departments of internal affairs bodies – for administrative offenses referred to in Article 175-1

(except for violations committed in areas prohibited by resolutions of village, town or city councils), Articles 176, 177, parts 1 and 2 of Article 178, and Articles 1892, 192, 194, 195, 197 - 201 hereof;

Chief officers of manoeuvre police elements, in addition to the above listed, – for administrative offenses referred to in parts 1, 2, 3, and 4 of Article 109, Articles 110, 111, part 3 of Article 114, part 1 of Article 115, Article 116-2, part 2 of Article 117, parts 1 and 2 of Article 133, and part 2 of Article 135 hereof; also other officers responsible for supervision over compliance with the respective regulations – for offenses referred to in part 3 of Article 109 and Article 110 hereof. Chief officers of manoeuvre police elements shall be entitled to impose a penalty up to the rate of fourfold nontaxable minimum individual income;

Chief officers of deputy chief officers of transport police and other internal affairs bodies of the same level as regional, city or district departments of police, chief officers of police stations, in addition to the above listed, – for administrative offenses referred to in part 1 of Article 44, Article 175-1 (except for violations committed in areas prohibited by resolutions of village, town or city councils), Articles 176, 177, and parts 1 and 2 of Article 178 hereof; and neighbourhood police inspectors (chief district police inspectors) also, for offenses referred to in Article 177 and parts 1 and 2 of Article 178 hereof;

2) Chief officers or deputy chief officers of division, department or administration, commander or deputy commander of special unit of the Road Police of the Ministry of Internal Affairs of Ukraine, chief officer or acting chief officer of department for internal affairs – for administrative offenses referred to in Articles 80 and 81 (in respect of over-content of pollutants in exhausted gas of transport facilities), Article 124-1, parts 2 and 3 of Article 126, part 3 of Article 127, part 1 of Article 127-1, Articles 128 - 129, Article 132-1, part 6 of Article 133-1, and parts 1, 2, and 3 of Article 140 hereof;

3) Duly ranked officers of the Road Police of the Ministry of Internal Affairs of Ukraine – for administrative offenses referred to in parts 1, 2, 4, and 5 of Article 121, Articles 121-1, 121-2, parts 1 and 2 of Article 122, parts 1 and 2 of Article 123, Article 125, part 1 of Article 126, parts 1 and 2 of Article 127, and parts 3, 8, and 9 of Article 133-1 hereof.

Article 222-1 Bodies of the State Frontier Service of Ukraine

Bodies of the State Frontier Service of Ukraine shall try cases on administrative offenses related to violation of the border regime or regime of passing through Ukraine's border crossings, violations committed by foreign passport holders and stateless persons of the regulations for stay in and transit through Ukraine and failure of captain of foreign vessel to return disembarking permits of the crew (Article 202, pert 2 of Article 203, and Article 207).

The following officials shall be entitled to act on behalf of the State Frontier Service of Ukraine and to impose administrative penalties:

Chief officers or their deputies of the Border Police and of the Navy Police of the State Frontier Service of Ukraine;

Chief officers of divisions of the Border Police and Navy Police of the State Frontier Service of Ukraine charged with the duty to police the state frontiers of Ukraine.

Article 234-1. Bodies of the State Audit Service of Ukraine

Bodies of the State Audit Service of Ukraine shall be entitled to try cases related to administrative offenses in the financial sphere (Article 164-2) or failure to provide financial reporting or violation of accounting regulations in the course of liquidation of corporate entity (Article 166-6).

Director of the Chief Audit Administration of Ukraine and his/her deputies, chief officers of audit departments in the Autonomous Republic of the Crimea, oblasts, cities Kyiv and Sevastopol and their deputies shall be entitled to act on behalf of the State Audit Service of Ukraine and to impose administrative penalties.

Article 234-2. Bodies of the State Tax Administration of Ukraine

Bodies of the State Tax Administration of Ukraine shall try the cases related to evasions from submitting income declaration (Article 164-1), and breaching of financial reporting procedure and accounting rules in course of legal entity liquidation. (Article 166-6).

The CEO of the Main State Tax Inspection of Ukraine and his deputies, CEOs of State Tax Inspections of the Crimea Autonomous Republic, oblasts, rayons, CEOs of tax inspections in the cities and rayons of cities and their deputies shall possess the right to try cases on administrative offences and impose administrative fines on behalf of the bodies of State Tax Administration of Ukraine.

Article 234-3. The National Bank of Ukraine

The National Bank of Ukraine shall try cases on administrative offences related to violation of banking legislation, regulations of the National Bank of Ukraine or to carrying out risk transactions jeopardizing depositors' interests or interests of other bank creditors (Article 166-5), or violating financial reporting procedure and accounting rules in course of legal entity liquidation (Article 166-6).

The Head of the National Bank of Ukraine and his deputies, CEOs of local Directories of the National Bank and their deputies shall possess the right to try cases on administrative violations and impose administrative fines on behalf of the National Bank of Ukraine.

Article 235. Military Commissariats

Military Commissariats shall try administrative cases as follows: the cases of citizens liable for military service for breaching legislation on military duty and army service; legislation on preparedness activity and mobilization; on intentional damage to military registration documents or loss of them due to carelessness; on failure of young man to appear to military points; on non-submission to commissariats of registers of military age young men subject to registration; on employment of citizens liable for military service, who are not registered in military registers; on failure to inform citizens liable for military service about commissariat call, prevention from coming to collection points or mobilization points; on untimely submission of documents necessary for registration of citizens liable for military service, failure to inform them about commissariat call; on failure to submit information about citizens liable for military service (Articles 210, 2101, 211 – 211-6).

Military Commissioners of a rayon, city rayon, city and city-rayon commissariats shall possess the right to try cases on administrative violations and impose administrative fines on behalf of the Military Commissariats.

Article 235-1. Military Road Inspection under Military Law Enforcement Administration in the Army Forces of Ukraine

Military Road Inspection under Military Law Enforcement Administration in the Army Forces of Ukraine shall try cases about offences committed by military men and citizens liable for military service who are drivers of military vehicles during military musters and offences committed by drivers from Military Arm Forces of Ukraine when they are carrying out their duties; the cases to be tried shall be referred to in Article 121, Article 121-1, Parts 1 and 2 of Article 122, Parts 1 and 2 of Article 123, Articles 124-1 - 126, Article 132-1 thereof.

Officials from Military Road Inspection of Military Law Enforcement Administration in Army Forces of Ukraine shall possess the right to try cases on administrative violations on behalf of the Military Road Inspection of Military Law Enforcement Administration in Army Forces of Ukraine.

An officer of Military Road Inspection of Military Law Enforcement Administration in Army Forces of Ukraine, having tried the case on offences specified in part one herein may impose administrative fine in a form of official notice or forward materials on the offence to appropriate commander for making decision

about bringing the offenders to responsibility in line with Disciplinary Regulations of the Army Forces of Ukraine.

Protocols about road rule offences committed by military men and citizens liable for military service who are drivers of military vehicles during military musters and offences committed by drivers from Military Arm Forces of Ukraine when they are carrying out their duties, which offences are subject to administrative sanction in a form of deprivation from driving, shall be forwarded by military road inspector to Military Law Enforcement Administration in the Army Forces of Ukraine.

Materials about offences committed by military men and citizens liable for military service who are drivers of military vehicles during military musters and offences committed by drivers from Military Arm Forces of Ukraine when they are carrying out their duties, which offences are referred to in Articles 80, 126, 128, 1281, parts 1 and 2 of Article 129 and in Article 140 of this Code shall be forwarded by Military Law Enforcement Administration in the Army Forces of Ukraine to appropriate commanders for them to make decision about bringing offenders to disciplinary responsibility.

Article 243. Bodies of the National Commission on Communication Regulations and Communication and Radio-Frequency Administration of Ukraine

The National Commission on Communication Regulations (NCCR) shall try the cases on administrative offences related to violation of legislation on telecommunications and mail communications (Article 1485).

Bodies of the State Communications Inspection of NCCR and Ukrainian State Institute of Radio Frequencies under Radio-Frequency Administration of Ukraine shall try cases related to administrative offences connected with violations of legislation on telecommunications, mail communications and radio-frequency resources of Ukraine (Articles 144, 145, 147, 148-1 – 148-4, 188-7).

The CEOs of the State Inspection on Communications under NCCR and Ukrainian State Centre of Radiofrequencies and their authorized persons shall possess the right to try cases on administrative offences and impose administrative fines on behalf of the bodies of State Inspection on Communications under NCCR and Ukrainian State Centre of Radiofrequencies under Communications and Radio-Frequency Administration of Ukraine.

Article 251. Evidences

The evidences in case on administrative offence shall be any actual data, based on which and in line with legislative procedure a body (a person) shall ascertain presence or absence of administrative offence, guilt of a defendant and other circumstances important for making decision on the case. The data should be ascertained by: the protocol about administrative offence; comments of a defendant in administrative offence, victims, witnesses; expert conclusions; material evidences, evidences of technical devices with functions of photo- and video recording, or photo and video recording used for surveillance over compliance with rules, norms and standards of safe behaviour on the roads; protocols about seizure of things and documents; and by other documents.

Article 252. Valuation of evidences

A body (a person) shall value evidences in line with his moral certainty based on comprehensive, complete and objective investigation of all the circumstances of the case in their totality, being governed by the law and legal awareness.

Article 253. Transfer of materials to prosecutor general, pre-trial investigation or inquest body

If in course of trying a case a body (an official) comes to conclusion that an offence contains the signs of crime he shall transfer materials to prosecutor, pre-trial investigation body or inquest body.

Chapter19
PROTOCOL ON ADMINISTRATIVE OFFENCE

Article 254. Drawing a protocol on administrative offence

Protocol on commitment of administrative offence shall be drawn up by authorized officials or representatives of a civil society association or self-organization of civil society.

In case the protocol on administrative offence is drawn up, it shall be drawn in two copies, one of which shall be given to a person subject to administrative responsibility upon his certifying note.

The protocol shall not be drawn in cases referred to in Article 258 of this Code.

Article 255. Persons possessing the right to draw protocols on administrative offences

In case of administrative offences tried by bodies described in Articles 218-221 of the Code, the protocols on administrative offences could be competently drawn up by:

1) authorized persons:

From the Ministry of Interior bodies (part 1 of Article 44, Articles 441, 461, 462, 51, 512, 92, part 1 of Article 106-1, Article 106-2, parts 3 and 6 of Article 121, parts 3 and 4 of Article 122, Article 122-2, part 3 of Article 123, Article 124, part 4 of Article 127, Article 130, part 3 of Article 133, Article 136 (on offences at auto vehicles), Article 139, part 4 of Article 140, Article 148, 151, 154, 155, 155-2 – 156-2, 159, 160, 160-2, 162, 164 – 164-11, 165-1, 165-2, 173 – 173-2, 174, Article 175-1 (except for offences committed in places prohibited by decision of relevant village, town, city council), Articles 176, 177, 178 - 1811, 1813 - 1859, 186, 186-1, 186-3, 186-5 - 188, 188-28, 189 - 196, 212-6, part 1 of Article 203, Articles 204, 205 – 206-1, 212-7, 212-8, 212-10, 212-12, 212-13, 212-14, 212-20);

bodies of state fire inspection (Articles 164, 183);

health care bodies (Articles 45, 46, 462, Articles 167 - 170 (on offences related to non-compliance with standards, norms, rules and technical specifications as to medications), Article 183 - on intentionally false call for emergency);

deleted

bodies of protection of historical and cultural monuments (Article 92);

bodies of state energy supervision (Article 1031);

bodies of State inspection of energy saving (Articles 98, 101 - 103, 188-14);

bodies of the Ministry of Transport of Ukraine (Articles 136, 141, 142);

communication bodies (Articles 144 – 148-4, 188-7);

bodies of consumers' rights protection (Articles 422, 156, 164-6, 164-7);

financial bodies (Article 164, 164-1);

enterprises and organizations being in charge of electricity grids (Articles 99, 103-1);

enterprises and organizations operating trunk pipelines (Article 138);

bodies, institutions and enterprises of state sanitary and epidemiology service (Articles 421 - 423, 188-22);

bodies of state veterinary inspection (Articles 421 - 423, 188-22);

bodies of the Ministry of Labour and Social Policy of Ukraine (part 1 of Article 41, Articles 411 - 413, 188-1);

radiation control laboratories under Ministries and agencies of Ukraine, organizations of consumer's cooperation (Article 422);

state registration offices (Article212-1);

bodies of the Anti-Monopoly Committee of Ukraine (Articles 164-3, 164-14, 166-1 – 166-4);

cinematography management bodies (Article 164-6 in respect of film demonstration and dissemination without state certificate about the right for film demonstration and dissemination in a cinema and video networks; Article 164-7 – in respect of breaching terms and conditions for film dissemination and demonstration as envisaged by the state certificate for the right to disseminate and demonstrate films in cinema and video networks; Article 164-8 in respect of non-compliance with quota for demonstration of nationally produced films using national screen time in cinema and video networks);

bodies of State Border Service of Ukraine (parts 2, 4 and 5 of Article 85, Articles 185-10, 191, part 1 of Article 203, Articles 204 – 206-1);

National Council of Ukraine on TV and radio broadcasting , its representatives in the Crimea Autonomous Republic, oblasts, cities of Kyiv and Sevastopol (Article 164-6 in respect of demonstration and dissemination of films without state certificate for the right to disseminate and demonstrate films through television broadcasting channels of Ukraine; Article 164-7 in respect of breaching terms and condition for demonstration of films envisaged by state certificate for the right of film dissemination and demonstration through TV broadcasting channels of Ukraine; Article 164-8 in respect of non-compliance with quota for demonstration of nationally produced films using national screen time at the TV broadcasting channels of Ukraine; Article 212-9);

bodies of the State Security Service of Ukraine (Article 164 (in respect of offences in economic activities, which are licensed by the Service), Articles 195-5, Article 212-2 (except clause 9of part 1), 212-5 and 212-6)

bodies of Special State Communication and Information Protection Service of Ukraine (Article 164 in respect of offences in economic activities, licensed by this Service), clause 9 of part 1 of Article 212-2);

bodies of state tax administration (Articles 512, 155-1, 163-1 – 163-4, 164, 164-5, 177-2);

bodies of fish-protecting (Articles 85, 851, 881, Article 164 in respect of performing economic activities related to fish production and use and production and use of other water living resources);

bodies of wildlife service (Articles 85, 851, 881);

bodies of the Ministry of environment and natural resources of Ukraine (Articles 85, 851, 88, 881, 882, 90, 91);

air transportation bodies (part 2 of Article 112, part 3 of Article 133);

bodies carrying out control over production of precious metals and precious stones, precious stones of organic origin and semi-precious stones (part 1 of Article 1891);

state bodies of cattle breed management (Article 107-1) ;

inspections of architectural and construction control (part 1 of Article 961);

National Bank of Ukraine (Articles 164-11, 166-7 – 166-9);

bodies of the State Control and Inspection Administration of Ukraine (Articles 164-12, 164-14);

Accounting Chamber (Articles 164-12, 164-14, 188-19);

bodies managing archives and record-keeping (Article 921);

state natural-reserve protection office of Ukraine (Article 91);

bodies of State Inspection of civil defence and anthropogenic safety (Article 188-16);

managerial bodies of Law Enforcement Office in the Army Forces of Ukraine (on offences committed by military men, citizens liable for military service during musters and employees of the Army Forces of Ukraine during performance of their responsibilities – Articles 44, 173, 174, 182, 184-1, 185 and 185-7;

specially authorized executive body on state export control (Articles 188-17, 212-4);

specially authorized executive body on financial monitoring (Article 166-9);

State Commission on securities and stock market (Articles 163, 166-9);

executive bodies carrying out registration of printed mass media (Article 186-6);

secretariat of the Ombudsmen in human rights (Article 188-19);

control department of the Verkhovna Rada Office (Article 188-19);

deleted;

enterprises and organizations managing electric energy objects (Article 185-12);

specially authorized body on licensing, state regulatory policies and permit system in economic activities and its territorial bodies (Articles 166-10 – 166-12);

State technical inspection of State Department of Documentation Safety Fund (Article188-25);

2) officials authorized by executive committees of village, town, city councils (Articles 103-1, 103-2, 104, part 1 of Article 106-1, Articles 106-2, 149 - 154, 155, 156, 159 - 160, 160-2, Article 175-1(for offences committed in locations prohibited by decisions of relevant village, town, city council); Articles 183, 185-1, 186-5; Articles 78 – 84 (except offences of sanitary and hygienic rules and regulation on protection of air, and offences related to excessive noise produced by motor-vehicles in course of operation);

21) officials authorized by executive committees of town and city councils or by city state administrations (part 2 of Article 96-1);

22) chairman, deputy chairman, secretary, other members of election commission, commission on a referendum (Articles 212-11, 212-15 – 212-20);

23) candidates, authorized persons, official observers (Articles 212-16 – 212-18, 212-20);

3) an owner of an enterprise, institution, organization or a body authorized by him (Articles 51, 179);

4) officials authorized by appropriate ministries, other central executive bodies, whose scope of responsibilities cover airfields (parts 1, 3, 4 and 5 of Article 111 (on offences committed at the airfields, which are not included to the state register of airfields of Ukraine, outside the airfield territory and at the landing areas);

5) employees guarding enterprises, institutions and organizations (Article 179);

6) state officers of justice (Articles 511, 188-13);

7) secretary of court proceedings, court secretary (Articles 185-3, 185-5, part 1 of Article 185-6);

8) investigator, a person carrying out an investigation, prosecutor or authorized person from among prosecutor's office employees (part 4 of Article 184, Article 185-4, part 2 of Article 185-6, Articles 185-8, 185-11);

9) representatives of civil associations or civil lay associations:

a member of a civil unit on protection of civil order and state border (Articles 92, 148, 154, 160, 175-1, 179, 1857, 186-2, 186-4);

public inspector of Ukrainian Association for Protection of Historical and Cultural Monuments (Article 92);

10) state inspectors on intellectual property rights (Articles 51-2, 164-9, 164-13);

11) prosecutor or a person authorized by a prosecutor from among the prosecutor's office employees (part 2 of Article 127-1, Article 212-3);

12) state inspectors on protection of rights for species of plants (Article 51-2).

In case of administrative offences tried by bodies described in Articles 222 – 244-15 of the Code, the protocols on administrative offences could be competently drawn up by authorized officials of these bodies. Moreover, the following officials shall possess the right to draw up protocols on commitment of administrative offences:

1) officials of bodies carrying out control over use of oil products in industry and agriculture (Article 161);

2) member of civil unit on protection of public order and state border (Articles 65, 66, 70, 73, 77, 82, 89, 901, 153 and 202);

3) lay inspector of Main State Inspection of Ukraine on safe navigation (parts 1, 3, 4 and 5 of Article 116; part 2 of Article 116-1;part 3 of Article 116-2; part 1 of Article 117; Article 118; Part 3 of Article 129; Parts 3 and 4 of Article 130;

4) public inspector of forests (Articles 63, 64 - 70, 73, 77);

5) public inspector of hunting (Article 91-2 in respect of breaching the hunting rules);

6) public inspector of fish protection service (Article 91-2 in respect of breaching rules of fishing and protection of fisheries);

7) public inspector on protection of environment (Articles 65-1, 77, 77-1, 78, 82, 89 (in respect of wildlife), Articles 91-2, 153);

71) public inspector on control over land use and protection (Articles 52 – 53-1, 53-3);

8) officials of enterprises, institutions and organizations responsible for protection, use and reproduction of wildlife;

9) railroad officials (Article 123);

10) officials of departmental and rural fire extinguishing units and members of voluntary fore teams, fire-extinguishing teams of citizens (Articles 120, 175, 188-8);

11) officials of military road safety inspection, Military Law Enforcement Service in the Army Forces of Ukraine (on offences committed by military men and citizens liable for military service called up to musters, - part 4 of Article 122, Articles 122-1, 122-2, part 3 of Article 123, Article 124, parts 1 and 2 of Article 130, and about all violations of road safety rules committed by any person (except military men and citizens liable for military service and called up to musters), driving vehicles of the Army Forces of Ukraine and other military units);

12) deleted;

13) deleted;

14) officials of the Ministry of Interior bodies (part 1 of Article 59 (on offences committed in the borders of sanitary zones, water supply sources), part 1 of Article 61 (in respect of damaging water-supply facilities and equipment), Article 77-1);

15) deleted;

16) officials of State Border Service of Ukraine (parts 1 and 3 of Article 85, Articles 121-1, 195);

17) state inspectors on protection of rights for species of plants (Article 104-1).

In cases stipulated by legislation the protocols about administrative offences may be also drawn up officials of other state authority bodies, local self-government bodies and representatives of self-organization of population.

Article 256. Content of the protocol on administrative offence

In a protocol on administrative offence the following details shall be indicated: date and place of the protocol compiling; position, surname, name and patronymic of a person compiling a protocol; details of person made administratively responsible (in case it is revealed); place and time of committing the administrative offence; regulation stipulating for responsibility for this offence; surnames, addresses of witnesses and victims, in any; explanations of a person made responsible for administrative offence; other information necessary for solution of the case. Of the offence entails material damage this shall be stated in the protocol.

Protocol shall be signed up by a person having compiled the protocol and a person made responsible for administrative offence; in case of presence of witnesses and victims the protocol may also be signed up these persons.

In case a person made responsible for administrative offence rejects to sign up a protocol, this fact shall be reflected in the protocol. A person made responsible for administrative offense shall posses the right to provide explanations and remarks as to the protocol content, which shall be supplemented to the protocol, he/she also can explain his\her reasons for rejection to sign up the protocol.

In course of drawing up a protocol a person made responsible for administrative offence shall be informed about his\her rights and responsibilities referred to in Article 268 of the Code, which awareness shall be marked in a protocol.

Article 257. Dispatch of a protocol

A protocol shall be dispatched to a body (person) authorized to try the case on administrative offence.

Article 258. Occasions when a protocol on administrative offence shall not be drawn up

A protocol shall not be drawn up in case of administrative offences referred to in Articles 70, 73, 77, parts 1 and 3 of Article 85, Article 153 if an amount of fine does not increase three-fold non-taxable minimum

individual income; Article 107 (in cases of offences defined in part 3 of Article 238) part 3 of Article 109, Articles 110, 115; parts 1, 3 and 5 of Article 116; part 3 of Article 1162; parts 1 and 3 of Article 117 (when imposing administrative fine in a from of formal notice at a place where the offence is committed); Articles 118, 119; Articles 134, 135 of the Code if a person does not contest the offense and administrative fine imposed upon him/ her.

Protocols shall not be drawn up in other cases when in line with legislation a fine is imposed and charged, and a notice shall be drawn up at a site of the offence commitment.

In cases envisaged by part 1 of this Article authorized bodies (officials) shall make decision about administrative offence case at a site of the offense commitment, in line with provisions of Article 283 of the Code.

If during drawing up a decision about administrative offense a person contests administrative offense and penalty imposed upon him/her, then authorized person is obliged to draw up a protocol about administrative offense in line with provisions of Article 256 of the Code. The protocol shall be supplemented to the case on administrative offence.

A decision in the case on administrative offence shall be drawn up in two copies; and one of the copies shall be handled to a person made responsible for administrative offence.

In case of revealing administrative offence in respect of safety of road movement, fixed by automatically operating special technical means, possessing the function of photo and video recording, and videotaping, protocol on administrative offences shall not be drawn up, and decision the case on administrative offence shall be made without a person made responsible for administrative offence. Copies of decisions about administrative offences and materials fixed by automatically operating technical means possessing functions of photo- and video recording and video-taping, shall be sent to a person made responsible for committing administrative offence within 3-day period from the day decision is made.

Article 259. Conveyance of an offender

In case of no opportunity to draw up a protocol about administrative offences in the site of offence commitment while drawing up of a protocol is compulsory procedure, then offender may be brought to a militia office, to a unit of Military Law Enforcement Service of the Army Forces of Ukraine or to an office of State Border Service of Ukraine, headquarters of a unit of public order guard by a militia official, official from Law Enforcement Service of the Army Forces of Ukraine, by an officer of State Border Service of Ukraine or by member to the unit of public order guard ; in case the legislation on state secret is violated, then an offender may be taken to the State Security Office by its officer.

If an offender commits offence in respect of rules of transport use, road safety rules, rules aimed at security of cargo transported by transport means, fire safety rules, sanitary and anti-epidemic rules at transport, then an offender may be brought by an authorized person to a militia point, if he/she has no identification documents, no witnesses to confirm his/her identity.

Officials of the state forest guard or collective farm forest guard, if a farm owns the forest, authorized officials responsible for control over hunting, fish guard an officials of other bodies carrying out state control over protection and use of wildlife, officials of the natural reserves guard and militia officials may convey offenders to militia or to the premises of village/ town executive bodies in case an offence is committed in respect of a forest; hunting; rules of fishing and fish reserves and other offences of wildlife protecting legislation, and a person of an offender can not be identified in the site. Conveyance of an offender may be carried out by members of civil units of public order and border protection, lay inspectors on nature protection, lay hunting inspectors, lay inspectors of fisheries and lay forest inspectors.

In case an offense of the land legislation is committed, and a person of an offender can not be identified in the site of an offence, then state inspectors of state control over land use and land legislation compliance may convey offenders to militia or to the premises of village/town or city executive bodies to identify an offender and draw up a protocol on the administrative offence.

In case an offence in respect of guarded facilities and other property is committed , an offender may be brought by military guard to its headquarters or to militia point in order to stop an offence, personal identification and drawing of a protocol about offence.

In case of offences related to unauthorized purchase or storage of special technical equipment for tracking information from communication channels and other methods of secret information accessing an offender may be taken to the Security Service of Ukraine by the security service officer to identify the offender and draw up and protocol.

Conveyance of an offender shall be carried out as quickly as possible.

A stay of conveyed person in headquarters of civil unit of civil order protection and state border or in a civil unit of order protection, in premises of village/town executive body shall not exceed one hour unless other period is set forth.

In case of offences committed by military men and persons liable for military service at musters or by officers of Army Forces of Ukraine in course of carrying out their duties, or in case of circumstances referred to in part 1 of this Article, conveyance of offenders shall be carried out by authorized persons to the points of Military Law Enforcement Service of the Army Forces of Ukraine.

Chapter 23
RESOLUTION ON THE CASE ON ADMINISTRATIVE OFFENCE

Article 283. Content of decision in the case on administrative offence.

Having tried a case on administrative offence a body (an official) shall make a resolution on the case. Resolutions made by village, town and city council in a case on administrative offence shall be made in a form of decision.

A resolution should contain: name of a body (an official) , who made a decision, date of the case trial; details about an offender; description of the case circumstances revealed in course of trial; indication of a legislative act stipulating responsibility for this administrative offence; decision made in respect of the case.

If in course of making decision about administrative punishment by bodies (officials) mentioned in clauses 1-4 of Article 213 of the Code, the problem of indemnification of material damage is to be resolved; then resolution shall indicate an amount of damage to be fined and procedure and terms of repayment.

Resolution in a case shall resolve the issue about confiscated things and documents and indicate the procedure and period for submitting an appeal.

Resolution of a peer-group body shall be taken by simple majority of voices of the peer group members present at the meeting.

Resolution in case on administrative offence shall be signed up by an official having tried the case, and decision of the peer-group body – by a chairman of the meeting and by secretary of the body.

In cases stipulated by Ukrainian legislation a fact of punishment shall be registered in a protocol on administrative offence, or a resolution shall be otherwise officially formalized.

Article 284. Types of resolutions on administrative offences.

In a case of administrative offence a body (an official) shall make either of the decisions as follows:

1) about imposing administrative punishment;

2) about application of measures envisaged by Article 241 of the Code;

3) about closure down of the case.

A resolution about closure down of the case shall be made in case of announcing oral notice, forwarding materials of the case to civil society organization or employees of an organization or when forwarding materials to a prosecutor, pre-trial investigation body, and in case of circumstances envisaged by Article 247 of this Code.

Article 285. Announcing a resolution in a case on administrative offence and handing over a copy of the resolution

A resolution shall be announced immediately upon finalization of the case trial. A copy of the resolution shall be either handed over or sent to a person in respect of whom it is made within three-day period upon making resolution.

A copy of the resolution shall be handed over or sent to a victim upon his/her request within the same timeframes.

A copy shall be handed over with written confirmation. In case of sending a copy of resolution this fact shall be indicated in the case.

In cases of breaching customs rules a copy of resolution shall be handed over to offenders, in respect of whom it is made in line with procedure stipulated by Customs Code of Ukraine.

In cases provided for by Article 258 of the Code a copy of resolution made by authorized official in administrative offence case shall be handed over to an offender in respect of whom the resolution is made in the site of offence commitment.

In cases on administrative offences referred to in Articles 174 and 191 of the Code in respect of a person entrusted with responsibility for firearms and munitions due to his/her official functions or temporary handed over for temporary use by an enterprise, institution, organization, then a court shall send a copy of resolution additionally to the appropriate enterprise, institution, organization for information, and to the law enforcement office for resolving an issue about banning this person to use firearms.

7. Cabinet of Ministers Resolution No. 351 on implementation of the UNSCR on Talibans (11.04.2001)

CABINET OF MINISTERS OF UKRAINE
RESOLUTION
April 11, 2001 N 351
Kyiv
On Implementation of UN Security Council Resolution on Taliban (Afghanistan)

According to adoption of UN Security Council Resolution #1267 (1999) and #1333 (2000) on sanctions to movement Taliban, the Cabinet of Ministers of Ukraine **RESOLVES**:

1. Ministries, other central and local authorities of executive power, Council of Ministers of Autonomous Republic of Crimea:
ensure within competence the execution of requirements of UN Security Council Resolution #1267 (1999) and #1333 (2000) and take measures to reduce possible loses of Ukraine; on request of Ministry of Foreign Affairs provide information on execution of named resolutions.

2. Ministry of Economy, Ministry of Interior, Ministry of Defence, Ministry of Transport, State Customs Service, State Committee of Industrial Policy, State Committee on State Border Security, State Company on Export-Import of Production and Services of Military and Special Assignment "Ukrspetzeksport" in collaboration with Security Service and Foreign Intelligence Service of Ukraine should ensure execution of requirements for prohibition of:
a) direct or indirect supply, sale or delivery to the Afghanistan territory under Taliban control as it

set by Committee created under the UN Security Council Resolution #1267 (1999), by citizens of Ukraine or from its territory using water and air crafts under Ukrainian flag, weapons and connected items including armament and ammunition, vehicles and articles of war, property for the militarized formings and spare parts to the noted facilities, including commodities, which fall under positions ML1 - ML15, ML17, ML19, ML20 List of military commodities, the international transmissions of which are subject to the state control, stated in Annex to Statute on the order of state control after the international transmissions of military commodities, adopted by the Cabinet of Ministers of Ukraine on December 8, 1997 N 1358;

b) direct or indirect sale or delivery to the Afghanistan territory under Taliban control as it set by UN Security Council Committee, by citizens of Ukraine or from its territory on technical advisory services, assistance or organization of military trainings for armed personnel under Taliban control;

c) supply, sale or delivery by citizens of Ukraine or from its territory of chemical acetic anhydride to any person on Afghanistan territory under Taliban control as it set by UN Security Council Committee, or any person for any activity on or from territory under Taliban control as it set by UN Security Council Committee.

3. Ministry of Transport and Ministry of Defense refuse permit to any air craft for take off the territory of Ukraine, flight over it or lending if such aircraft took off or should lend on the Afghanistan territory under Taliban control it set by UN Security Council Committee except if such flight has been approved in advance by the Committee on the grounds of humanitarian need, including religious obligations such as the performance of the Hajj, or on the grounds that the flight promotes discussion of a peaceful resolution of the conflict in Afghanistan, or is likely to promote Taliban compliance with this resolution or with Resolution #1267 (1999).

4. Central and local executive power authorities, Council of Ministers of Autonomous Republic of Crimea within their competence take urgent measures to arrest funds and other assets (suspension of bank transaction on accounts), in case of their existence, of Usama bin Laden, natural persons and enterprises connected with him, including funds and assets of Al-Qaida as well as those received in the result of use or at expense of property under the ownership or under direct or indirect control of Usama bin Laden, related natural persons and enterprises, and take measures to prevent direct or indirect use of such funds and assets by Ukrainian citizens or other persons on the territory of Ukraine in the interests of Usama bin Laden, his associates, any enterprises under ownership or direct or indirect control of Usama bin Laden, related natural persons and enterprises including Al-Qaida.

Take a notice that National Bank of Ukraine will inform banks on UN Security Council Resolutions #1267 (1999) an #1333 (2000) requirements on suspension of banking transactions on accounts of Usama bin Laden, other natural persons and enterprises stated in paragraph one of the point 4.

5. State Committee on State Border Security, Ministry of Foreign Affairs, Ministry of Interior, Foreign Intelligence Service of Ukraine and Security Service:

a) take steps to restrict the entry into or transit through Ukrainian territory of all senior officials of the rank of Deputy Minister or higher in the Taliban, the equivalent rank of armed personnel under the control of the Taliban, and other senior advisers and dignitaries of the Taliban, unless those officials are travelling for humanitarian purposes, including religious obligation such as the performance of the Hajj, or where the travel promotes discussion of a peaceful resolution of the conflict in Afghanistan or involves compliance with UN Security Council Resolutions #1267 (1999) and #1333 (2000);

b) ensure strict observance of requirements to prohibit entering territory of Ukraine or transit to Usama bin Laden, his associates.

6. Ministry of Justice, Ministry of Interior, Ministry of Transport, Foreign Intelligence Service of Ukraine, Security Service should take measures to prevent activity of Taliban movement units.

7. Consider invalid the Cabinet of Ministers Resolution on December 22, 1999 #2344 On Implementation of UN Security Council Resolution on Taliban (Afghanistan).

Prime Minister of Ukraine
V. Yushchenko

8. *Cabinet of Ministers Resolution No.1800 implementing UNSCR 1373 (28.12.2001)*

CABINET OF MINISTERS OF UKRAINE
December, 28, 2001 N 1800
Kiev

About measures on implementation of resolution of Security Council of UNO from September, 28, 2001 N 1373

In connection with acceptance by Security Council of UNO of resolution from September, 28, 2001 N 1373 Cabinet of Ministers of UkraineDECREES:

1. To the ministries, other central and local organs of executive power, Council of ministers of Autonomous Republic Crimea:
to provide implementation of requirements of resolution of Security Council of UNO from September, 28, 2001 N 1373 and with the purpose of report to the minimum of possible losses of Ukraine to develop the plan of the proper measures within the limits of the jurisdiction;
to give on call of Ministry of foreign affairs state information the implementation of the noted resolution.

2. To the ministry of foreign affairs, to Ministry of economy and on the questions of European integration, to Ministry of internal affairs, to Department of defense, to Ministry of transport, to Ministry of industrial policy, to the Statutory broker in matters of guard of state boundary, to Government custom service, to the State company from the export and import of products and services of the military and special setting to provide "Укрспецекспорт" with participation of security Service of observance of requirements in relation to prohibition on the grant in any form of support (active or passive) to organizations or persons, what participating to assassinations, including by non-admission of recruiting of members of terrorist groups and liquidation of channels of supply of weapon to the terrorists.

3. To the ministry of finance, to Ministry of internal affairs, to State tax administration with participation of security Service, to other central and local organs of executive power, to Council of ministers of Autonomous Republic Crimea in accordance with the legislation and within the limits of the jurisdiction immediately to take measures to:
impositions of arrest on facilities and other financial assets (stopping of bank transactions after the accounts) or economic resources of persons which do or try to make assassination either take part in doing of assassinations or are instrumental in their doing, and organizations, which are in the domain or under the control such persons, and also persons, organizations which operate from the name or after pointing of such persons and organizations, including facilities and economic resources, got or acquired through objects, which are in the domain or under the control such persons and organizations related to them;
prevention and non-admission of cases of grant straight or mediated by legal persons physical and of any facilities, financial assets or economic resources or financial or other proper services for the use in interests of persons, which do either try to make assassination or promote or take part in his doing, and organizations, which are in the domain or under the control such persons, and also persons and organizations which operate from the name or after pointing of such persons.
To ask the National bank to report banks of requirement of resolution of Security Council of UNO from September, 28, 2001 N 1373, which touch a financial sphere.

4. To the statutory broker in matters of guard of state boundary, to Government custom service, to Ministry of internal affairs, to Ministry of transport with participation of security Service to take measures for non-admission of movement of terrorists and terrorist groups, for this purpose to provide establishment of effective border control and control after delivery of documents, which certify person, and travel documents, and also to strengthen work from prevention to falsification, imitation or illegal use of these documents.

5. To the statutory broker in matters of nationalities and migration, Ministry of internal affairs, Ministry of justice with participation of security Service:
to take measures for non-admission of grant of refuge or status of refugee to those persons, which finance, plan, support or do assassinations;
before the decision of question in relation to the grant of refuge or status of refugee to take

measures pursuant to the legislation and norms of international law with that purpose, to make sure in that, whatever persons which search refuge or apply with the statements about the grant to them the status of refugees planned assassinations, were not instrumental in them and did not take part in their doing;
to provide that pursuant to the norms of international law and legislation of Ukraine performers and organizers of assassinations or their accomplices did not practise upon refuge or status of refugee and that reference to the political reasons did not confess as foundation for rejection of requests about delivery to the interested states of suspected in involvement to terrorism of persons.

6. To the ministry of justice, Ministry of internal affairs and security Service to provide presentation of legal aid in realization of criminal cases on the questions of fight against terrorism.

7. To the ministry of internal affairs, Ministry of foreign affairs, Department of defense, security Service and other central organs of executive power to provide implementation of international agreements of Ukraine on the questions of non-admission and stopping of assassinations and to take measures against persons guilty in doing of such acts.

8. To security service together with Department of defense, by Ministry of internal affairs, by State tax administration, by the Statutory broker in matters of guard of state boundary, by Government custom service to develop and confirm in a monthly term the order of information and exchange by information about legal persons physical and, and which are suspected in terrorist activity, actions or movements of terrorists or terrorist networks, illegal trade in arms, explosives or materials of the double setting, use by the terrorist groupments of of communication technologies, and also about a danger which is made by the domain by such groupments by a massive weapon.
To the statutory broker in matters of guard of state boundary, Ministry of internal affairs, Government custom service, Ministry of transport, State tax administration and Department of defense without delay to inform security Service, other law enforcement authorities of Ukraine and Government service of export control in the case of exposure of signs of possible involvement of importer of the noted goods and services to communications with the international terrorist groupments with the purpose of verification and acceptance of the proper measures to stopping of own export delivery.

9. To security service, to Government custom service, to the Statutory broker in matters of guard of state boundary, to Government service of export control, to the State company from the export and import of products and services of the military and special setting "Укрспецекспорт", to Ministry of industrial policy, to Ministry of foreign affairs, to Department of defense, to Ministry of internal affairs, to Ministry of economy and on the questions of European integration, to Ministry of transport to take additional measures to strengthening of control after the international transmissions of commodities of the military setting and dual-use, which can be applied for doing of assassinations.
To government service of export control during consideration of statements on realization of export, import and transit through territory of Ukraine of commodities of the military setting and dual-use to conduct in the case of necessity with participation of security Service and Ministry of foreign affairs verification of sides of contracts in relation to the such international transmissions on involvement to the terrorist groupments.

10. To the ministry of industrial policy, to Department of defense, to Ministry of internal affairs, to security Service, to Ministry of health protection, to the National academy of sciences, Academies of medical sciences, to the Statutory broker of the nuclear adjusting, to Ministry of fuel and energy, to Ministry of agrarian industry to take measures to the increase of level of defence of vulnerable objects, improvement of account of wares, materials, equipment and technologies, which can be used for creation of massive weapon, facilities of its delivery, and also conventional armaments, with the purpose of prevention to access to them of terrorist groupments.

11. To the ministry of internal affairs, Ministry of foreign affairs, to Department of defense, Ministry of justice, security Service within the limits of the plenary powers given them:

a) to conduct monitoring of measures in the field of fight against terrorism, Ukraine on the line of international organizations takes part in which;
b) to take measures for tacking of Ukraine to the international agreements on the

questions of fight against terrorism, in particular to Convention about the fight against financing of terrorism, of European convention about compensation to the victims of crimes of violence, Conventions about **кіберзлочинність** and to provide implementation of resolutions of Security Council of UNO from October, 19, 1999 N 1269 and from September, 12, 2001 N 1368 in relation to expansion of collaboration in the field of prevention and stopping of assassinations;

c) to accelerate development of projects of Laws of Ukraine "About the fight against terrorism", "About bringing of changes in some legislative acts of Ukraine in relation to strengthening of fight against terrorism" and National counterterrorist program.

Prime Minister Of Ukraine A. КІНАХ
Інд. 29

9. *Cabinet of Ministers Resolution No. 751 on approval of procedures of composing the lists of persons related to terrorist activity (25.05.2006)*

THE CABINET OF MINISTERS OF UKRAINE
RESOLUTION
dated May 25, 2006 # 751
Kyiv

On approval of the Procedure
for composition of the list of persons involved in terrorist activity

In accordance with the Article 12^1 of the Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime" the Cabinet of Ministers of Ukraine **resolves**:
To approve the Procedure for composition of the list of persons involved in terrorist activity, which is enclosed.
Prime Minister of
Ukraine

Y. Yekhanurov

APPROVED
Resolution of the Cabinet of Ministers of Ukraine
dated May 25, 2006 # 751

Procedure for composition of the list of persons involved in terrorist activity

1. This Procedure indicates mechanism of composition of the list of persons involved in terrorist activity (further referred to as list).

2. The ground for enlisting of legal and natural persons by SCFM of Ukraine shall be the following:

1) Court decisions in force on finding a person guilty of commitment a crime foreseen by the Article 258 of the Criminal Code of Ukraine;

2) Information (documents) on organizations and individuals related to terrorist organizations or terrorists, submitted by the relevant UN agencies;

3) Court sentences (decisions), decisions of other competent authorities of foreign states on organizations or natural persons involved in terrorist activity, which have been acknowledged by Ukraine in compliance with international agreements.

3. The list shall be composed on the basic of information (documents), indicated in the paragraph 2 of this Procedure and shall contain the following information:

On natural persons citizens of Ukraine – surname, name, patronymic name, date and place of birth, series and number of passport (or other identity document), date and authority of issuance, place of registration and/or actual residence, identification number of natural person – tax and other obligatory duties payers;

On legal persons - residents - full title, place of residence, number and date of issuance of the state registration certificate, authority of issuance, identification code according to the Unified State Register of Companies and Organizations of Ukraine, requisites of a bank were an account was opened, account number.

On foreigners and persons without citizenship – surname, name, patronymic name (if any), citizenship, date and place of birth, series and number of passport (or other identity document), date and authority of issuance, place of registration and/or actual residence (temporary residence);

On legal persons – non-residents – full title, place of residence, requisites of a bank were an account was opened, account number.

Other information can be included to the list.

4. Information (documents) indicated in paragraphs 1 and 3 of section 2 and section 3 of this Procedure shall be submitted to SCFM of Ukraine by the Security Service of Ukraine, in paragraph 2 of section 2 and section 3 – by the Ministry of Foreign Affairs of Ukraine.

Information (documents) mentioned in sections 2 and 3 of this Procedure shall be submitted to SCFM of Ukraine within one working day after the day of its receiving, by post with notification of delivery or purposely providing measures aimed at non-admission of uncontrolled access to this information (documents) during delivery.

5. In case of receipt of information (documents) mentioned in sections 2 and 3 of this Procedure and other information (documents) which represent grounds for delisting natural or legal person, SCFM of Ukraine makes note in the list about this event. Notes on such persons shall not be excluded from the list.

6. The list is composed by SCFM of Ukraine within three working days after the day of information (documents) receiving.

7. SCFM of Ukraine shall ensure acquaintance of the entities of initial and state financial monitoring with the list (amendments to the list) within two working days after the day of this Procedure composition (amending).

10. *Decree of the President of Ukraine on the Statute of the SCFM (No. 1527/2004 of 24.12.2004)*

1. To approve the Statute of the State Committee for Financial Monitoring of Ukraine.
2. This Decree comes into force January 1st, 2005.

The President of Ukraine L. Kuchma
Kyiv, December 24th, 2004 # 1527/2004

APPROVED
by the Decree of the President of Ukraine December 24th, 2004, # 1527/2004

STATUTE of the State Committee for Financial Monitoring of Ukraine

1. The State Committee for Financial Monitoring of Ukraine (hereinafter referred as – SCFM of Ukraine) is the central body of the executive power with special status, the activity of which is directed and coordinated by the Cabinet of Ministers of Ukraine.

SCFM of Ukraine is the specially authorized agency of the executive power in the area of financial monitoring.

2. SCFM of Ukraine in its activity is guided by the Constitution and Laws of Ukraine, Acts of the President of Ukraine and Cabinet of Ministers of Ukraine, international treaties of Ukraine and this Statute.

SCFM of Ukraine in its activity uses recommendations of international organizations aimed at counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing.

3. The main tasks of SCFM of Ukraine are:

- participation in fulfilment of state policy in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing;

- collecting, processing and analyzing of information on financial transactions, subject to compulsory financial monitoring;

- creation and ensuring of functioning of the Single State Information System in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing;

- arrangement of cooperation, counteraction and information exchange within mentioned area with the state agencies, competent agencies of foreign countries and international organizations;

- ensuring, according to the set procedure, the representation of Ukraine in international organizations concerning prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing.

4. SCFM of Ukraine according to the tasks assigned to it:

1) develops complex programs on prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing;

2) participates in development of the draft Program of the activity of the Cabinet of Ministers of Ukraine and its fulfilment;

3) cooperates with central bodies of executive power and other state bodies, which according to legislation, execute functions of regulation and supervision over the activity of entities of initial financial monitoring and other state bodies in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing.

4) provides to the law enforcement bodies, pursuant to their competence, appropriate case referrals under the availability of reasonable grounds to consider the financial transaction as one that might be related to the legalization (laundering) of the proceeds from crime and terrorist financing;

5) conducts, in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing, methodical provision of entities of initial financial monitoring, central bodies of executive power and other state bodies which according to legislation execute functions of regulation and supervision over such entities, and coordinates actions conducted by them in this area;

6) establishes qualification requirements for persons which are to be appointed as responsible for carrying out internal financial monitoring;

7) conducts analysis of efficiency of measures, undertaken by entities of initial financial monitoring for prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing;

8) introduces proposals concerning development of legislative acts, participates, according to set order, in preparing of other normative-legal acts in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing;

9) generalizes received from the law enforcement and other bodies information related to the legalization (laundering) of the proceeds from crime, analyzes dynamics of evolution of negative tendencies in this area, researches methods and financial schemes of the legalization (laundering) of the proceeds from crime and terrorist financing, develops and provides, according to set order, proposals concerning improvement of legislation in this area;

10) promotes detection in the financial transactions of indicators of use of the proceeds from crime;

11) ensures conducting, according to set by legislation order, the registration of financial transactions that have indicators of ones that are subject to financial monitoring;

12) approves drafts of normative-legal acts of the central bodies of executive power and other state bodies which according to the Law execute functions of regulation and supervision over the activity of entities of initial financial monitoring in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing;

13) organizes meetings, seminars, conferences in the area of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing;

14) provides explanations concerning issued by SCFM of Ukraine normative-legal acts in the area of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing;

15) participates in international cooperation in the area of of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing, studies, generalizes and extends world experience concerning these issues;

16) participates under the instruction of the Cabinet of Ministers of Ukraine in preparing of international agreements of Ukraine in the area of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing, ensures their fulfilment;

17) conducts according to legislation functions of administration of the objects of state ownership, that belong to the sphere of its administration;

18) executes other functions that emerge from the assigned tasks.

5. SCFM of Ukraine within its powers has the right to:

1) receive, according to the set by legislation order:

- information from the central bodies of executive power and other state bodies which according to the Law execute functions of regulation and supervision over entities of initial financial monitoring, law enforcement authorities, other state bodies, institutions of local governing, and also free of charge from companies, institutions and organizations irrespective of the ownership form (including information on bank or commercial secrecy and copies of documents that certify it), necessary for fulfilment of the assigned tasks, in particular on the cases of violation of legislation by entities of initial financial monitoring;

- from law enforcement authorities which receive case referrals on financial transactions, information on processing and appropriate measures undertaken in the basis of mentioned referrals;

- form entities of initial financial monitoring - information necessary for executing assigned tasks (including copies of documents that certify it) related to financial transactions subject to initial financial monitoring, in particular concerning persons that execute such transactions;

2) grant access according to set order, including automotive, to databases of entities of state financial monitoring, central bodies of executive power and other state bodies;

3) involve specialists of state bodies, companies, institutions and organizations (under approval by their directors) to examination of issues that belong to its powers;

4) within the framework of international cooperation:

- conclude, according to set by legislation order, international interagency agreements with competent authorities of foreign states concerning cooperation in the area of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing;

- conduct information exchange with competent authorities of foreign states;

- participate in international conferences, symposiums, seminars, meetings, consultations in the area of its competence;

6. SCFM of Ukraine fulfils tasks assigned to it in the regions through its appropriate structural divisions created by it.

7. SCFM of Ukraine while executing assigned tasks interacts with other central and local bodies of executive power, other state bodies, institutions of local governing, citizen unions, competent bodies of foreign states and international organizations.

8. SCFM within its competence on the basis and for execution of legislative acts issues orders, organizes and controls their execution.

Normative-legal acts of SCFM of Ukraine are subject to state registration according to order set by legislation.

SCFM of Ukraine in case of necessity issues together with other state bodies joint acts.

9. SCFM of Ukraine is headed by the Head, which is appointed under the proposal of the Prime Minister of Ukraine to his position for the term of 7 years and is dismissed from it by the President of Ukraine.

The Head is personally accountable to the President of Ukraine and the Cabinet of Ministers of Ukraine for the execution of tasks assigned to SCFM of Ukraine and conducting of its functions.

The Head of SCFM of Ukraine has First Deputies and Deputies.

First Deputies and Deputies of the Head under the proposal of the Prime Minister of Ukraine are appointed to their positions and dismissed from these positions by the President of Ukraine.

The Head manages SCFM of Ukraine, distributes duties among First Deputies and Deputies, determines the extent of responsibility of Deputy Heads and directors of structural divisions of SCFM of Ukraine, appoints to positions and dismisses from positions employees of SCFM of Ukraine, including – under the approval of the Cabinet of Ministers of Ukraine – directors of structural divisions of SCFM of Ukraine.

10. To approve settlement of issues which belong to the competence of SCFM of Ukraine and discussion of the most important directions of its activity, in SCFM of Ukraine the Board is being created which consists of the Head (Head of the Board), Deputy Heads according to positions, directors of structural divisions of SCFM of Ukraine,

In case of necessity other persons according to set order can enter to the Board of the SCFM of Ukraine.

Members of the Board are approved and dismissed from execution of the duties by the Cabinet of Ministers of Ukraine under the proposal of the Head of SCFM of Ukraine.

Decisions of the Board are implemented in the form of Orders of SCFM of Ukraine.

11. With the purpose of conducting retraining and raising the level of skills of specialists in the area of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing, the Training-Methodical centre can be created within SCFM of Ukraine.

12. To examine scientific recommendations and other proposals concerning main evolution trends of the system of prevention and counteraction to the legalization (laundering) of the proceeds form crime and terrorist financing, scientific, scientific-consultive and other consultive agencies can be created by SCFM of Ukraine.

Composition of these agencies and Statute of these agencies is approved by Head of SCFM of Ukraine.

13. Boundary number of employees of SCFM of Ukraine is approved by the Cabinet of Ministers of Ukraine.

14. Structure and budget of expenditure of SCFM of Ukraine is approved by its Head under the consent of the Ministry of Finance of Ukraine.

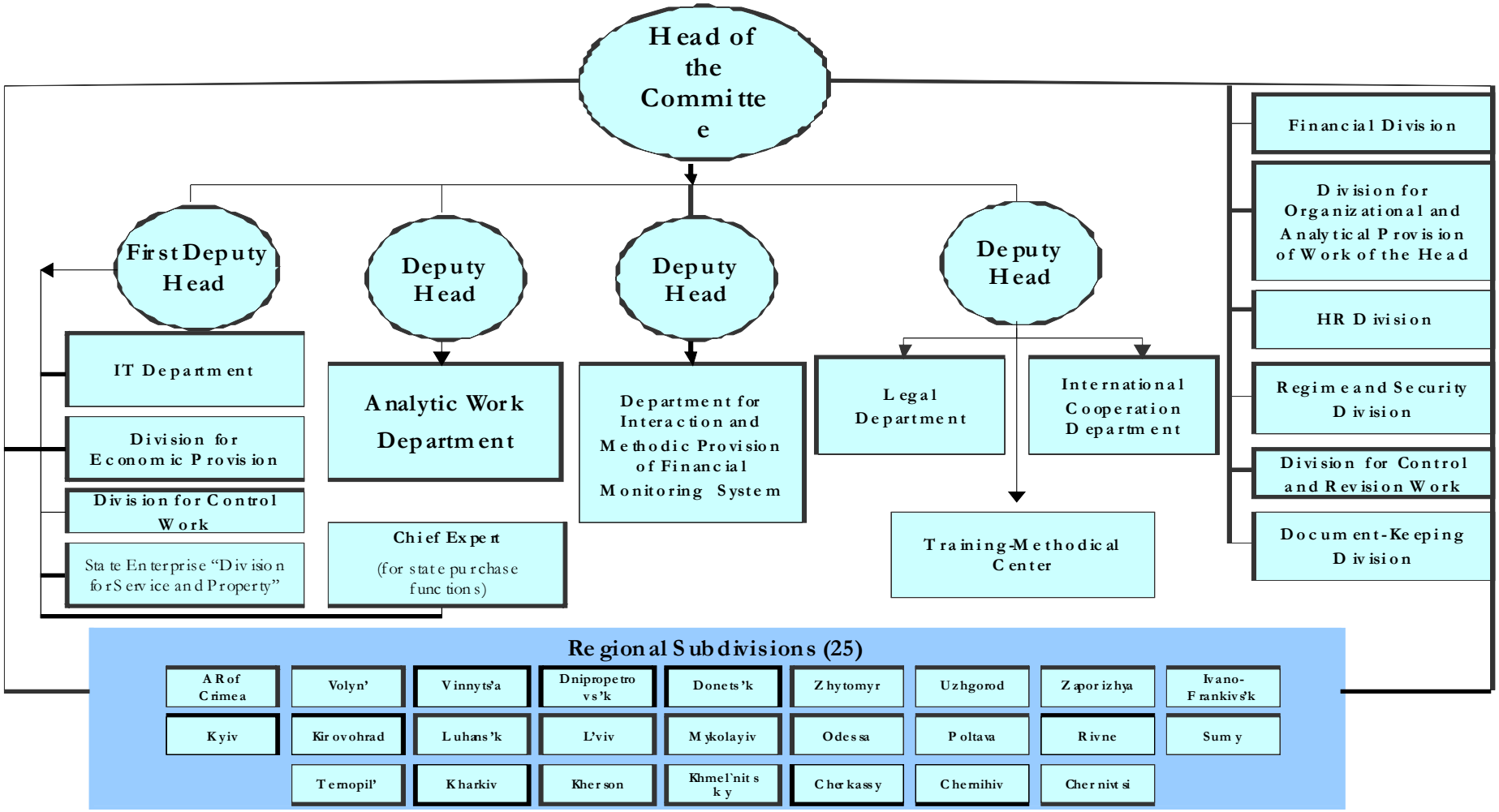
15. Structure of SCFM of Ukraine is approved by the Head under the consent of the Cabinet of Ministers of Ukraine.

Provisions of the structural divisions of SCFM of Ukraine are approved by the Head.

16. SCFM of Ukraine is a legal person, has its own balance, seal with the image of State Emblem of Ukraine and its name, accounts in the Treasury of Ukraine.

Head of the Administration
of the President of Ukraine **V. Medvedchuk**

11. *SCFM Structure*



12. *Statute on Regional subdivision of the State Committee for Financial Monitoring of Ukraine*

1. General provisions

1.1. The Statute on Regional subdivision of the State Committee for Financial Monitoring of Ukraine (hereinafter referred to as the Statute) stipulates objectives, competence and organizational bases of the activity of Regional subdivision of the State Committee for Financial Monitoring of Ukraine.

1.2. Regional subdivision is an independent structural division of the State Committee for Financial Monitoring of Ukraine shall not have a legal entity's status and shall act on behalf and in the interests of the State Committee for Financial Monitoring of Ukraine within the terms of its reference provided for by this Statute.

1.3. Regional subdivision shall be governed by the Constitution of Ukraine, laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, the Statute on the State Committee for Financial Monitoring of Ukraine, orders and directions of Head of SCFM of Ukraine and this Statute.

1.4. Regional subdivision shall subordinate to Head of SCFM of Ukraine. The activity of Regional subdivision shall be coordinated by Deputy Head of SCFM of Ukraine pursuant to the distribution of duties approved by the order of SCFM of Ukraine of 04.07.2005 № 138.

1.5. The number of Regional subdivision's staff shall be stipulated by the list of staff members of SCFM of Ukraine.

1.6. The Statute on Regional subdivision shall be signed by Head of Regional subdivision and Deputy Head pursuant to the distribution of duties and shall be approved by the order of SCFM of Ukraine.

1.7. Official duties of Regional subdivision's officials shall be determined pursuant to the objectives and functions stipulated for Regional subdivisions and prescribed in job descriptions to be signed by Head of Regional subdivisions and approved by First Deputy Head pursuant to the distribution of duties.

1.8. Regional subdivision shall use the seal with its name and stamps of the example approved by SCFM of Ukraine in the course of its activity and for the needs of official correspondence.

2. Key objectives and functions of Regional division

2.1. Key objectives of regional division shall be:

2.1.2. Participation in effectuation of state policy in AML/CTF sphere in terms of its reference.

2.1.3. Establishment of cooperation, interaction and information exchange with territorial agencies of executive power, other territorial divisions of state agencies on prevention and counteraction of legalization (laundering) of the proceeds from crime and terrorist financing.

2.1.4. Accompanying of case referrals forwarded to territorial divisions of law enforcement agencies.

2.1.5. Efficiency analysis of the measures applied by the entities of initial financial monitoring in AML/CTF sphere.

2.2. Regional subdivision pursuant to its objectives shall exercise the following functions:

2.2.1. to establish information exchange with the law enforcement agencies, territorial divisions of state regulatory agencies, agencies of executive power and other agencies of state power.

2.2.2 to receive from the agencies of executive power, local self-regulatory bodies, economic entities (except the entities of initial financial monitoring) the information to the request necessary to exercise the objectives stipulated for Regional subdivision.

2.2.3. to considerate in terms of its reference applications and requests forwarded from state agencies, other institutions and organizations, citizens.

2.2.4. to receive from the law-enforcement agencies the information on the stage of processing and application of appropriate measures in respect of case referrals of SCFM of Ukraine filed to regional law-enforcement agencies of Ukraine.

2.2.5. to scrutinize and generalize the case referrals consideration practice and to submit to the management of SCFM of Ukraine suggestions how to improve the procedure of accompanying these case referrals.

2.2.6. to forward the requests to the law-enforcement agencies to receive additional information regarding the stage of consideration of case referrals.

2.2.7. to generalize received information regarding the stage of case referrals processing and to submit it to the management of SCFM of Ukraine.

2.2.9. If necessary, to find out what information/documents is needed by the law-enforcement agencies and to give consulting (interpretation of the provisions of the normative acts in AML/CTF sphere, comments on the content of case referrals etc) and to apply measures to prepare additional materials.

2.2.10. to compile annual and quarter plans of Regional subdivision and to make reports with respect to their execution.

2.2.11. to give in the terms of its reference consulting to the entities of initial financial monitoring.

2.2.12. to scrutinize the practice of legislation application in AML/CTF sphere and to submit to the management of SCFM of Ukraine suggestions how to enhance national legislation on these issues.

2.2.13. to interact with territorial divisions of the law-enforcement and other state agencies with regard to availability of informational resources (data bases) and the possibility to use them in Unified state information system in AML/CTF sphere.

2.2.14. to make efficiency analysis of the measures applied by the entities of financial monitoring to prevent and counteract to legalization (laundering) of the proceeds from crime and terrorist financing and to submit appropriate suggestions to the management of SCFM of Ukraine.

3.4. to submit for consideration of the management of SCFM of Ukraine suggestions on the issues relating to the competence of Regional subdivision.

3.5. to establish and participate in the working groups on the issues belonging to the competence of Regional subdivision.

3.6. under approval of Deputy Head of SCFM of Ukraine that pursuant to the distribution of duties coordinates the activity of Regional subdivision, to organize and to take part in meetings, round tables, seminars, workshops, conferences etc on the issues relating to the competence of Regional subdivision.

3.7. to receive from the law-enforcement agencies and other state agencies pursuant to stipulated procedure the information necessary to execute objectives, scientific, analytical and forecast materials on the activity of Regional subdivision.

3.8. under approval with the management of SCFM of Ukraine to participate in the measures aimed at enhancement of staff qualification in AML/CTF sphere.

4. Rights and obligations of Head of Regional subdivision

4.1. Regional subdivision shall be presided by Head assigned to the position and dismissed by Head of SCFM of Ukraine pursuant to the procedure provided for by current legislation.

4.2. Head of Regional subdivision shall be the person that has higher degree of appropriate education; record of state service on executive position shall not be less than 5 years, records of service on executive position in other sectors shall not be less than 7 years, or record service pursuant to the degree not less than 10 years, and to have experience in personnel management.

4.3. Head of Regional subdivision shall subordinate to Head of SCFM of Ukraine.

4.4. Officials of Regional subdivisions shall be assigned on the positions and dismissed by Head of SCFM of Ukraine pursuant to the procedure provided for by current legislation, under suggestion of Head of Regional subdivisions and under approval of Deputy Head who pursuant to distribution of duties coordinates the activity of Regional subdivision.

4.6. Head of Regional subdivision shall:

to exercise general management and control of the activity of Regional division, to organize its work in order to execute objectives duly and timely, to use necessary measures in order to enhance efficiency of the division;

to ensure due and timely execution of orders, directions and resolutions of the management of SCFM of Ukraine;

to ensure drawing and submission of annual and quarter work plans of Regional subdivision for approval to the management of SCFM of Ukraine;

to ensure timely submission to the management of SCFM of Ukraine of the reports on the activity of Regional subdivision;

to organize work on staff recruitment of regional division, to apply measures to prepare staff reserve;

to exercise control over compliance of preventive fire-fighting regulations in Regional subdivision;

to control within the terms of reference reasonable using of material values and techniques;

to organize and to provide decent conditions and safety of work.

4.7. If Head of Regional subdivision is absent, his/her obligations shall be executed Chief expert assigned by the order of SCFM of Ukraine under suggestion of Head of Regional subdivision that is personally responsible for due and timely execution of Regional subdivision’s objectives and functions.

4.8. Head of Regional subdivision is authorized:

to determine key directions of Regional subdivision's activity under approval of the management of SCFM of Ukraine;

to require all officials of Regional subdivision accurately observe all normative acts and methodical recommendations on organization of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing;

to submit to the management of SCFM of Ukraine suggestions regarding structure and staff of Regional subdivision, staff recruitment for reserve positions, shift, dismissal, granting state servants' ranks pursuant to occupied position, and application of bonuses and disciplinary and material measures, imposition of disciplinary sanctions to the officials of Regional subdivision;

to participate in the activity of collegium of SCFM of Ukraine;

to give directions to the officials of Regional subdivision, require explanations in the instance of failure to execute or undue execution of their obligations;

to require all officials of Regional subdivision to execute obligations, provided for by labour legislation, directions of the management of SCFM of Ukraine, this Statute and job inscriptions accurately, timely and properly;

to present SCFM of Ukraine in state agencies, public and other institutions and organizations;

to present for consideration of the management of SCFM of Ukraine suggestions how to improve work, legal and methodical provision of the activity of SCFM of Ukraine and suggestions on other issues relating to the competence of Regional subdivision;

to consider claims for the actions of Regional subdivision's officers and present appropriate suggestions to the management of SCFM of Ukraine;

to organize and hold meetings with the representatives of structural divisions of SCFM of Ukraine, state agencies, other institutions and organizations on the issues relating to the competence of Regional subdivision.

to execute other tasks under orders of Head of SCFM of Ukraine and his/her Deputies.

4.9. Head of Regional subdivision is a materially liable person for keeping premises and material values trusted to him/her to provide the activity of Regional subdivision.

4.10. Head of Regional division is personally liable for keeping official and state secrecy and for circulation of the documents with restricted access.

5. Relationship of Regional subdivision with independent structural divisions of SCFM of Ukraine and other state agencies

5.1. Regional subdivision shall interact pursuant to stipulated procedure with all independent structural divisions of SCFM of Ukraine, appropriate divisions of the law-enforcement agencies, other public authorities, institutions and organizations on the issues that relate to its objectives and functions.

5.2. Regional subdivision in the charge of its duties and functions shall interact pursuant to stipulated procedure with appropriate divisions of the law-enforcement agencies, other state agencies of executive power, institutions and organizations.

Head of Regional subdivision
of …oblast

APPROVED
Deputy Head of SCFM of Ukraine

13. *SCFM Order No. 65 on establishment of SCFM Expert Commission for consideration of case referrals (additional materials) elaborated for submission to law enforcement agencies (4.03.2005)*

ORDER

On establishment of SCFM Expert Commission for Consideration of Case Referrals (additional materials) elaborated for Submission to Law-enforcement Agencies

SCFM Order
04.03.2005 N 65

With amendments introduced by:

SCFM Order on 08.04.2005 N 89,
SCFM Order on 29.11.2005 N 228,
SCFM Order on 22.03.2006 N 50
SCFM Order on 11.12.2006 N 255
SCFM Order on 30.01.2007 N 23
SCFM Order on 24.10.2007 N 191
SCFM Order on 09.11. 2007 N 208/1
SCFM Order on 15.02. 2008 N 23
SCFM Order on 01.04.2008 N 62
SCFM Order on 19.05.2008 N 98
SCFM Order on 30.09.2008 N

With an aim to consider case referrals elaborated for submission to law-enforcement agencies,

I ORDER:

1. To establish the SCFM Expert Commission for consideration of case referrals (additional materials), elaborated for submission to the law-enforcement agencies, composed of:

First Deputy Head
Vitalii Zubrii - Head of the Commission

Deputy Head
Yaroslav Yanushevych - Deputy Head of the Commission

Deputy Head
Valerii Kirsanov - Member of the Commission

Deputy Head
Stanislav Klushke - Member of the Commission

Director of Analytical Department
Ivan Tverdokhlib - Member of the Commission

Head of Legal Department
Volodymyr Komashko - Member of the Commission

Deputy Director of Analytical Department
Maryna Kononenko - Member of the Commission

Head of Division for cooperation with
law-enforcement agencies, Analytical Department
Vitalii Moskaliuk - Member of the Commission

Chief expert of Division for cooperation with
law-enforcement agencies, Analytical Department
Nataliya Usikova - Member of the Commission

2. To charge with duties of Secretary of SCFM Expert Commission for consideration of case referrals (additional materials), elaborated for submission to the law-enforcement agencies the employee of the Division for cooperation with law-enforcement agencies, Analytical Department.

3. Approve the Statute of SCFM Expert Commission for consideration of case referrals (additional materials), elaborated for submission to the law-enforcement agencies, which is added.

4. SDFM Orders on 02.12.2003 № 151, on 09.07.2004 № 66, on 19.07.2004 № 72, on 15.11.2004 № 142 consider as those that lost their legal force.

Control over execution of the current order will made by myself.

Head **Serhiy Hurzhiy**

SCFM Order No. 65 - Statute of SCFM Expert Commission for consideration of case referrals (additional materials), elaborated for submission to the law-enforcement agencies

APPROVED
SCFM Order on 04.03.2005 № 65
(with amendments)

Statute of SCFM Expert Commission for consideration of case referrals (additional materials), elaborated for submission to the law-enforcement agencies

1. Current Statute determines the procedure for SCFM Expert Commission (further - Commission) consideration of the draft case referrals (additional materials), elaborated by Analytical Department for submission to the law-enforcement agencies in order to execute Article 13 of the Law of Ukraine On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime.

2. Main tasks of the Commission:
- consideration of the draft case referrals;
- taking a decision on existence of the reasonable grounds for case referrals submission to the law-enforcement agencies;
- determination of the law-enforcement agency to which the case referrals will be submitted;
- discussion of the problematic issues on the state of consideration of the case referrals previously submitted to law-enforcement agencies.

3. Commission shall conduct its meetings on the basis of availability of case referrals elaborated for submission to law-enforcement agencies.

4. The Head of Analytical Department or Acting Head of Analytical Department presents draft case referrals for Commission consideration.

5. Draft case referrals are signed by the Head of Analytical Department or Acting Head of Analytical Department.

6. The Commission meeting is considered competent if on it present no less than 50% of Members of the Commission or persons empowered with their duties.

For participation in Commission meetings could be invited law-enforcement experts (further – Experts). Staff and powers of Experts are approved by the orders of relevant law-enforcement agencies.

The Secretary of the Commission participates in the meeting without right of vote.

The Experts are not invited for Commission meeting if Commission considers the draft case referrals with indicators of "terrorism".

In order to ensure Expert`s participation in Commission meeting:

The Analytical Department prepares and send, with signature of the Deputy Head according to job responsibilities, the letters (invitation of Experts) to law-enforcement agencies with notification of the date and time of Commission meeting;

The Analytical Department on each draft case referral to be presented on Commission meeting, elaborates for Experts the following information:

- summaries of draft case referrals and list of annexes to them;
- schemes on conducted financial transactions on the basis of which the case referrals are elaborated, if necessary.

Summaries of draft case referrals and list of annexes to them, as well as schemes on conducted financial transactions should not contain commercial or bank secrecy, and names, surnames and ID information.

During Commission meetings the Experts have the right:

Consider summaries of draft case referrals and schemes on conducted financial transactions;

Introduce proposals on modification and expediency/inexpedience for case referrals submission;

Inform the Commission of the state of consideration of case referrals previously submitted to law-enforcement agencies;

Discuss the problematic issues on the state of consideration of the case referrals previously submitted to law-enforcement agencies;

Introduce proposals on determination of law-enforcement agency to which the case referrals should be submitted;

Propose for Commission consideration the issue on possibility to obtain additional materials to the previously submitted case referrals.

7. Commission`s decisions are adopted by the simple majority of the Commission`s members votes.

Commission could take a decision on approval of case referrals in existence of reasonable grounds that the financial transaction could be related to money laundering or terrorist financing for submission to law-enforcement agencies, on rejection of case referrals or on their further modification. The term for modification is set by Commission.

Commission takes a decision on determination of the law-enforcement agency to which the case referrals shall be submitted.

In the case if the subject of case referrals is an object of common interest of several law-enforcement agencies the Commission could consider the necessity to inform law-enforcement agencies on submission of case referrals to the relevant law-enforcement agency.

8. After modification the draft case referrals again are presented for Commission consideration in the term determined by Commission.

9. On Commission meeting could be considered the draft additional materials elaborated by Analytical Department to case referrals previously submitted to law-enforcement agencies.

Draft additional materials considered by Commission in the procedure defined in the points 4-8 of current Statute.

10. The Commission decision is drawn up by the protocol.

Protocol is made by the Commission Secretary and in case of its absence by the person determined by decision of the SCFM Deputy Head according to job responsibilities.

Protocol is signed by all Members of the Commission present on the meeting and by Secretary.

Original protocol is kept in Analytical Department.

Director of Analytical Department **Oleksiy Feshchenko**

14. *SCFM Order No. 98/40 on the procedure for submission of case referrals by the SCFM to OPG (20.08.2003)*

Order of the State Department for Financial Monitoring
acting within the Ministry of Finance of Ukraine,
and the General Prosecutors Office of Ukraine
dated August 20, 2003 #98/40

Registered in the Ministry of Justice of Ukraine
of September 2, 2003 #759/8080

The procedure for submission by SCFM to General Prosecutor's Office of case referrals concerning the financial transactions suspected in money laundering and terrorist financing, and receiving information on the results of their processing

1 This Procedure shall stipulate the mechanism for submission by SCFM of Ukraine to General Prosecutor's Office of case referrals on the financial transactions suspected in money laundering and terrorist financing, and receiving information on the results of their processing.

2. Case referrals shall be description of the financial transactions suspected in money laundering and terrorist financing. They contain the information on the participants of the transactions, reasonable grounds to suspect that these transactions relate to money laundering and terrorist financing, available information and copies of confirming documents.

Case referrals shall contain the following data:

- entities involved into conducting financial transaction (full name and code of United State Registry of Enterprises and Organizations of Ukraine (for legal entities), surname, name and patronymic name, birthday, series and number of the document certifying identity of the person that conducted the transaction, the issuance date of the document and the agency that issued it, tax payer identification number pursuant to State Registry of Natural Persons (for natural persons), registration address (place of residence) of the entities;

- code of the banks, name of the banks and numbers of the accounts through which suspicious financial transactions have been conducted;

- the type of the counteragent (legal person, natural person-entrepreneur, natural person), residency, registration address (place of residence) of the counteragents including non-residents;

- comprehensive review of the transactions related to legalization (laundering) of the proceeds from crime, relationship and connections between entities, the circumstances of their conducting and plausible consequences they caused.

3. The information on the financial transactions received by SCFM shall be processed and analyzed whether these transactions have been conducted with money laundering purpose or whether they are related to, connected with or purposed for terrorist financing, terrorist acts and terrorist organizations.

If there are reasonable grounds to think that the financial transaction (transactions) is conducted to launder money, SCFM shall submit case referrals to General Prosecutor's Office of Ukraine.

4. The materials shall contain the information on reasonable grounds that the financial transaction (transactions) are conducted for the purpose of money laundering, or related to, connected with or aimed at financing of terrorist activity, terrorist acts or terrorist organizations.

5. The decision concerning availability of sufficient grounds to submit case referrals to the law-enforcement agencies shall be taken by expert commission of SCFM for consideration of case referrals to be submitted to the law-enforcement agencies (hereinafter referred to as expert commission).

The sittings of expert commission shall be visited by experts of General Prosecutor's Office whose powers shall be approved by General Prosecutor's Office with the Order.

Case referrals and annexes to them shall be submitted together with a covering letter on paper media and, if necessary, on electronic media with the signature of Head or, if he/she is absent, of acting Head of SCFM of Ukraine.

6. Case referrals according to the list of confidential information that is a state property shall be only for official use. If case referrals have annexes containing commercial and/or banking secret, case referrals and covering letter shall contain the words: "The annexes contain banking and/or commercial secret".

7. Not later than in three business days from the moment of receipt of case referrals SCFM shall be notified on their registration in General Prosecutor's Office of Ukraine.

8. Organization of verification of case referrals submitted to General Prosecutor's Office shall be provided by special unit the objective of which is to prevent and counteract legalization (laundering) of the proceeds from crime – Division for supervision of anti-money laundering legislation compliance.

9. General Prosecutor's Office shall inform SCFM on the results of consideration of case referrals pursuant to current legislation.

10. If it is necessary to clarify the data that case referrals contain, the General Prosecutor's Office may request SCFM of Ukraine additional information. The requests shall refer to the number and date of the cover letter of SCFM together with which case referrals have been submitted, and shall be signed by the person responsible for the work of the service that has forwarded the request.

11. If SCFM receives additional information on the financial transactions, with regard to which case referrals have been earlier submitted, such information shall be processed, additional materials shall be formed and then forwarded to the General Prosecutor's Office of Ukraine pursuant to the procedure prescribed by law and referring to the number and date of the cover letter together with which initial case referrals have been submitted.

12. The information ob submitted/received case referrals and the stage of their processing, including incoming and outcoming essential elements of the letters, shall be registered in Automotive information system of SCFM and General Prosecutor's Office of Ukraine.

13. Additional materials received by General Prosecutor's Office of Ukraine shall be considered pursuant to the procedure prescribed by law.

14. To ensure supervision over legislation compliance in the course of verifying materials forwarded to other law-enforcement agencies, General Prosecutor's Office shall receive the copy of the cover letter of these materials.

Chief of Directorate for interaction
with the entities of financial monitoring
of State Department for Financial Monitoring **S.Nesen**

Chief of Department for Supervision over
AML Legislation Compliance **O. Stukonog**

15. *Procedure of submission and consideration of case referrals to State Tax Administration of Ukraine, Ministry for Internal Affairs of Ukraine and Security Service of Ukraine (28.11.2006)*

Order of the State Committee for Financial Monitoring of Ukraine,
the State Tax Administration of Ukraine,
the Ministry of Internal Affairs of Ukraine,
the Security Service of Ukraine
dated November 28, 2006 #240/718/1158/755

Registered in the Ministry of Justice of Ukraine
of December 15, 2006 #1312/13186

The Procedure of submission and consideration of case referrals

1. General provisions

The procedure of submission and consideration of case referrals (hereinafter referred to as the Procedure) shall stipulate unified system and methods:

of submission by State Committee for Financial Monitoring of Ukraine (hereinafter referred to as SCFM) of case referrals on the financial transactions suspected in legalization (laundering) of the proceeds from crime and terrorist financing to State Tax Administration of Ukraine, Ministry for Internal Affairs of Ukraine and Security Service of Ukraine (hereinafter referred to as law-enforcement agencies);

of acceptation, registration and consideration of case referrals by the law-enforcement agencies and their territorial divisions;

of receipt by SCFM of Ukraine and its Regional divisions of the information on the stage of their processing.

2. Definition of terms

In this Procedure the terms shall mean:

Case referrals shall be the documents prepared by SCFM of Ukraine on the base of the information on the financial transactions subject to financial monitoring and other information received pursuant to the Law of Ukraine on Prevention and Counteraction of Legalization (Laundering) of the Proceeds from Crime to be submitted in writing and/or in electronic form to the law-enforcement agencies;
Additional materials shall be additional documents on the financial transactions suspected in money laundering and terrorist financing, in writing and/or in electronic form, to the case referrals earlier submitted to the law-enforcement agencies;
Additional materials shall be an inseparable part of case referrals.
Expert commission shall be expert commission of SCFM for consideration of case referrals (additional materials) to be submitted to the law-enforcement agencies, the composition and authorities of which shall be approved by Order of SCFM of Ukraine;
Maintaining shall mean preparation and forwarding requests to the law-enforcement agencies concerning the stage of case referrals processing, and receipt of the information from the law-enforcement agencies on taken decisions under the results of their analyze; generalization of the information on the stage and the results of consideration of case referrals by the law-enforcement agencies; determination of additional information necessary for the law-enforcement agencies to consider case referrals; consulting of the law-enforcement agencies;

Submission of case referrals (additional materials) shall mean the actions of officers of SCFM of Ukraine aimed at transmission of case referrals, in writing or/and in electronic form, to the law-enforcement agencies pursuant to the procedure;
Registration of case referrals (additional materials) shall mean giving registration number to every case referral (additional material) and/or their fixation in registration documents;
Consideration of case referrals (additional materials) shall mean verification by the law-enforcement agencies of the information in case referrals (additional materials) and decision taking pursuant to the legislation;
Territorial divisions of the law-enforcement agencies shall mean territorial and transport agencies of the Ministry for Internal Affairs of Ukraine, regional agencies of the State Security Service of Ukraine, state tax administrations in Autonomous Republic of the Crimea, regions, cities Kyiv and Sevastopol, interdistrict, united and special state tax inspections;
Regional divisions of State Committee for Financial Monitoring of Ukraine shall mean structural divisions of SCFM in regions, Autonomous Republic of the Crimea, regions, cities Kyiv and Sevastopol that do not have legal entity status and act on behalf and in the interests of SCFM of Ukraine.
Other terms and definitions used in this Procedure shall be applied in the meaning designated by the law of Ukraine on Prevention and Counteraction of Legalization (laundering) of the Proceeds from Crime.

2. Preparation and submission of case referrals by SCFM to the law-enforcement agencies

3.1 The information on the financial transaction subject to financial monitoring, received by SCFM pursuant to the procedure stipulated by the legislation, shall be processed and analyzed whether this transaction is conducted for the purpose of money laundering or terrorist financing.
3.2 If there are sufficient grounds to suspect that the financial transaction relates to money laundering or terrorist financing, SCFM shall prepare case referrals to be submitted for consideration by expert commission to take the decision concerning their forwarding to appropriate law-enforcement agencies.
3.3 Case referrals shall contain the following data (if they are available):

- comprehensive description of the nature of the transaction, that may be related to money laundering or terrorist financing, and reflection of the relationship and connections between persons, circumstances of its conducting and the amount of the financial transaction;
- if there is a great number of the financial transactions suspected in money laundering and terrorist financing their description shall be generalized (the number of the transactions,

the amount, the most essential nature of the transactions and its main counteragents).The most detail information shall be presented in the form of table;

- the code of the bank, the name of the bank and numbers of the accounts through which the financial transaction suspected in money laundering and terrorist financing has been conducted;
- detailed identification information of the main economic entities involved into conducting of the financial transaction suspected in money laundering and terrorist financing; full name and code under Unified state registry of enterprises and organizations of Ukraine, place of location – for legal entities; name, surname and patronymic name, date of birth, series and number of the identification document of the person that conducted the transaction, the date of issuance of the document and the agency that issued it, tax payer identification number pursuant to State registry of natural persons- tax payers, place of residence (place of temporary residence) – for natural persons; the information on participation of other legal entities in the activity etc;
- the information received form the law-enforcement agencies and other state bodies;
- the information received from FIUs of other states (provided it is permitted to submit such information to the law-enforcement agencies);
- the information received from Regional divisions of SCFM of Ukraine;
- the information received from open sources (Mass Media etc);
- reasonable conclusions that the financial transactions may be conducted with the purpose of money laundering and terrorist financing. These conclusions shall contain total amount of the transactions suspected in money laundering and terrorist financing;
- the information on earlier submitted materials related to these case referrals, and the stage of their processing.

3.4 The decision whether there are grounds to submit case referrals (additional materials) to the law-enforcement agencies shall be taken by expert commission.

3.4.1 The sittings of expert commission shall be visited by the experts of the divisions of the law-enforcement agencies the objective of which is to prevent and counteract legalization (laundering) of the proceeds from crime and the composition and authorities of which shall be approved by the order of appropriate law-enforcement agency.

3.4.2 After taking decision by expert commission the term to submit case referrals shall not be more than five business days.

3.4.3 If there are sufficient grounds that the financial transaction is suspected in terrorist financing, case referrals shall be immediately submitted to State Security Service of Ukraine.

3.4.4 If there is the information that the territorial division of the law-enforcement agency investigates the criminal case initiated under the crime that may proceed legalization (laundering) of the proceeds from crime, expert commission may take the decision to submit case referrals relating to this case directly to this division and send the information letter to the central board of the law-enforcement agency one of the objectives of which is to prevent and counteract legalization (laundering) of the proceeds from crime and terrorist financing.

3.4.5 If there is the information that some law-enforcement agencies are interested in case referrals, the decision to submit them shall be taken by expert commission. Expert commission may take the decision to submit a sample of case referrals and a copy of previous case referrals to every law-enforcement agency, and inform interested law-enforcement agency on submission of such case referrals etc.

3.5 While taking the decision by expert commission to submit case referrals (additional materials) to the law-enforcement agencies:

3.5.1 Case referrals (additional materials) and annexes to them (if available) shall be given to the law-enforcement agencies on paper and/or magnetic media together with the cover latter under the signature of Head of SCFM or his/her deputy pursuant to the distribution of the obligations.

3.5.2 In the instance if case referrals have annexes that contain bank and/or commercial secret, case referrals and cover letter shall contain the words: “The annexes contain bank and/or commercial secret”.

3.5.3 The cover letter shall contain short name of case referrals, the information on earlier submitted case referrals, their registration number and availability of annexes.
3.5.4 A copy of the cover letter on submission of case referrals (additional materials) to the territorial division of the law-enforcement agency shall be forwarded to the division of the central board of the law-enforcement agency responsible for prevention and counteraction of legalization (laundering) of the proceeds from crime and terrorist financing.
3.6 In the instance of recurring failure to submit the information by the entity of initial financial monitoring or recurring submission of inauthentic information on the financial transactions subject to internal or obligatory financial monitoring to SCFM, if it learns about this fact from other entities of initial financial monitoring and/or other information sources, SCFM of Ukraine shall submit case referrals to the law-enforcement agencies for verification and decision taking.
3.7 SCFM of Ukraine, if there are sufficient grounds, shall form case referrals under the financial transactions related to converting of cashless money into cash, the transactions the subjects of which are fictitious, or the transactions without the requests for receipt of additional information from the financial institutions.

The requests for receipt of additional information under such materials shall be submitted to the financial and other institutions, organizations, agencies under the initiative of the law-enforcement agency that verifies mentioned case referrals.

4. Registration of case referrals (additional materials) by the law-enforcement agencies

4.1 Registration of case referrals (additional materials) received from SCFM of Ukraine shall be carried out by the law-enforcement agencies, their territorial divisions pursuant to the instruction on the procedure of registration, keeping and using documents, cases, and other material media of the information containing confidential information that is a state property approved by the Resolution of the Cabinet of Ministers of Ukraine of 27.11.98 № 1893.
4.2 The information concerning submitted (received) case referrals and the stage of their processing shall be registered in automatized information systems of SCFM of Ukraine and law-enforcement agencies.
4.3 The law-enforcement agency, its territorial division that received case referrals (additional materials) within five days from the moment of registration shall give to SCFM the information on the date and number of registration of case referrals (additional materials).
4.4 When the division of the central board of the law-enforcement agency of case referrals (additional materials) submits case referrals (additional materials) to the territorial division, a written notification shall be sent to SCFM (in the terms referred to in part 4.3) that shall contain the name of the territorial division of the law-enforcement agency, date and number of the cover letter that has been sent in conjunction with case referrals (additional materials), or its sample.
4.5 If pursuant to the legislation case referrals (additional materials) are transmitted from one law-enforcement agency to another or its territorial division, the law-enforcement agency that transmits case referrals (pursuant to the terms and the procedure referred to in parts 4.3, 4.4) shall inform the law-enforcement agency that receives case referrals (additional materials) (in the instance of submission case referrals (additional materials) to its territorial division), and SCFM of Ukraine.

5. The procedure of consideration of case referrals by the law-enforcement agencies

5.1 Verification of case referrals (additional materials) shall be carried out by the law-enforcement agencies within the competence and complying with the laws of Ukraine on Operative and Investigative Activity, on Organizational and Legal Bases of the Fight against Organized Crime, on State Tax Service of Ukraine, on Militia, Criminal-Procedural Code of Ukraine and other legislative acts.
5.2 Organization and/or conducting verification of case referrals shall be carried out by the divisions of the law-enforcement agencies responsible for prevention and counteraction to money laundering and terrorist financing, particularly:

Anti-money laundering Department, State Tax Administration;
Main Directorate for combating organized crime and Main Investigation Directorate, the Ministry of Interior of Ukraine;
Main Directorate for combating corruption and organized crime, Department for counterintelligence protection of state economy and Department for national integrity protection, State Security Service of Ukraine.
5.3 The law-enforcement agencies (its territorial divisions) shall verify received case referrals (additional materials) and shall take decision pursuant to the legislation of Ukraine.
5.4 If the data, that received case referrals (additional materials) contain, need to be clarified, the law-enforcement agencies (its territorial divisions) may request SCFM of Ukraine, its regional divisions to submit additional information. This request shall be signed by Head (Deputy Head) of the agency filing the request and shall contain reference to the number and date of the cover letter of SCFM of Ukraine that has submitted such case referrals, and its registration number.
5.5 SCFM of Ukraine, its regional divisions, if necessary, shall clarify what information/documents the law-enforcement agencies need, shall give consulting (interpretation of the provisions of normative acts of SCFM of Ukraine in AML area, comments regarding the content of case referrals (additional materials) etc) and shall apply necessary measures to prepare additional materials.
5.6 SCFM of Ukraine, provided there is additional information on the financial transactions the case referrals with regard to which have been earlier submitted or connected with them, shall on its own prepare additional materials and pursuant to the legislation forward them to the law-enforcement agency. Additional materials shall contain outcoming essential elements of the cover letter of earlier submitted case referrals.
5.7 Control over the stage of processing and legitimacy of taken decisions by territorial divisions of the law-enforcement agencies under the results of verification of case referrals shall be carried out by central boards of the law-enforcement agencies responsible for prevention and counteraction to money laundering and terrorist financing.
5.8 Information that the materials contain shall be used while applying AML/CTF measures.

6. Receipt by SCFM of Ukraine of the information/documents on the stage of processing of case referrals (additional materials)

6.1 The law-enforcement agencies, its territorial divisions shall inform SCFM of Ukraine on the results of consideration of case referrals at least one time for six months from the moment of registration of case referrals pursuant to the List of documents on the results of consideration of case referrals by the law-enforcement agencies (hereinafter referred to as List) (Annex 1).
6.2. While taking decision under the results of consideration of case referrals (initiation of criminal case, conducting verification in the framework of criminal case, refusal to initiate criminal case etc) the law-enforcement agencies (its territorial divisions) shall submit to SCFM of Ukraine the information pursuant to the List within five business days from the moment of decision taking.
6.3 Should SCFM of Ukraine need the information (additional information) on the stage of processing of submitted case referrals (additional materials), copies of resolutions on refusal to initiate criminal case under the results of verification, SCFM and its regional divisions within their competence shall file the request to the law-enforcement agencies or its territorial divisions.
6.4 Regional divisions of SCFM of Ukraine shall provide maintenance of case referrals, shall cooperate with territorial divisions of the law-enforcement agencies that consider case referrals.
6.5 The law-enforcement agencies (its territorial divisions) shall provide information (additional information) on the stage of processing case referrals and/or appropriate copies of procedural documents (complying with the requirements of Article 121 of Criminal and Procedural Code of Ukraine) to the requests of SCFM of Ukraine, its regional divisions.
6.6 It is important between law-enforcement agencies and SCFM of Ukraine, their territorial divisions and regional divisions:

- to conduct at least once in three months mutual verification of statistical data concerning the stage of processing of submitted case referrals to be registered by the Act in the form, referred to as in Annex 2 of this Procedure;
- to conduct at least once in half year mutual verification of the results of consideration of submitted case referrals, with regard to which additional information is not available, to be registered by the Act in the form, referred to as in Annex 3 of this Procedure;

SCFM of Ukraine (its regional division) shall compile the Act in 2 samples to be submitted to the law-enforcement agency (its territorial division) by 20 of the month following reporting quarter.

The law-enforcement agency (its territorial division) within 20 business days from the moment of receipt of the Act shall carry out verification and submit signed sample of the Act to SCFM of Ukraine.

The acts of mutual verification shall contain the data on case referrals (additional materials) submitted to other law-enforcement agencies (its territorial divisions) or received from them during reporting period.

The Act on mutual verification shall be signed by Head of appropriate structural division of the law-enforcement agency and responsible person of regional division of SCFM of Ukraine, shall be approved by Head of SCFM and Head of the law-enforcement agency or its deputies pursuant to the distribution of obligations.

The act on mutual verification at the regional level shall be signed by Head of territorial structural division of the law-enforcement agency and responsible person of regional division, shall be approved by Head of territorial structural division of the law-enforcement agency and Head of regional division or by acting Heads.

7. The measures to provide security of the information that case referrals contain

7.1 The law-enforcement agencies and SCFM of Ukraine shall ensure keeping of completeness and integrity of received information, shall create and support decent conditions for its using and prevention of unauthorized access.
7.2 To prevent illicit tipping off the information, that case referrals (additional materials) contain, while submitting or verifying it, its disclosure and protection shall be carried out by officials of the law-enforcement agencies and SCFM of Ukraine, pursuant to the law of Ukraine on Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Instruction on the procedure of registration, keeping and using documents, cases and other materials that contain confidential information that is a state of property, approved by the Resolution of the Cabinet of Ministers of Ukraine of 27.11.98 № 1893, and other normative acts.

Director of Analytical Department of SCFM of Ukraine — **Oleksii Feschenko**

Acting Director of Department for combating money laundering, State Tax Administration — **I. Stelmakhovych**

Chief of Main Directorate for combating organized crime, Ministry for Internal Affairs — **I.Bilozub**

Deputy Head of Main Directorate for combating corruption and organized crime,

State Security Service of Ukraine **O. Pokhylko**

Annex 1 to part 6.1 of the Procedure for submission and consideration of case referrals

The List of data on the stage of processing of case referrals by the law-enforcement agencies

№	The stage of processing of case referrals	The data on the stage of processing	The form
1	Receipt of case referrals (additional materials)	1. Name of the law-enforcement agency that has received case referrals (additional materials)	By mail with the mark “the document of restricted access”*
2	Verification	1. Incoming date and registration number of case referrals (additional materials). 2. Number of case referrals. 3. Grounds to conduct verification (the law of Ukraine on Operative and Investigative activity, Article 97 of Criminal and Procedural Code of Ukraine and other normative acts). 4. Name of the agency that conducts verification	By mail with the mark “the document of restricted access”*
3	Forwarding case referrals according to the competence of the law-enforcement agency	1. Outcoming date and number of the cover latter of case referrals (additional materials). 2. Number of case referrals (additional materials). 3. Grounds to forward case referrals (additional materials) according to the competence of the agency. 4. Name of the agency case referrals (additional materials) have been forwarded to	By mail with the mark “the document of restricted access”*
4.	When initiating the criminal case under the results of consideration (verification)	1. Number of case referrals (additional materials). 2. Date of criminal proceedings initiation, Article of the Criminal Code of Ukraine under which the case has been initiated (qualification signs). 3. The agency that initiated the case (name of the agency) 4. the agency that investigates the case (name of the agency) 5. The stage of processing of the case (the case is being investigated, the case is forwarded according to investigative jurisdiction, investigation is suspended, the term of investigation is prolongated). 6. The form of finishing pretrial investigation 7. Stipulated sum of legalized proceeds – under conviction (mln UAH). 9. Keeping place of case referrals (additional materials) – name of registration book, registration number and date, number of the case.	By mail with the mark “the document of restricted access”*
4.1.	When verifying case referrals (additional materials) in the framework of the criminal case initiated before case referrals (additional materials) have been received.		
5.	When refusing to initiate criminal case	1. Number of case referrals (additional materials). 2. Date, registration number of the document on refusal to initiate criminal case.	By mail with the

		3. Name of the agency that has taken decision 4. Circumstances to be the grounds to refuse case initiation. 5. The information concerning verification of the legitimacy of taken decision (if available) 6. The information on bringing the person to administrative responsibility (if available). 7. The copy of the resolution on refusal to initiate criminal case (if the requirements of Article 121 of Criminal Procedural Code of Ukraine are complied with). 8. Keeping place of case referrals (additional materials) – name of registration book, registration number and date.	mark "the document of restricted access"*
6.	When fulfilling the requirements of Articles 225, 232 of Criminal and Procedural Code of Ukraine (if the case has been initiated under the documents on verification of case referrals, if case referrals have been used to provide the evidence for the case; when presenting indictment etc).	1. Number of case referrals (additional materials). 2. Date of submission and number of the criminal case. 3. Name of the agency that forwarded the case. 4. Name of the court the criminal case has been forwarded to. 5. Articles and their parts under which the indictment has been presented (it is necessary to mention predicate offence to Article 209 of Criminal Code of Ukraine). 6. Stipulated sum of legalized proceeds – under conviction (mln UAH). 7. The amount of criminal proceeds that have been arrested or seized – under indictment (mln UAH). 8. Keeping place of case referrals (additional materials) – name of registration book, registration number and date.	By mail with the mark "the document of restricted access"*

***** If the documents contain only essential elements of case referrals (additional materials) – number and date, including elements of their cover letter, and if any references to the name of objects of financial monitoring, its essential elements, including counteragents, are not available, the information may be given trough open channels.

Annex 2 to part 6.6 of the Procedure

The Act of mutual verification of statistic data on the stage of processing of submitted case referrals for ___ quarter of 200_

Indicators		**№**	**Under the data of State Committee for Financial Monitoring**	**Under the data of the law-enforcement agency (territorial division)**	**Notes**
The data on case referrals submitted to	**The number of additional materials at the beginning of reporting period under which the law-enforcement agency**	**1**			

the law-enforcement agencies (territorial divisions)	**(territorial division) has not taken decision (pretrial investigation to be continued)**				
	The number of case referrals submitted	**2**			
	Out of them money laundering cases	**3**			
	Out of them terrorist financing cases	**4**			
	The number of additional materials submitted	**5**			
	Out of them money laundering cases	**6**			
	Out of them terrorist financing cases	**7**			
	Total	**8**			
The stage of processing of case referrals	**The number of case referrals submitted to other law-enforcement agencies according to the competence**	**9**			
	The number of case referrals received from other law-enforcement agencies	**10**			
	The number of case referrals under verification results of which criminal case has been initiated	**11**			
	The number of case referrals joined to criminal cases and/or their verification is conducted in the framework of these cases	**12**			
	Total	**13**			
	The number of criminal cases initiated under case referrals or in which case referrals are used (joined to criminal cases or their verification is conducted in the framework of these cases)	**14**			
	The arrest imposed on the property under conviction (mln UAH)	**15**			
	The number of criminal cases closed	**16**			
	The number of criminal cases forwarded to the court	**17**			
	Out of them the number of criminal cases considered and sentence brought	**18**			
	The amount recognized by the court as legalized (mln UAH)	**19**			
	The number of case referrals	**20**			

	under which initiation of criminal cases has been rejected on the ground of Article 6 of Criminal Procedural Code of Ukraine				
The number of case referrals at the end of reporting period under which the law-enforcement agency (its territorial division) has not taken decision		**21**			

_____ _____ _____

(Head of State Committee for Financial Monitoring of
Ukraine or its deputy (Head of regional division or acting Head) (signature)
(initials and surname)
__ _____ 20__

_____

Head of the law-enforcement agency or its deputy (Head of structural
territorial division or acting Head) (signature)
(initials and surname)

Annex 3 to part 6.6 of the Procedure

For official use only
Note № _____

Head of State Committee for Financial Monitoring of
(Head of the law-enforcement agency or its deputy
Ukraine or its deputy (Head of regional division or acting Head)
(Head of its territorial division or acting Head)

The Act of mutual verification of the stage of processing of submitted case referrals with regard to which additional information is not available for ___ half year of 200_

№	**Outcoming date and number of the cover letter of SCFM of Ukraine on submission of case referrals (additional materials)**	**Number and date of case referrals (additional materials)**	**Type and conditional name of case referrals (additional materials)**	**Incoming date and registration number of the document**	**The results of consideration of case referrals** *(last decision taken pursuant to the legislation on the day of reporting)*	**Outcoming date and number of the document of the law-enforcement agency (territorial division) with regard to the report of SCFM (regional division) on the stage of processing**
1	**2**	**3**	**4**	**5**	**6**	**7**

(Head of State Committee for Financial Monitoring of
Ukraine or its deputy (Head of regional division or acting Head) (signature)
(initials and surname)
__ _____ 20__

_____

Head of the law-enforcement agency or its deputy (Head of structural
territorial division or acting Head) (signature)
(initials and surname)

__ _____ 20__

16. *Law on the National Bank of Ukraine*

Full version: http://www.bank.gov.ua/ENGL/B_legisl/LawNBU_e.pdf

LAW OF UKRAINE
ON THE NATIONAL BANK OF UKRAINE

With amendments made according to Laws
N 1458-III (1458-14) dated 17.02.2000,
N 1658-III (1658-14) dated 20.04.2000
N 1919-III (1919-14) dated 13.07.2000

Section I. GENERAL PROVISIONS

Article 1. Terms and Notions

The terms and notions used herein shall have the following meaning:

"bank" shall denote a legal entity, which conducts the business on the acceptance of deposits from natural persons and legal entities, keeping of accounts and provision of credits subject to the own conditions on the basis of a license issued by the National Bank of Ukraine;

"banking metals" shall denote gold, silver, platinum, platinum-group metals affinated to the highest mark of assay according to the world standards, both in ingots and as powder, provided with quality certificates, as well as coins made of the precious metals;

"banking regulation" shall denote one of the functions of the National Bank of Ukraine consisting in the establishment of a system of norms regulating the banking business, determine the general principles of the banking business, the procedures for the implementation of the banking supervision, the responsibility for the violation of the banking legislation;

"banking supervision" shall denote a system of the control and active orderly actions of the National Bank of Ukraine aimed at ensuring the banks' compliance with the laws of Ukraine and the established norms in the course of their activities, in order to ensure the stability of the banking system and protect the depositors' interests;

"currency values" shall denote the material objects defined by Ukraine's currency legislation as the means of the currency and financial relations;

"open market" shall denote the market, where the securities purchase and sale transactions are effected between the persons, who are not the primary lenders and borrowers, provided that the proceeds from the sale of securities at such market are received by securities' holders, but not the issuers thereof. As a rule, it should be used by central banks for the purposes of the sale and purchase of the short-term state securities in order to regulate the monetary mass. The investment of funds into the national economy increases as the result of the purchase and reduces as a result of the sale;

"currency position" shall denote the ratio between bank's claims and liabilities in the foreign currency. If they are equal, the position shall be deemed closed, otherwise it shall be deemed open. An open position shall be deemed short, if the amount of liabilities in the sold currency exceeds the amount of claims, and open, if the amount of claims in the purchased currency exceeds the amount of liabilities;

"monetary and crediting policy" shall denote a set of actions in the sphere of the money

turnover and crediting aimed at the regulation of the economic growth, suppression of the inflation and ensuring of the stability of the monetary unit of Ukraine, employment of the population and the equalization of the balance of payments;

"monetary substitute" shall denote any instruments in the form of bank notes different from the monetary unit of Ukraine, except for currency values, issued by a body other than the National Bank of Ukraine and manufactured in order to effect payments in the process of the economic turnover.

"currency exchange policy" shall denote the policy of regulating the currency exchange rate by means of the sale and purchase of the foreign currency;

"discount monetary policy" shall denote the increase or reduction of the rate of interest on credit by the National Bank of Ukraine, in order to regulate the demand for and the supply of the lending capital;

"gold and currency reserve" shall denote Ukraine's reserves indicated in the balance sheet of the National Bank of Ukraine, including the assets recognized as international assets by the international community and designed for the international settlements;

"insider" shall denote a legal entity or a natural person, which has an access to the confidential information on the bank's business due to the official position, the share in the bank's capital, family connections and has an opportunity to use its status to study its own interests;

"last-instance creditor" shall, as a rule, denote the National Bank of Ukraine, to whom a bank or another financial and credit institution may apply for refinancing in case of the exhaustion of other refinancing opportunities. The National Bank of Ukraine shall be entitled, but not obliged, to grant refinancing credits to the bank, unless this involves risks to the banking system;

"treasury notes" shall denote debt securities issued by the state in the person of its authorized bodies, placed solely on a voluntary basis among the natural persons and legal entities and confirming the payment of monies by its owners to the budget and entitling them to obtain financial revenues or other interests according to the terms and conditions of their issue;

"metal accounts" shall denote the accounts opened by authorized banks of Ukraine to register transactions with the banking metals;

"general principles of the monetary policy" shall denote a set of the variable financial indicators enabling the National Bank of Ukraine to regulate the money turnover and crediting of the national economy by means of the monetary management instruments (means and methods), in order to ensure the stability of the monetary unit of Ukraine as a monetary pre-requisite to the economic growth and maintaining the high level of employment of the population;

"discount rate of the National Bank of Ukraine" shall denote the percentage commission taken by the National Bank of Ukraine for the refinancing of commercial banks by purchasing bills of exchange prior to their term of payment to be deducted from the nominal amount of the bill of exchange. The discount rate shall be the lowest among the refinancing rates and serve as a reference point for the price for money;

"official publication of the National Bank of Ukraine" shall denote a special printed bulletin designated as official by the National Bank of Ukraine and registered according to the established procedure, where the regulations of the National Bank of Ukraine as well as the information, analytical, statistical and other materials, reviews of the status of Ukraine's banking system, monetary and financial markets, etc. are published;

"official exchange rate" shall denote the currency exchange rate officially set by the National Bank of Ukraine as an authorized body of the state;

"balance of payments" shall denote the ratio between the amount of pecuniary revenues obtained by the country from abroad and the amount of payments effected by it abroad during certain period. The balance of payments shall include the settlements related to the foreign trade, services, non-commercial

transactions, revenues from the capital investment abroad, trade in licenses, affreigtment and service of vessels, tourism, upkeep of the diplomatic and trade missions abroad, monetary transfers of individuals, payments to other countries under loans, etc. The balance of payments shall include the capital flow: investments and credits;

"reserve position with the International Monetary Fund (hereinafter referred to as IMF)" shall denote the claims of a member country to the IMF, which are defined as a difference between the quota and IMF's assets in the currency of the member country less the monetary assets of the IMF received by a member country in the form of the credits from IMF and the balance on account No. 2 of the IMF, which shall not exceed 0.1% of the member country's quota;

"refinancing rates of the National Bank of Ukraine" shall denote the percentage commission for credits granted to commercial banks, which is established by the National Bank of Ukraine in order to influence the money turnover and crediting. The National Bank of Ukraine shall establish the discount and pawn rates;

"special drawing rights (SDR)" shall denote the international reserve asset created by the IMF in addition to the existing international reserve assets, which is a basket of five currencies, whose make-up is revised every five years. The value of the special drawing rights is determined on a daily basis;

"financial institution" shall denote a legal entity, which exercises one or several transactions, which are capable of being conducted by the banks, except for the acceptance of deposits;

"price stability" shall denote maintaining the pricing system at a certain level by means of keeping a stable exchange rate of the monetary unit of Ukraine;

"insolvency" shall denote:
- the inability to meet the legitimate claims of creditors within one month;
- the reduction of the amount of own funds to a level, which is less than one third of the amount designated as the minimum required amount by the NBU.

Article 2. Legal Basis of Activities of the National Bank of Ukraine

The National Bank of Ukraine (hereinafter referred to as the National Bank) is the central bank of Ukraine, a specific central body of the state administration, whose legal status, objectives, functions, authority and organization principles are determined by the Constitution of Ukraine, this Law and other laws of Ukraine.
The management bodies and the headquarters of the National Bank shall be located in the City of Kyiv.

Article 3. Authorized Capital

The National Bank shall have the authorized capital, which is the state-owned property.

The authorized capital shall amount to UAH 10 million. It may be increased by a decision of the Council of the National Bank.

The sources of the authorized capital of the National Bank shall be the revenues of its estimate and the State Budget of Ukraine, if necessary.

Article 4. Economic Independence

The National Bank shall be an economically independent body, which shall pay the expenses for the account of own revenues within the limits of the approved estimate and, in cases provided for hereby, at the expense of the State Budget of Ukraine.

The National Bank shall be a legal entity with separated property, which is the object of the state property and is in the full economic competence of the National Bank.

The National Bank shall not be liable under the liabilities of the government bodies; the government bodies shall not be liable under the liabilities of the National Bank, except for their voluntary assumption of such an obligation.

The National Bank shall not be liable under the liabilities of other banks: other banks shall not be liable under the liabilities of the National

Bank, except for their voluntary assumption of such an obligation.

The National Bank may open its institutions, branch and representative offices in Ukraine, as well as representative offices abroad.

The National Bank, its institutions, branch and representative offices shall have a seal with the National Emblem of Ukraine and their respective names.

Article 6. Main Function

According to the Constitution of Ukraine (254k/96-VR), the main function of the National Bank is to ensure the stability of Ukraine's monetary unit.

To carry out its major function, the National Bank shall foster the stability of the banking system and within its competence, the price stability.

Article 7. Other Functions

The National Bank shall carry out the following functions:

1. to determine and pursue the monetary policy in accordance with the General Principles of the Monetary Policy developed by the Council of the National Bank of Ukraine;

2. to issue the national currency of Ukraine on a monopoly basis and to organize its circulation;

3. to issue the national currency of Ukraine on a monopoly basis and to organize its circulation;

4. to establish the rules of conducting banking transactions, accounting and reporting, protection of the information, funds and property for banks;

5. to organize and to provide the methodological support to the system of the monetary, crediting and banking statistical information and the statistics of the balance of payments;

6. to determine the system, procedure for and forms of payment, including between banks;

7. to determine the areas of the development of modern electronic banking technologies, to establish, co-ordinate and control the creation of electronic means of payment, payment system, banking automation and the banking information protection facilities;

8. to exercise the banking regulation and supervision;

9. to keep a Register of banks, their branch and representative offices, currency exchanges and financial and credit institutions, to license banking business and transactions, if provided for by the laws;.

10. to compile, analyze and forecast the balance of payments;

11. to represent Ukraine's interests in central banks of other states, international banks and other crediting institutions, where the cooperation takes place at the level of central banks;

12. to exercise the currency regulation with the competence to be defined by a special law, to determine the procedure of effecting payments in the foreign currency, to organise and exercise the currency control over the commercial banks and other credit institutions which are in possession of a National Bank's license for the transactions with currency values;

13. to ensure the accumulation and custody of the gold and currency reserves and the conduction of transactions with them and the banking metals;

14. to analyze the status of the monetary, crediting, financial, pricing and currency relations;

15. to organize the collection and transportation of bank notes, coins and other values

16. to implement the national policy of the protection of state secrets within the system of the National Bank;

17. to take part in training personnel for Ukraine's banking system;

18. to exercise other functions in the monetary and crediting sphere within its competence defined by the law.

Article 14. Functions of the Board of the National Bank

According to the General Principles of the Monetary Policy, the Board of the National Bank shall ensure the implementation of the monetary policy by means of relevant monetary instruments and other means of the banking regulation, organize the performance of other functions in accordance with articles 6 and 7 hereof and manage the activities of the National Bank.

Article 15. Powers of the Board of the National Bank

The Board of the National Bank:

1. shall take decisions:

    - on economic means and monetary methods required to implement the General Principles of the Monetary Policy according to the decisions of the Council of the National Bank taken with regard to these issues and the necessity to ensure the stability and the purchasing power of the national currency;
    - on the emission of Ukraine's currency and the withdrawal of bank notes and coins from the circulation;
    - on changing the interest rates of the National Bank;
    - on diversification of assets of the National Bank of Ukraine and their liquidity;
    - on limits to out-of balance sheet liabilities of the National Bank;
    - on the formation of reserves to cover financial risks by the National Bank;
    - on profit distribution and procedure for deduction of incomes to the state budget of Ukraine;
    - on minimum amount of gold and currency reserve of the National Bank of Ukraine;
    - on setting the limits to transactions on the open market effected by the National Bank;
    - on the list of securities and other values qualifying as guarantee under the credits of the National Bank;
    - on the conditions of the acceptance of the foreign capital in Ukraine s banking system;
    - on establishment of performance indicators for banks;
    - on the amount and procedure for formation of mandatory reserves for banks;
    - on taking enforcement measures to commercial banks;
    - on the establishment and liquidation of enterprises and institutions of the National Bank;
    - on the participation in the international financing organizations;
    - on the purchase and sale of the property to support the activities of the National Bank.

2. shall submit the annual report of the National Bank for approval by the Council of the National Bank of Ukraine, the draft estimate of revenues and expenses for the next year, other

documents and resolutions according to Article 9 under this law.

shall submit, for information purposes, accounting, statistical and other data regarding the activity of the National Bank and Ukraine's banking system to the Council of the National Bank, which are necessary to carry out its tasks, if requested by the Council of the National Bank;

3. shall determine the organizational principles and structure of the National Bank, approve the regulations on structural subdivisions and institutions of the National Bank, Charters of its enterprises, the procedure of the appointment of managers of subdivisions, enterprises and institutions;

4. shall approve the list of staff members of the National Bank with their responsibilities and forms of labor remuneration;

5. shall establish the procedure for granting banking licenses, as well as other licenses in cases and according to the procedure provided for by the law;

6. shall issue the regulatory documents of the National Bank;
7. shall approve the Regulations of the Board of the National Bank;
8. shall carry out functions provided for by Articles 3, 23, 28, 60 and 64 hereof, as well as other functions ensuing from the main objective of the National Bank.

SECTION X. BANKING REGULATION AND BANKING SUPERVISION

Article 55. Objective and Sphere of Banking Supervision

The main objective of banking regulation and supervision shall be the safety and financial stability of the banking system, protection of interests of depositors and creditors.

The National Bank shall exercise functions of banking regulation and supervision over activities of banks, as well as other financial and credit institutions within limits and according to the procedure stipulated by the legislation of Ukraine.

The National Bank shall exercise ongoing supervision of the compliance of banks and other financial and credit institution with the banking legislation, regulations of the National Bank and economic norms.

Article 56. Regulations of the National Bank

The National Bank shall issue regulations on issues falling within its competence, which shall be mandatory for governmental and municipal bodies, banks, enterprises, organizations and institutions irrespective of the form of ownership, as well as for individuals.

Regulations of the National Bank shall be issued in the form of resolutions of the Board of Governors, as well as instructions, policies, or rules subject to approval by resolutions of the Board of Governors. They may not contradict to laws and other legislative acts of Ukraine or be retroactive, unless they alleviate or cancel the responsibility under the law.

Regulations of the National Bank shall be subject to the mandatory state registration with the Ministry of Justice of Ukraine and come into effect in accordance with the legislation of Ukraine.

Regulations of the National Bank may be appealed against in compliance with the legislation of Ukraine. .

Article 57. Access to Information

To exercise its functions, the National Bank shall be entitled to obtain, free of charge, information from banks and other financial and credit institutions about their business pursuant to the license granted, as well as explanations with regard to the information obtained and operations conducted.

For the preparation of banking and financial statistical data, and analysis of the economic situation, the National Bank shall be entitled to

obtain appropriate information from governmental and municipal bodies and companies of any form of ownership.

Information obtained shall not be disclosed, except for cases stipulated by the legislation of Ukraine.

Article 60. Determination of Professional Qualifications

By its regulations, the National Bank shall determine qualification requirements to managers of executive bodies and chief accountants of banks, and shall be entitled to require the removal of persons, who fail to meet the established qualification requirements to the said positions.

If a bank, or an employee required to resign, do not agree with such a requisition, they may appeal against it in court within two weeks. In this case, such a dismissal shall be suspended till the court decision is passed.

Article 61. Powers to Exercise Supervisory and Regulatory Functions

Supervisory and regulatory functions of the National Bank specified hereby may be exercised either directly, or through a banking supervision body established by it.

The National Bank shall exercise its supervisory and regulatory functions by means of the following powers:

1. to carry out all types of on-site inspections of banks in Ukraine (except for – ***in addition to***? – reviews and audits of financial and business activities), as well as to verify the accuracy of information provided by legal entities and individuals during the registration of banks and licensing of banking operations;
2. to require that banks hold general meetings of shareholders and to determine the issues, on which decisions should be taken;
3. to take part in meeting of shareholders, supervisory councils, board of managers and auditing commissions of banks with the deliberative vote.

The National Bank shall set requirements to mandatory audits of banks and obtain conclusions of independent auditors on the performance of banks.

Article 62. Enforcement Actions

Should a bank violate the banking legislation and/or regulations of the National Bank, effect high-risk operations endangering its solvency and interests of depositors and creditors, the National Bank shall apply the following enforcement actions adequate to the violation committed:

1. Imposing fines on managers of banks in the amount of up to one hundred non-taxable minimum incomes of individuals;
2. Imposing fines on banks in compliance with regulations approved by the Board of Governors of the National Bank; however, the amount of such fines shall not exceed one per cent of the registered statutory fund;
3. Removal of management (Chairman of the Board of managers and Chief Accountant);
4. Appointment of a Temporary Administration;
5. Suspension of the license for specific banking operations for a period of up to one year.

In case of a violation of laws or other regulations, which resulted in a considerable loss in assets or earnings and insolvency of the bank, or caused a substantial damage to interests of its clients, in case of a concealment of any invoices, other documents or assets, the National Bank shall be entitled to revoke the license for all banking operations and take a decision on the re-organize or liquidation of the bank, and to appoint a liquidator.

The decision of the NBU to appoint a temporary administrator or liquidator shall have the effect of a court order (Article 62 of the Law in the edition # 1919-III (1919-14) of 07.13.2000) .

Article 63. Restriction of the National Bank Requirements

The National Bank shall not be entitled to require banks to perform operations or other actions, which are not stipulated in laws of Ukraine and regulations of the National Bank.

SECTION XI. OFFICIALS OF THE NATIONAL BANK

Article 64. Status of Employees of the National Bank

Conditions of the employment, dismissal, compensation, vacations, duties and rights, the system of disciplinary actions, social protection of employees of the National Bank shall be determined by the Law of Ukraine "On Public Service" (3723-12).

Employees of the National Bank shall be officials and attendants of the National Bank. The officials of the National Bank shall be deemed persons directly involved in exercising the National Bank functions, who occupy positions under the Staffing Schedule.

The Board of Governors of the NBU shall determine a list of positions for employees, who enter a labor agreement with the NBU in the contract form (Article 64 is amended with Part 3 in compliance with the Law # 1919-III of 7.13.2000)

Officials of the National Bank shall have the status of government employees, to which the norms of the Law of Ukraine "On Public Service" shall apply, unless otherwise provided hereby.

The issues of the public service in the National Bank and those of the classification of positions shall be addressed by the Board of Governors of the National Bank in compliance with law of Ukraine.

Ranks of public servants of the National Bank, which correspond to the positions of the 1st category, shall be awarded by the President of Ukraine. Other ranks shall be awarded by the Governor of the National Bank.

Attendants of the National Bank shall be the employees, whose duties are not directly related to the exercise of the functions of the National Bank.

The level of compensation for officials of the National Bank shall be established by the Board of Governors of the National Bank in compliance with the Law of Ukraine "On Public Service".

The level of compensation for attendants of the National Bank shall be established by the Board Governors of the National Bank in compliance with the legislation on compensation.

Article 65. Prohibited Activities

The Governor of the National Bank, Deputy Governors, members of the Board of Governors, and other officials of the National Bank under the list of positions approved by the Board of Governors may not be people deputies (members of the Parliament) of Ukraine, members of the Government of Ukraine, be engaged in business activities, have another part-time job, except for teaching, research and other creative activities.

Officials of the National Bank shall be prohibited from being members of managing bodies or shareholders of the commercial banks.

The Governor of the National Bank, Deputy Governors, members of the Board of Governors and other officials of the National Bank shall be prohibited from getting loans from any credit institutions, except for the National Bank.

Article 66. Confidentiality

Officials of the National Bank shall not disclose information, which constitutes a business secret or is of confidential nature and has become familiar to them in the course of performing their duties even in case of the resignation from the National Bank, except for cases provided for by the legislation of Ukraine.

17. *Law on Banks and Banking*

Part I. General Provisions

Chapter 1. General Provisions

Article 1. Subject and Purpose of the Law

This Law defines the structure of the banking system, economic, organizational and legal guidelines for creation, operation, reorganization and liquidation of banks.

The purpose of this Law is to provide legal support to a stable development and operation of banks in Ukraine in order to create an appropriate competitive environment in the financial market, protect legitimate interests of bank depositors and clients, introduce favorable conditions for the development of the economy of Ukraine, and support domestic commodity producers.

Article 2. Definition of Terms

Terms used in this Law shall have the following meaning:

"Underwriting" means purchase of securities on the primary market followed by their further resale to investors; concluding an agreement to guarantee a full or partial sale of issuer's securities to investors, their full or partial redemption at a fixed price with subsequent resale, or obligating the buyer to do everything in his power to sell as many securities as possible without assuming the obligation to purchase any of the unsold securities.

"Affiliate of a bank" means any legal entity in which the bank holds an essential participation or which holds an essential participation in the bank.

"Bank" means a legal entity, which has an exclusive right, under the National Bank of Ukraine license, to perform the following general banking operations in aggregate: attraction of deposits and funds belonging to households and legal entities, allocation of these funds on its own behalf, terms and at its own risk, and opening and servicing accounts of individuals and legal entities.

"Bank with foreign capital" means a bank where the share of capital, owned by at least one non-resident, exceeds 10 percent.

"Banking activity" means deposit-attraction activity in respect of the funds of individuals and legal entities and allocation of these funds on the bank's own behalf, terms, and at its own risk, opening and servicing accounts of individuals and legal entities.

"Bank credit" means any obligation of a bank to extend a certain amount, any guarantee, any obligation to acquire the right to claim debt, or any extension of the debt maturity, which occurs in exchange for the borrower's commitment to repay the debt amount, as well as an obligation to pay interest and other charges due on this amount.

"Banking license" means a document issued by the National Bank of Ukraine pursuant to the procedure and subject to terms specified in the present Law, and on the basis of which a bank has the right to banking activity.

"Banking payment instrument" means an instrument containing details identifying its issuer, the payment system, in which it is used and, as a rule, its holder. Relevant documents are formed with the help of banking payment instruments for transactions performed using banking payment instruments, on the basis of which funds are transferred or other services rendered to holders of such instruments.

"Bank accounts" mean accounts which show a bank's own funds, claims, commitments of a bank in relation to its clients and counteragents, and which allow transfer of funds by using banking payment instruments.

"State Register of Banks" means a register maintained by the National Bank of Ukraine that contains information on state registration of all banks.

"Deposit" means funds in cash or a non-cash form in the currency of Ukraine or foreign currency that are placed by clients on their personal accounts with a bank according to an agreement for a specified period of time or without the specification of such a period of time, and that are subject to repayment to a depositor under the legislation of Ukraine and terms of the agreement.

"State registration of a bank" means granting a bank the legal entity status in accordance with requirements of Chapter 3 of the present Law.

"Business reputation" means the aggregate confirmed information about a person that makes it possible to draw a conclusion about his/her professional and managerial skills, integrity and compliance of his/her activities to law.

"Economic norms" mean indicators, established by the National Bank of Ukraine, compliance with which is mandatory for banks.

"Foreign" refers to a citizen or a legal entity of any country other than Ukraine.

"Essential participation" means direct, indirect, independent or joint holding of 10 or more percent of the statutory capital or the voting right granted by purchased shares (stakes) of a legal entity or the ability to exert decisive influence on management or activities of a legal entity irrespective of formal ownership.

"Capital of a bank" means a residual value of bank assets after deduction of all its liabilities.

"Subscribed capital" means the amount of capital for which written commitments were received from bank stakeholders (shareholders) to contribute funds in accordance with shares (stakes) subscription.

"Statutory capital" means paid-in and registered subscribed capital.

"Regulatory capital (own funds)" is made up of the main and additional capital, weighted for risks, determined by regulations of the National Bank of Ukraine.

"Client of a bank" means any individual or legal entity who uses services of a bank.

"Control" means direct or indirect, individual or joint holding of a share in a legal entity which is equivalent to 50 or more percent of the statutory capital or votes of a legal entity, or a possibility to exert a decisive influence on management or activities of a legal entity pursuant to an agreement or through any other means.

"Funds" mean money in the national or a foreign currency or its equivalent.

"Bank's creditor" means a legal entity or an individual who has a written confirmation of a claim to the borrower as to latter's property obligations.

"Liquidation of a bank" means a procedure for terminating the functioning of a bank as a legal entity pursuant to the provisions of the present Law.

"Liquidator" means a legal entity or an individual, who performs functions as to the termination of a bank's activity and satisfaction of creditor claims.

"Liquidation mass" means all types of property assets (property and property ownership rights) of a bank, which it owns as of the day when the liquidation procedure was initiated, as well as those revealed during the liquidation process.

"Moratorium" means the suspension of the bank's fulfillment of property obligations and obligations to pay taxes and charges (mandatory payments), the maturity of which fell due prior to the introduction of the moratorium, as well as the suspension of actions aimed at ensuring the fulfillment of these commitments and obligations to pay taxes and charges (mandatory payments), introduced prior to the adoption of a decision on imposing the moratorium.

"Bank insolvency" means the inability of a bank to satisfy legal claims of creditors on time and in full due to the absence of funds or a decrease in the size of capital to the amount equal to less than one-third of the minimum size of the regulatory capital of a bank.

"Regulations of the National Bank of Ukraine" mean regulations issued by the National Bank of Ukraine within its powers for enforcing this and other laws of Ukraine.

"Bank subdivision" means a structural unit of a bank, which does not have the status of a legal entity and which executes functions, defined by a bank.

"Representative office of a bank" means a separate territorial structural subdivision of a bank which does not perform banking activities.

"Reorganization of a bank" means merger, takeover, spin-off or break-up of a bank, transformation of its organizational and legal form resulting in the transfer, assumption of its property, funds, rights and liabilities by legal successors.

"Banking settlement operations" mean the movement of funds on bank accounts that is performed pursuant to client instructions or as a result of actions, which have led to the legal transfer of assets ownership rights within the scope of law.

"Affiliated party" means a legal entity with holders of essential participation owned jointly with a bank.

"Systemic bank" means a bank with liabilities equal to at least 10 percent of total liabilities of the banking system.

"Provisional administration" means a procedure applied by the National Bank of Ukraine in the course of bank supervision under the circumstances stipulated by the present Law.

"Provisional administrator" means an individual or a legal entity, appointed by the National Bank of Ukraine to exercise provisional administration.

"Bank's authorized person" means a person, who, on the basis of a statute or an agreement, is empowered to represent the bank and take certain actions of legal nature on behalf of the latter.

"Participants in a bank" mean bank founders, shareholders of a bank, which is a joint stock company, as well as participants in a bank, which is a limited liability company, or stakeholders in a cooperative bank

"Branch of a bank" means a separate structural subdivision of a bank without the legal entity status that performs banking activities on behalf of the bank.

"Financial holding group" means a financial institution that meets the requirements of Article 12 of the present Law.

Article 3. Application of the Law

The present Law regulates relations that arise in the course of the establishment, registration, activity, reorganization and liquidation of banks.

Provisions of the present Law shall be applicable to representative offices of foreign banks operating in the territory of Ukraine, unless otherwise established by effective international treaties (agreements) ratified by the Verkhovna Rada of Ukraine, as well as to branches of Ukrainian banks abroad and to bank related parties specified in Article 52 of the present Law.

Relevant provisions of the present Law shall also be applicable to some liabilities and responsibilities of other persons, whose activity is connected with operation of banks.

Article 4. Banking System of Ukraine

The banking system of Ukraine shall comprise the National Bank of Ukraine and other banks, which have been established and are operating in the territory of Ukraine in compliance with the present Law.

Banks in Ukraine may operate as universal or specialized banks. In terms of their specialization, banks may be classified as savings, investment, mortgage and settlement (clearing) banks.

A bank shall independently determine areas of its activity and the specialization by types of operations. The National Bank of Ukraine shall regulate activities of specialized banks through economic norms and regulations that support operations performed by these banks.

A bank shall acquire the specialized bank status when more than 50 percent of its assets are represented by assets of the same type. A bank shall acquire the status of specialized savings bank if more than 50 percent of its liabilities represent household deposits.

The National Bank of Ukraine shall exercise its regulatory and supervisory activities pursuant to the provisions of the Constitution of Ukraine, the present Law, the Law of Ukraine "On the National Bank of Ukraine," other legislative acts and its own regulations.

Article 5. Economic Independence of Banks

Banks shall have the right to independently hold, use and manage the property they own.

The State shall not be held responsible for commitments of banks, and banks shall not be held responsible for commitments of the State, unless otherwise provided for by law or an agreement.

The National Bank of Ukraine shall not be held responsible for commitments of banks, and banks shall not be held responsible for commitments of the National Bank of Ukraine, unless otherwise provided by law or an agreement.

State power and local self-government bodies shall not be allowed to influence in any way management or employees of banks during the execution of official duties by the latter, or to interfere with bank activities, except when expressly specified by law.

Damage inflicted on a bank as a result of such interference shall be subject to compensation pursuant to the procedures specified by law.

Article 6. Organizational and Legal Form of a Bank

In Ukraine, banks shall be created in the form of a joint stock company, limited liability company or a cooperative bank.

Legislation on businesses shall be applicable to banks to the extent that does not contradict the present Law.

Article 7. State Banks

A State bank is a bank in which the State owns 100 percent of the statutory capital.

A State bank shall be established pursuant to a decision of the Cabinet of Ministers of Ukraine. In so doing, expenditures shall be provided for in the draft Law on the State Budget of Ukraine for the formation of the statutory capital of the State bank. The Cabinet of Ministers of Ukraine shall obtain a positive opinion of the National Bank of Ukraine in respect of the founding of a State bank. Obtaining a National Bank of Ukraine opinion shall be obligatory in case of the liquidation (reorganization) of a State bank, with the exception of liquidation resulting from the State bank insolvency.

The Statute and activities of a State bank shall meet the requirements of the present Law, Laws of Ukraine and regulations of the National Bank of Ukraine.

The Statute of the State bank shall be approved by a Resolution of the Cabinet of Ministers of Ukraine.

The National Bank of Ukraine shall perform the state registration of State banks under the requirements of the present Law and its own regulations.

The State shall exercise and realize ownership rights in respect of shares (stakes), which belong to it in the statutory capital of the State bank through management bodies of the State bank.

The Supervisory Council and Board shall be management bodies of a State bank.

The Revision Commission, whose personal composition and staff number shall be determined by the Supervisory Council of the State bank, shall be a controlling body of a State bank.

As a highest management body of a State bank, the Supervisory Council shall oversee the State bank Board activities in order to preserve funds attracted as deposits, guarantee their repayment to depositors and protect State interests as a State bank shareholder, and monitor other functions stipulated by the present Law.

A State bank Supervisory Council shall be made up of members of the bank's Supervisory Council, appointed by the Verkhovna Rada of Ukraine and the President of Ukraine. People's Deputies of Ukraine, representatives of bodies of executive power and other persons that meet the requirements set forth in this Article can be included in the Supervisory Council of a State bank in order to represent the interests of the State. The term in office of State bank Supervisory Council members shall be five years.

The President of Ukraine shall appoint seven members of the State bank Supervisory Council through the adoption of a relevant Enactment (Decree).

The Verkhovna Rada of Ukraine shall appoint seven members of the State bank Supervisory Council through the adoption of a relevant Resolution.

Members of the State bank Supervisory Council shall be citizens of Ukraine who have a higher economic or legal education, or a scientific degree in the field of economics, finance and/or law in addition to an experience of work in legislative bodies or managerial positions in central executive bodies of Ukraine, or banking institutions, or an experience of research and practical work in the area of economics, finance or law.

Members of the State bank Supervisory Council shall discharge their functions without receiving any remuneration (compensation).

A Chairman elected by the Supervisory Council from among its members shall head the State bank Supervisory Council.

Meetings of the Supervisory Council shall be effective if attended by at least 10 of its members.

Supervisory Council decisions shall be adopted by a simple majority of votes of those present at the meeting of the State bank Supervisory Council.

Internal issues pertaining to activities of the State bank's Supervisory Council and document handling and processing shall be addressed in the Policy on the Supervisory Council to be adopted at its meeting.

Powers and authorities of the appointed State bank Supervisory Council and/or of each of its members can be terminated upon the decision of the Verkhovna Rada of Ukraine and the President of Ukraine as to the appointed members, but not earlier than one year since the appointment. In case a provisional administrator is appointed for a State bank, the power of the Supervisory Council shall be suspended in compliance with Article 78 of the present Law.

In its activities, a State bank Supervisory Council shall abide by this Law, other effective legislation of Ukraine, and the Statute of the State bank. The Supervisory Council shall not interfere into the everyday activity of the State bank.

The competence of the State bank Supervisory Council shall cover decision-making on issues stipulated by Items 1, 5 and 6 of Article 38 and Items 1-7 of Article 39 of the present Law, as well as other issues whose regulation is provided for in by this Law.

Decisions on changing the size of a State bank statutory capital and suspension of its activities shall be taken by the Cabinet of Ministers of Ukraine. In so doing, the Cabinet of Ministers of Ukraine shall obtain a positive opinion from the National Bank of Ukraine on the intention to change the size of the State bank statutory capital.

Its statute shall determine powers of an executive body of a State bank. Candidates for the position of the Chairman and members of the executive body shall be coordinated with the National Bank of Ukraine in accordance with the requirements of the present Law.

The bank, established according to the procedure set forth in Part 2 of this Article, has the right to add the word "State" to its name and to use the imprint of the State Emblem of Ukraine and the State Flag of Ukraine.

In case a decision is taken by the State concerning the partial or complete alienation of its shares (stakes) in a State bank, such a bank shall be deprived of the State bank status. Shareholders shall bring the Statute and activities of this bank in compliance with the requirements of this Law and regulations of the National Bank of Ukraine.

Article 8. Cooperative Banks

A cooperative bank shall be established pursuant to the procedures stipulated by the present Law. Legislation on cooperation shall be applied to cooperative banks to the extent that does not contradict the present Law.

Cooperative banks shall be established under the territorial principle and divided in regional and central cooperative banks.

The minimal number of participants in a local (within the oblast) cooperative bank shall be not less then 50 persons. If this number decreases and if a cooperative bank is unable to increase it to the

minimal needed level within a year, the activity of this bank should be terminated by changing its organizational-legal form or through the liquidation.

Local cooperative banks shall be participants in the central cooperative bank.

In addition to the functions stipulated by the present Law, the central cooperative bank shall engage in the centralization and re-allocation of resources accumulated by local cooperative banks, and supervise the activities of regional cooperative banks.

The General Meeting of participants (stakeholders), the Supervisory Council, and the Board shall be management bodies of a cooperative bank. The Revision Commission shall be a cooperative bank's control body. The management and control bodies of a cooperative bank shall be set up and shall exercise their powers in accordance with the present Law.

The statutory capital of a cooperative bank shall be divided into stakes. The minimal size of a cooperative bank statutory capital shall be established by the National Bank of Ukraine under the present Law.

Each cooperative bank participant shall have the right to one vote irrespective of the size of his participation in bank capital (share, stakes).

Cooperative bank profits or losses resulting from the performance in a fiscal year shall be divided among participants in proportion to the size of their stakes.

Restrictions imposed by the present Law on bank operations with related parties shall not be applicable to operations of a cooperative bank.

Article 9. Bank Associations

Banks shall have the right to set up bank associations of the following types: a bank corporation, a bank holding group, and a financial holding group. Banks can participate in industrial-financial groups with due compliance with the requirements of the antimonopoly legislation of Ukraine.

Bank associations shall be set up subject to a preliminary agreement with the National Bank of Ukraine and to the State registration through the introduction of a relevant entry in the State Bank Register.

The procedures for obtaining a permit for setting up a bank association and for its State registration are established by the National Bank of Ukraine.

A bank can participate in only one bank association. Participants in a bank association shall indicate the name of the bank association before their own names.

Participants in a bank association shall have the right to leave the association while retaining mutual obligations and adhering to the terms of the concluded agreements with other economic entities (companies).

A bank association shall publish information in official periodicals - the "Uriadoviy kurier" or the "Holos Ukrainy" - on the setting up of a bank association using the form approved by the National Bank of Ukraine, on changes in this association, and on the termination of its activities, as well as consolidated reporting following the scope and format specified by the National Bank of Ukraine.

Participants in a bank association shall be liable for the obligations assumed by other participants under the agreements concluded between them.

A bank association shall be liquidated pursuant to a decision of its participants or upon the initiative of the National Bank of Ukraine following a court order if its activity contradicts antimonopoly

legislation, or poses a threat to the interests of bank depositors or to the stability of the banking system. The liquidation of a bank association shall not terminate the activity of banks – its participants.

Article 10. Bank Corporation

A bank corporation is a legal entity (bank), whose founders and shareholders shall be banks only. A bank corporation shall be set up to concentrate capital of banks participating in the corporation, increase their general liquidity and solvency, as well as to ensure the coordination and supervision over the activities of participating banks.

A bank corporation shall be subject to registration at the National Bank of Ukraine and shall be entered into the State Bank Register. The statutory capital of a bank corporation shall meet the general requirements of the National Bank of Ukraine as to the statutory capital of a newly established commercial bank.

The requirements of the National Bank of Ukraine on granting licenses to bank corporation to perform certain operations shall be established at the level of general requirements to be met by commercial banks, proceeding from the size of consolidated capital.

The founding agreement and statute of the corporation shall include provisions for ensuring the fulfillment by the corporation and its members of financial liabilities and duties as to results of joint activity with the aim of ensuring interests of creditors and depositors.

Banks, which became members of a bank corporation, shall delegate powers to the corporation to perform certain operations and ensure centralization of the performance of certain functions. The following functions shall be subject to centralization within the bank corporation:

- Settlements both among corporation members and beyond its framework.
- Operations on money and capital markets.
- Opening and maintenance of correspondent accounts (in the national and foreign currency).
- Monitoring of credit risks.
- Development and adoption of general rules for banking corporation members and procedures for performing operations and internal reporting.
- Formation of external reporting.
- Internal audit.

The list of centralized functions may be extended upon agreement of banks that are corporation members. The transfer of powers as to centralized performance of the above-mentioned functions from the bank to the bank corporation, shall be registered both in the statutes of corporation member banks and in the statute of the bank corporation itself.

The bank corporation shall perform the functions of a settlement center for corporation member banks, and shall not service clients (households and legal entities, with the exception of banks and other financial institutions) directly. All corporation member banks shall perform their settlements and payments (both in the national, and the foreign currency) exclusively through their correspondent accounts, opened with the National Bank of Ukraine, or directly with the bank corporation.

Banks, which became participants of the bank corporation, shall preserve their legal independence within the limits, specified by their statutes and the statute of the bank corporation. Banks, which became participants of the bank corporation, cannot enter other bank associations, except upon consent of the corporation (an exception is the participation in professional associations, set up on a non-commercial basis). Banks, which became participants of the bank corporation, shall indicate corporation membership in all their documents, concluded agreements, etc.

The name of the bank corporation shall be determined by the group founders ad libitum in compliance with the requirements of the present Law

Article 11. Bank Holding Group

A bank holding group is a bank association, which consists exclusively of banks.

The parent bank of a bank holding group shall own at least 50 percent of the share (stake) capital or votes of each of the other participants of the group that are its subsidiary banks.

A subsidiary bank cannot hold shares of the parent bank. In cases, when the subsidiary bank acquired ownership rights to parent bank shares, it shall alienate them within one month.

Bank holding groups can only be set up under condition that the foundation agreement stipulates the imposing of additional organizational functions on the principal bank of the group with respect to the group member banks, as well as establishment of joint activity management system.

Banking supervision over the activity of the bank holding group shall be carried out on an individual and consolidated basis. The parent bank shall submit consolidated, financial and statistical reports of the group under the present Law requirements.

The parent bank of the bank holding group shall bear responsibility for liabilities of its members within its contribution to the capital of each of them, unless otherwise provided for by agreements between them or by the law.

Article 12. Financial Holding Group

A financial holding group shall consist predominantly or exclusively of institutions that render financial services, including at least one bank. The parent company must be a financial institution.

The parent company shall own more than 50 percent of the share (stake) capital of each financial holding group participants.

The financial holding group parent company shall submit consolidated, financial and statistical reports of the group to supervision bodies under the present Law requirements.

The financial holding group parent company shall have the right, in the course of execution of its activities in respect of management and coordination of activities of the members thereof for enforcement of legislation and regulations of the National Bank of Ukraine, to establish rules that are mandatory for members of the financial holding group.

The financial holding group parent company shall be responsible for obligations of all its members within its contribution to the capital of each of them, unless otherwise provided by the concluded agreement thereof or law.

Article 13. Bank Unions and Associations

In order to protect and represent interests of its members, the development of interregional and international relations, ensure research and information exchange and professional interests, development of recommendations related to banking activities, the banks shall have the right to set up non-profit unions or associations.

Unions or associations shall not have the right to perform banking or entrepreneurial activities, and cannot be established in order to receive profit.

The association (union) of banks is a contractual association of banks, which does not have the right to interfere with the activity of member banks of the association (union).

Part II. Establishment, State Registration, Licensing and Reorganization of Banks

Chapter 2. Establishment of Banks

Article 14. Bank Participants

Resident and non-resident legal entities and individuals, as well as the State in the person of the Cabinet of Ministers of Ukraine or bodies authorized by it can be participants in a bank.

Holders of essential participation in a bank must have an impeccable business reputation and a satisfactory financial position.

Requirements as to business reputation and satisfactory financial position of founders and shareholders (stakeholders) that are going to acquire essential participation in the bank are established by the present Law and regulations of the National Bank of Ukraine.

Legal entities, in which the bank has essential participation, as well as public associations, religious and charity organizations cannot become bank participants.

Article 15. Name of a Bank

A bank shall have a full and abbreviated official name in Ukrainian and in a foreign language. The bank name shall contain the word “bank,” as well as a reference to the organizational and legal form of the bank.

A bank shall have a seal with its full official name.

The word "bank" and its derivative words can only be used in the name of those legal entities that are registered by the National Bank of Ukraine as a bank and have a banking license. An exception is made for international organizations, which operate in the territory of Ukraine in conformity with international agreements, ratified by the Verkhovna Rada of Ukraine and the effective legislation of Ukraine.

It is not allowed to use a bank name, which repeats the name of an existing bank or misleads one as to the types of activity the bank performs. The use of the words "Ukraine", "State", "Central", "National" and derivatives thereof in the name of a bank are possible only upon consent of the National Bank of Ukraine.

The National Bank of Ukraine shall have the right to refuse the usage of the proposed name of the bank due to reasons, set forth in this Article.

A bank subdivision shall only use the name of the bank of which it is a subdivision. The name of the location of this subdivision can be added to the name of the bank structural sub-division.

Article 16. Bank Statute

The statute of a bank shall be drawn up with account of the provisions of the present Law, the Law of Ukraine "On Companies" and other laws of Ukraine.

The bank Statute shall contain the following information:

1) The name of the bank.
2) The location of the bank.
3) The organizational and legal form.
4) Type of operations to be performed by the bank.

5) The size and procedure for formation of the bank statutory capital, type of bank shares, their face value, form of share issuance (documentary or non-documentary), number of shares to be bought by the shareholders.
6) The structure of the bank management, management bodies, their authority and procedure of decision taking.
7) The procedure for the reorganization and liquidation of the bank in accordance with Chapters 5 and 17 of the present Law.
8) The procedure for introducing changes and amendments to the bank statute.
9) The size and procedure for the formation of reserves and other general funds of the bank.
10) The procedure for the profit distribution and covering losses.
11) The provisions on conducting bank audits.
12) The provisions on bank bodies of internal audit.

A decision on the introduction of changes and amendments to the bank statue becomes valid at the moment these changes and amendments are registered by the National Bank of Ukraine.

Registration of changes and amendments to the bank statute shall be performed according to the procedure established by the National Bank of Ukraine.

Chapter 3. State Registration and Licensing of Banks

Article 17. State Registration of Banks

The state registration of banks shall be conducted by the National Bank of Ukraine in accordance with the requirements of the present Law, as well as NBU regulations.

Persons authorized by bank founders shall submit the following documents for State registration to the National Bank of Ukraine:

1) Registration application.
2) Founding Agreement (with the exception of State bank).
3) Bank statute.
4) Decision on bank establishment (minutes of the foundation meeting), or a Resolution of the Cabinet of Ministers on the establishment of a State bank.
5) Business plan identifying types of activity planned for the following year and a strategy of bank's activities for the next three years, in accordance with requirements, established by the National Bank of Ukraine.
6) Information on the financial position of those participants that will hold an essential participation in the bank. In case the bank founder is a legal entity, information should be provided on members of the Board of Directors and holders of essential participation in this legal entity.
7) Accounting, reporting and financial statements for legal entities that will hold an essential participation in the past four reporting periods (quarters), and for individuals that will hold an essential participation - a statement from the State Tax Administration on income for the last reporting period (year).
8) Information on the composition of the Supervisory Council, Board (Board of Directors), and Revision Committee.
9) Copy of the payment document confirming payment of the registration fee established by the National Bank of Ukraine.
10) Notarized copies of founding documents of members, that are legal entities and would hold essential participation in the bank.
11) Copies of a report on the holding of open subscription to shares - for banks established as an open joint stock company.
12) Data on professional skills and business reputation of the bank Chairman and members of the Board (Board of Directors) and the Chief Accountant of the bank.

The National Bank of Ukraine, within one week after the documents for state registration were submitted, shall open a temporary account for the accumulation of subscription fees of the founders and other bank participants.

The decision on state registration or denial of registration shall be taken by the National Bank of Ukraine not later than within three months from the moment the full package of documents, specified in this Article, was submitted.

The National Bank of Ukraine has the right to require corrections to be introduced to the submitted documents.

The registration of banks is performed through a relevant entry in the State Bank Register. After that a bank shall acquire the status of legal entity.

The National Bank of Ukraine shall issue a State Registration Certificate to the bank in the form established thereof.

Article 18. Grounds for the Denial of the State Registration

The National Bank of Ukraine can refuse to register the bank in the following cases:

1) Violation of the bank establishment procedure.
2) Founding documents of the bank fail to comply with the legislation of Ukraine.
3) An incomplete package of documents necessary for the State registration was submitted, or these documents failed to meet the requirements of the present Law or NBU regulations.
4) The National Bank of Ukraine has a proof of the lack of impeccable business reputation or of satisfactory financial position of at least one of the founders that holds essential participation in the bank.
5) Professional skills and business reputation of the Chairman of the executive body and Chief Accountant of the bank, as well as members of the bank executive body, fail to meet requirements of the National Bank of Ukraine.

The National Bank of Ukraine shall inform the bank's authorized persons on incompleteness of the document package and/or inadequacy of professional skills and business reputation of the Chairman of the Board (Board of Directors) and Chief Accountant not later than one month after the day the documents were submitted.

The National Bank of Ukraine shall take a justified decision on the denial to register a bank. A copy of the decision on the denial to register a bank, certified by the National Bank of Ukraine, shall be sent to the bank's authorized person by a recommended letter or submitted with the delivery confirmed by signature.

The denial to register a bank cannot be made on grounds other than those listed in this Article.

Article 19. Banking License

A bank has the right to perform banking activities only upon obtaining a banking license.

Not a single person shall have the right to simultaneously engage in attracting deposits and other funds subject to repayment, extending loans and servicing accounts without a banking license. Persons, culpable of carrying out banking activities without a banking license, shall bear criminal, civil or administrative responsibility in accordance with the legislation of Ukraine.

The banking license shall be issued by the National Bank of Ukraine upon the petition of a bank, provided there are documents confirming the following:

the availability of paid-in and registered subscribed bank capital in the amount, established by the present Law;

the bank has appropriate banking equipment, computers, software, and premises in compliance with NBU requirements;

there are at least three persons, appointed members of the Board (Board of Directors) of the bank, who have an appropriate education and experience necessary to manage the bank.

The National Bank of Ukraine can refuse to issue a license if the bank fails to meet conditions set forth in this Article within one year from the date of the State registration of the bank. In this event the State registration of the bank will be cancelled and the bank liquidated.

The decision to grant or to deny a banking license shall be taken by the National Bank of Ukraine within one month from the day it receives a full package of the documents listed in this Article.

The banking license cannot be transferred to third parties.

Article 20. Grounds for Revocation of Banking License

The National Bank of Ukraine can revoke the banking license exclusively in the following cases:

1) It is revealed that documents, submitted for the receipt of the banking license, contain untrue information.
2) The bank failed to perform a single banking operation during one year from the day the banking license was granted.
3) In case of the violation of the present Law or NBU regulations, which led to a significant loss of assets and insolvency of the bank.
4) On the basis of a conclusion of the provisional administrator on the inability to bring the bank into legal conformity with requirements of the present Law and NBU regulations.
5) The impracticality of implementing the plan of the provisional administration as to the reorganization of the bank.

The National Bank of Ukraine shall immediately inform the bank that its banking license has been revoked. The bank shall, within three days after receiving the corresponding decision, return its banking license to the National Bank of Ukraine.

The bank, on the day of receiving the decision to revoke the banking license on grounds set forth in Item 1, part I of this Article, shall terminate all banking operations and take measures to ensure the fulfillment of its obligations to its depositors and other creditors in compliance with agreements concluded and provisions of the present Law.

The decision of the National Bank of Ukraine to revoke a banking license shall be published in the "Uriadoviy Kuryer" or "Holos Ukrainy" newspapers. The revocation shall be grounds to file an action to the court on the liquidation of the bank.

Article 21. Preliminary Permit for Establishing a Bank with Foreign Capital

In order to establish a bank with foreign capital, its founders shall obtain a preliminary permit from the National Bank of Ukraine. In order for an operating bank to obtain the status of a bank with foreign capital, its Board (Board of Directors) shall obtain a preliminary permit from the National Bank of Ukraine.

In order to obtain a preliminary permit for establishing a bank with foreign capital or for a bank to obtain the status of a bank with foreign capital, the following documents should be submitted to the National Bank of Ukraine:

1) petition for granting a preliminary permit;

2) information on the composition of founders, their business reputation and availability of funds needed for the establishment of such a bank;
3) permit of a foreign controlling body to participate in the establishment of a bank in Ukraine or written assurance of the foreign founder as to the absence in the legislation of his/her country of origin of a requirement to obtain such a permit;
4) information on the underwriter and its business reputation, an agreement with the underwriter in case the bank took a decision to sell bank shares in international markets through underwriting.

The petition shall be considered by the National Bank of Ukraine within one month from the day it was received. The denial of the National Bank of Ukraine to issue a permit should be submitted in writing and with an appropriate explanation.

Article 22. Specific Features of the Registration of Banks with Foreign Capital

Should the bank obtain the status of a bank with the foreign capital, provided that a foreign investor acquires essential participation in the latter, the foreign investor, or upon his/her instruction the share issuing bank, underwriter or any other legal entity or individual that has the power of attorney from the foreign investor, shall submit the following documents for the registration of the latter in addition to the documents listed in Article 17 of the present Law:

1) A notarized copy of the decision, from the place it was issued, of the authorized management body of the foreign investor on participation in a bank in Ukraine.
2) A written consent on participation of the foreign investor in the bank in Ukraine issued by the state or another authorized controlling body of the country, where the head office of the foreign investor is registered, should the legislation of that country require the mentioned consent, or a written assurance from the foreign investor as to the absence of a requirement for a preliminary permit to make investments abroad.
3) A notarized extract from the trade (banking) register, from the place it was issued, or another official document, which confirms the registration of the foreign participant in the country, where the head office of the foreign investor is registered.
4) A notarized copy of the foreign audit firm opinion, from the place it was issued, on the financial position of the foreign investor at the end of the last full calendar year. In case the indicated conclusion is provided by a foreign audit firm, not included in the list of foreign audit organizations, recognized by the National Bank of Ukraine, such a conclusion should be confirmed by a Ukrainian audit organization.

Documents listed in Items 1, 2 (except the written assurance of the foreign investor), 3, and 4 in part I of this Article should be legalized pursuant to the established procedure, unless otherwise provided by international agreements, ratified by the Verkhovna Rada of Ukraine.

In cases a foreign investor is an individual, the following documentation shall be submitted:

1) A written consent for the participation of the foreign investor in a bank in Ukraine, issued by a state or another authorized controlling body of the country, the legislation of which requires such permit; or written assurance of the foreign investor as to the absence of requirements for a preliminary permits for investments abroad in the legislation of the country of residence. The written consent should be legalized at a Consulate of Ukraine, unless otherwise stipulated by an effective international agreement, ratified by the Verkhovna Rada of Ukraine.
2) A form containing, in particular, information that the individual has no previous convictions.

In case the documents indicated in this Article are written in a foreign language, they should be supplemented with a notarized translation into Ukrainian.

The National Bank of Ukraine shall have the right to reject the registration of a bank with essential foreign participation if at least one of the documents, specified in this Article is not available or any of

them is not executed properly. The rejection shall be submitted in writing with the indication of corresponding reasons.

Chapter 4. Branches and Representative Offices of Banks

Article 23. Procedure for Opening Branches and Representative Offices of Banks in the Territory of Ukraine

Branches of banks shall be opened upon the approval of the National Bank of Ukraine on the basis of the following documents:

1) Petition of a bank to open its branch, specifying location and principal activities of the proposed branch.
2) Decision of the bank Supervisory Council of the bank on the opening of a branch.
3) Policy on the branch approved by the Supervisory Council of the bank.
4) Information on the branch manager and chief accountant.

The National Bank of Ukraine shall verify the compliance of premises and equipment of the branch with NBU requirements

The National Bank of Ukraine shall have the right to refuse approval of the establishment of a branch on any of the following grounds:

1) Submitted documents fail to meet requirements of the present Law or NBU regulations
2) The premises and equipment of the branch do not meet requirements of the National Bank of Ukraine as to the safekeeping of valuables (in case a branch intends to work independently with cash and valuables).
3) Proposed candidates for the position of a manager and chief accountant of the branch fail to meet requirements of the present Law as to professional qualifications/adequacy and business reputation.
4) It was revealed that the applicant bank is experiencing financial or legal problems, which indicate possible negative consequences for clients or for potential bank clients as a result of branch opening.

Registration of bank branches shall be performed by the National Bank of Ukraine within one month from the moment of submission of all required documents by entering relevant information in the State Bank Register.

Banks shall submit information to the National Bank of Ukraine on the opening of a representative office, to be entered into the State Bank Register.

Article 24. Procedure for Registration of Foreign Bank Representative Office in Territory of Ukraine

The registration of representative offices of non-resident banks shall be carried out by the National Bank of Ukraine.

The following documents shall be submitted for registration:

1) Application for the registration of a foreign bank representative office signed by an authorized person.
2) Extract from the bank (trade) register or another official document, which confirms the registration of the foreign bank.
3) Policy on the representative office.
4) Power of attorney from the foreign bank to perform representative functions.

The above documents, with the exception of the application for the registration of a foreign bank representative office, shall be notarized at the place of their issuance, and legalized at a Consulate institution of Ukraine unless otherwise provided by an effective international agreement, ratified by the Verkhovna Rada of Ukraine, and must be accompanied by a notarized translation into Ukrainian.

The National Bank of Ukraine can reject the registration of a foreign bank representative office in case of violations of the registration procedure, non-conformity of the submitted documents to the legislation of Ukraine, doubtful information as well as failure to meet registration conditions or exceeded authority in relation to the spheres of activities of the representative office. The denial shall be submitted in writing specifying motives thereof.

Article 25. Subsidiary Banks, Branches and Representative Offices of a Ukrainian Bank in Territory of Other Countries

Ukrainian banks shall have the right to establish subsidiary banks, branches and representative offices in the territory of other countries on the basis of a NBU permit. The same requirements are set forth for opening subsidiary banks, branches and representative offices of Ukrainian banks in the territory of other states as those for opening branches and representative offices of banks in the territory of Ukraine, provided the National Bank of Ukraine grants a permit for investments abroad in connection with the establishment of a branch or a representative office of the bank in the territory of another country.

In order to establish a subsidiary bank, branch or representative office of a Ukrainian bank abroad, this bank shall provide the National Bank of Ukraine with a business plan and economic justification of the expediency for establishing a subsidiary bank, branch or representative office of the bank abroad.

The subsidiary bank, branch or representative office of a Ukrainian bank in the territory of another country shall undergo registration in conformity with the legislation requirements of the respective country.

Within one month the bank must inform the National Bank of Ukraine about the opening of a subsidiary bank, branch or representative office in the territory of another country and provide copies of the relevant documents on their registration..

Chapter 5. Reorganization of a Bank

Article 26. Ways of Bank Reorganization

The reorganization of a bank shall be performed voluntarily upon a decision of its owners, or compulsory upon the decision of the National Bank of Ukraine.

A reorganization can be carried out by a merger, takeover, splitting, separation, and transformation.

Merger means termination of activity of two or more banks as legal entities and transfer of their property, funds, rights and obligations to the successor bank established as a result of the merger.

Takeover means termination of activity of one bank as a legal entity and the transfer of its property, funds, rights and obligations to another bank.

Splitting means termination of activity of one bank as a legal entity and the transfer of its property, funds, rights and obligations, in appropriate portions, to the banks established as a result of the reorganization of this bank through splitting.

Separation means a transformation of a bank as a legal entity and the transfer of a certain portion of its property, funds, rights and obligations to the bank established as a result of reorganization.

Transformation means change of organizational and legal form of an entity.

Article 27. Conditions for Bank Reorganization

The procedure for compulsory reorganization of banks is set forth by the present Law and regulations of the National Bank of Ukraine.

Reorganization upon the decision of bank owners shall be carried out in accordance with the legislation of Ukraine on companies provided a preliminary permit was obtained from the National Bank of Ukraine.

In order to obtain a permit for bank reorganization, an application shall be submitted to the National Bank of Ukraine with the necessary substantiation and calculations, which would demonstrate positive consequences for depositors and other creditors of the bank.

The National Bank of Ukraine shall not give a permit for a bank reorganization in the event there are sufficient grounds to believe, that the reorganization poses a threat to the interests of depositors and other creditors, and the bank, established as a result of the reorganization, will fail to meet requirements regarding economic norms of its activity, bank registration procedure and licensing of their activity.

The National Bank of Ukraine shall grant a permit or issue a rejection for the reorganization of the bank within one month from the moment the application of the bank for reorganization was received.

Compulsory reorganization shall be carried out in case of a significant threat to the bank's solvency.

Article 28. Decision on Reorganization

The decision on reorganization of a bank, with the exception of transformation, shall include the following data on:

1) An agreement on reorganization in case of a merger or takeover.
2) The appointment of commission members to carry out the reorganization.
3) The appointment of members of the Revision Commission to take an inventory, review valuables in the books of the bank (banks).
4) The appointment of an independent auditor that has a NBU certificate
5) The timeframe for reorganization.
6) The composition of the Board (Board of Directions) after the reorganization.

The reorganization shall begin after the National Bank of Ukraine approves the reorganization plan, which, apart from all other necessary measures, should provide for the submission to the National Bank of Ukraine of relevant documents, which are necessary for the state registration of the new bank or for registration of the changes and amendments to the foundation documents of the existing bank.

The bank shall be considered reorganized at the moment the National Bank of Ukraine introduces amendments into the State Bank Register.

In case of compulsory reorganization, decisions stipulated by Items 2-6, part 1 of this Article shall be taken by the National Bank of Ukraine, and the agreement on reorganization shall not be signed. General conditions for reorganization shall be set forth in a Resolution of the NBU Management, and be mandatory for execution by all parties.

Article 29. Agreement on Merger or Takeover

An agreement on merger or takeover shall be concluded in writing by banks being reorganized through merger or takeover.

The agreement on merger or takeover shall contain provisions that regulate issues set forth in Article 28 of the present Law.

The agreement on merger or takeover shall enter into force the moment it has been approved by a 2/3 majority of shareholders (participants) at the general meeting of each bank.

Part III. Capital, Management and Requirements to Activities of Banks

Chapter 6. Capital, Funds and Reserves of a Bank

Article 30. Structure of Bank Capital

Capital of a bank shall include:

1) Main capital.
2) Additional capital.

The main capital of a bank includes paid-in and registered statutory capital and disclosed reserves, which are formed or increased from retained profits, share premiums and additional contributions of shareholders to capital, risk provisioning fund, which is formed for undetermined risk in banking operations, with the exception of losses for the current year and intangible assets. Disclosed reserves also include other funds of the same quality, which should correspond to the following criteria:

1) Payments to the funds should be made from profits after taxation or from profits before taxation, adjusted for all potential tax obligations.
2) The funds and cash inflow and outflow should be separately disclosed in a published statements of the bank.
3) A bank shall have the funds available to cover losses to be instantly used in unlimited amounts if losses are incurred.
4) Losses can not be covered directly from the funds. They should be shown in the income statements.

If approved by the National Bank of Ukraine, the additional capital can include:

1) Undisclosed reserves (except for the fact that such reserves are not shown in the published balance sheet of the bank, they should be of the same quality and nature as disclosed capital reserve).
2) Revaluation reserves (fixed assets and unrealized value of the "hidden" revaluation reserves resulting from long-term holding of securities recorded in the balance sheet at the historic cost of their acquisition);
3) Hybrid (debt/capital) capital instruments, which should meet the following criteria:
   - they are unsecured, subordinated and fully paid;
   - they cannot be repaid on the initiative of the holder;
   - they can freely participate in the covering of losses without demanding that the bank terminates trading transactions;
   - they allow delay in servicing obligations as to interest payments in case the level of profitability does not allow to perform such payments.
4) Subordinated debt (ordinary unsecured debt capital instruments, which under contract conditions may not be withdrawn from the bank earlier than after a 5 year period, and in case of bankruptcy or liquidation shall be returned to investors after reimbursement of claims of all other creditors). In so doing, the amount of such funds, included into capital, may not exceed 50% of main capital with the annual decrease by 20% of its initial value within the last 5 years of the contract.

The National Bank of Ukraine has the right to determine, in the form of its resolutions, other line items of the bank balance sheet to be included into additional capital as well as conditions and a procedure for such inclusion. Additional capital may not exceed 100% of main capital.

Article 31. Statutory capital at Moment of Bank Registration

The minimum size of the bank statutory capital at moment of registration may not be less than, as follows:

1) EURO 1 million - for local cooperative banks;
2) EURO 3 million - for banks that carry out their activity in the territory of one oblast;
3) EURO 5 million - for banks that carry out their activity throughout the territory of Ukraine.

The recalculation of the amount of the statutory capital into UAH shall be carried out at the official foreign exchange rate, established by the National Bank of Ukraine on the day of the signing of the foundation agreement.

Banks shall adjust the size of the statutory capital using the UAH devaluation or revaluation index at the expense and within the limit of bank gross profits or losses according to the methodology established by the National Bank of Ukraine.

The National Bank of Ukraine has the right to establish, at the moment of registration, a differentiated minimum size of the statutory capital for specific banks depending on their specialization. This size shall not be less than the amount specified in this Article.

Article 32. Procedure for Formation of the Statutory Capital of a Bank

The statutory capital of a bank shall be formed in accordance with the requirements of the present Law, the legislation of Ukraine and foundation documents of the bank.

The formation of and increase in the statutory capital may be carried out exclusively through monetary contributions. Monetary contributions for the formation and increase of the statutory capital of a bank by Ukrainian residents shall be provided in Hryvnias, while non-residents provide contributions in hard currency or in Hryvnias.

The statutory capital of the bank shall not be formed from unconfirmed sources.

A bank shall have the right to increase its statutory capital after all participants have fully fulfilled their commitments in respect of payment for their shares or stakes and previously declared subscribed capital has been fully paid.

A bank does not have the right to decrease the size of the regulatory capital lower than the established minimum level without approval of the National Bank of Ukraine. The capital of the bank may not be less than the statutory capital needed to set up a bank..

It is prohibited to use budget funds for the bank capital formation if these funds are earmarked differently.

Article 33. Bank Shares and Stakes

Banks shall issue their own shares and announce subscription to stakes in compliance with the Ukrainian legislation on companies and securities taking into account specific points defined by the present Law.

Banks are not allowed to issue bearer shares.

Existence of losses is not an obstacle for announcing subscription to shares or stake of the bank or increase of the statutory capital of the bank.

Banks shall have the right to purchase their own shares or stakes with further written notification of the National Bank of Ukraine on contracts concluded, which should be sent within 5 days after the date of signing the contract. Banks may not purchase their own shares if this may lead to a decrease in the main or regulatory capital to the level lower than the minimal one.

The bank shall, 15 calendar days prior to the singing of an agreement, notify the National Bank of Ukraine in writing of its intention to acquire 10 and more percent of own shares or stock of the general issue. The National Bank of Ukraine shall have the right to prohibit such purchase of bank's own shares or stock if this may result in a deterioration of the bank's financial condition.

The issuer bank sells its own shares on the primary market directly or through underwriters. The Bank shall be permitted to act as an agent for the purchase and sale of its own shares or stake.

Article 34. Essential Participation

A legal entity or an individual, wishing to acquire an essential participation in a bank or increase it so that this entity or person would directly or indirectly own or control 10%, 25 %, 50% and 75% of the statutory capital or voting rights of bank management bodies, shall obtain a written permission from the National Bank of Ukraine.

To obtain such a permission, the applicant must submit information, specified in NBU regulations, concerning the financial position and business reputation of the future owner of the essential participation of the bank.

The National Bank of Ukraine must approve or reject the application for a permit to purchase or increase essential participation of a bank within one month upon receipt of a complete package of required information. The refusal to grant the permit for the purchase or increase of essential participation in the bank shall be submitted in writing specifying relevant reasons.

The National Bank of Ukraine shall not grant permission for the acquisition or increase of the essential participation in a bank in accordance with part 1 of this Article in the following cases:

1) The person who will acquire the essential participation does not have an impeccable business reputation. If the applicant is a legal entity, this criterion shall cover members of an executive body and Supervisory Council of the legal entity, as well as holders of essential participation that are individuals.
2) The absence of own funds in an amount, sufficient to make the declared contribution.
3) The purchase or increase of essential participation will threaten either interests of depositors and other creditors of the bank, or the development of the competitive environment in the banking system

If a person holds an essential participation in a bank, or increases his/her/its participation in a bank to the level set forth in part 1 of this Article without obtaining the written permission from the National Bank of Ukraine, the latter shall have the right to prohibit direct or indirect, full or partial use by such a person of voting rights of acquired shares (stake) and any participation in the management of bank affairs.

In case there is a prohibition to exercise voting right according to the acquired shares (stakes), the right to participate in the voting shall be transferred to an authorized person, appointed by the National Bank of Ukraine upon the petition of the bank. The authorized person shall, in the process of the voting, be obliged to act in the interests of the qualified and prudential management of the bank.

Decisions of the general meeting of participants that were taken with the use of the voting right of acquired shares (stakes), with respect of which a temporary prohibition of using it is established, shall not have a legal force.

Article 35. Adequacy of Capital

Banks, as well as essential participation holders shall maintain the normative ratio of the regulatory capital to risk-weighted assets - capital adequacy. Banks are obliged to maintain their regulatory capital at a level, which is not less than 8% of risk-weighted assets and off-balance sheet liabilities. For a bank, which starts its operational activity, this norm must be at least 15% within the first 12 months and not less than 12% within the next 12 months. The National Bank of Ukraine also has the right to set a minimum ratio of the regulatory capital to total assets.

A procedure for calculating bank capital adequacy norm and a minimum size of the bank's regulatory capital are determined by the present Law and regulations of the National Bank of Ukraine.

If the level of the regulatory capital of a bank reaches a level lower than the one established by the National Bank of Ukraine, the bank shall be obliged, within one month, beginning with the day the decrease of capital was established, to submit to the National Bank of Ukraine for review an action plan on the procedure and terms of restoring the regulatory capital.

The bank shall be prohibited to pay dividends or distribute capital in any other way, if such payments or distribution will result in a violation of the capital adequacy norm.

Capital of a banks shall not be lower than the minimal statutory capital amount stipulated by Article 31 of this Law.

If in the previous year the bank's activity was unprofitable, the bank shall be allowed to pay the dividends or distribute the capital in any other way within the amount, which does not exceed 50% of the difference between bank capital and the regulatory capital.

Article 36. Reserves and Other Funds of the Bank

Banks shall form a reserve fund to cover possible losses in all asset items and off-balance sheet liabilities.

Payments provided for the reserve fund shall not be less than 5% of the bank's profit until the reserve fund reaches 25% of the bank's regulatory capital.

Should the activity of the bank pose a threat to interests of depositors and other creditors of the bank, the National Bank of Ukraine has the right to require an increase in reserves and annual provisions thereto.

Banks shall form other funds and reserves to cover losses in assets in conformity with NBU regulations.

Chapter 7. Bank Management

Article 37. Bank Management and Controlling Bodies

Bank management bodies are the General Meeting of bank participants, the Supervisory Council and the Board (Board of Directors) of the bank.

The revision commission and internal audit shall be controlling bodies of the bank.

Article 38. General Meeting of Participants

A supreme management body of a bank shall be the General Meeting of participants.

The General Meeting of bank participants shall have the authority to take decisions on the following matters:

1) Definition of basic trends in bank's activities and approval of reports on the implementation thereof.
2) Introduction of amendments to the bank's Statute.
3) Changes in the size of the bank's statutory capital
4) Appointment and dismissal of the Chairmen and members of the bank Supervisory Council and Revision Commission.
5) Approval of annual results of bank activities including its subsidiaries, approval of reports and conclusions of the revision commission and external auditors.
6) Distribution of profits.
7) Termination of bank activities, appointment of a liquidator, approval of the liquidation balance sheet.

The bank's Statute may include other issues within the competence of the General Meeting of participants. Powers, set forth in Items 1-7 of this Article, belong to the exclusive competence of the General Meeting of participants. Other powers of the General Meeting of participants may be delegated to the competence of the bank Supervisory Council.

Article 39. Bank Supervisory Council

The Supervisory Council of the bank shall be elected at the General Meeting of participants from among bank participants or their representatives. Members of the bank Supervisory Council cannot be members of the Board (Board of Directors) or the Revision Commission of the bank.

The Supervisory Council of the bank shall perform the following functions:

1) Appoint and dismiss the Chairman and members of the Board (Board of Directors) of the bank.
2) Control the activity of the Board (Board of Directors) of the bank.
3) Appoint an external auditor.
4) Set forth a procedure for revision and control over financial and economic activity of the bank.
5) Take decisions on covering losses.
6) Take decisions on establishment, reorganization and liquidation of subsidiaries, branches and representative offices of the bank, approve their statutes and regulations.
7) Approve the terms of compensation and incentives for Board members.
8) Prepare proposals on issues to be considered at the General Meeting of participants.
9) Exercise other authorities, delegated by the General Meeting of participants.

Powers and working procedures for the bank Supervisory Council shall be determined by the bank Statute or a Policy on the Board of the bank, approved by the General Meeting of participants.

Article 40. Bank Executive Body

The Board of the bank (Board of Directors) shall be an executive body of a bank. It shall manage everyday activities of the bank, the formation of funds needed for its activities in compliance with the Statute, and be responsible for the efficiency of its work in accordance with principles and procedures established by the bank Statute, decision of the General Meeting of participants and the Supervisory Council.

Within its competence the Board (Board of Directors) acts on behalf of the bank and reports to the General Meeting of participants and the Supervisory Council of the bank

The Board (Board of Directors) of the bank shall act on the basis of a policy approved by the General Meeting of participants or by the Supervisory Council of the bank.

The Chairman of the Board (Board of Directors) shall supervise the work of the executive body and have the right to represent the bank without a power of attorney.

Article 41. Revision Commission

The Revision Commission shall exercise control over financial and business activities of the bank.

The Revision Commission shall:

1) Control adherence of the bank to the legislation of Ukraine and NBU regulations.
2) Review reports of internal and external auditors, and prepare respective proposals for the General Meeting of participants
3) Submit proposals to the General Meeting of participants or the Supervisory Council of the bank on any issues within the competence of the Revision Commission, which concern financial safety and stability and protection of interests of bank clients.

The Revision Commission shall be elected by the General Meeting of participants of the bank from among participants or their representatives. The Revision Commission shall report to the General Meeting of participants of the bank.

Members of the Revision Commission may not be persons employed by the bank.

The Revision Commission shall review financial and business activities of the bank by the instruction of the General Meeting of participants, the Supervisory Council, or upon a request of a participant (participants) who jointly hold over 10% of votes.

The Revision Commission shall be entitled to involve external and internal experts and auditors in revisions and audits.

The Revision Commission shall report on the results of audits and revisions to the General Meeting of participants or the Supervisory Council of the bank. The Revision Commission shall prepare conclusions in respect of reports and bank balance sheets. The General Meeting of participants shall not have the right to approve financial statements of the bank without a conclusion of the Revision Commission.

Members of the Revision Commission may take part, with the right of a deliberative vote, in meetings of the Supervisory Council and the Board (Board of Directors) of the bank..

Meetings of the Revision Commission shall take place as required, at least once a year.

Extraordinary meetings of the Revision Commission may be convened by the Supervisory Council of the bank or upon the initiative of shareholders, who hold over 10 percent of the votes.

Decisions are taken by a majority of votes of Revision Commission members.

Powers of the Revision commission of the bank are defined by the bank Statute, while the procedure of its operations - by a Policy on the Revision Commission, which are approved by the General Meeting of bank participants (shareholders).

Article 42. Requirements for Bank Managers

Managers of a bank shall be the chairman, his deputies and members of the Bank Council, the chairman, his deputies and members of the Board (Board of Directors), chief accountant, his deputy and managers of bank separate structural divisions.

Managers of banks shall be competent individuals who meet the following requirements:

1) Higher education in the field of economics, law or management, as appropriate for the position to be occupied (this requirement does not apply to Supervisory Council members).
2) Banking experience on relevant position, not less than three years (this requirement does not apply to Supervisory Council members).
3) Impeccable business reputation.

The Chairman of the Board (Board of Directors) of the bank and the Chief Accountant shall take office after the National Bank of Ukraine gives its consent in writing

The Chairman of the Board (Board of Directors) of the bank and the Chief Accountant should have previous bank managerial experience.

Article 43. Obligations in Respect to Protection of Bank Interests

Bank managers, in carrying out their duties under the present Law, must act in the best interests of the bank and its clients, and must place the bank's interests before their own.

In particular, bank managers shall be obliged to:

1) Demonstrate appropriate attitude to the fulfillment of their professional duties
2) Make decisions within the authority granted.
3) Not take advantage of their professional status for their personal benefit.

Article 44. Risk Management

The bank shall set up a standing unit of analysis and management of risks, which would be responsible for setting limits in respect to specific operations, risk limits for counterparts, countries of contra parties, and balance sheet structure in accordance with resolutions of the Board (Board of Directors) on the issues of risk policy and profitability of bank operations.

In order to ensure additional measures of risk management, the banks shall create standing committees, in particular:

1) A credit committee, which evaluates the quality of bank assets on a monthly basis and prepares proposals on the formation of reserves for possible losses resulting from their devaluation.
2) An assets and liabilities management committee, which, on a monthly basis, reviews the cost of liabilities and the profitability of assets, and takes decision on interest margin policy, reviews decisions on matching maturity of assets and liabilities, and provides relevant bank units with recommendations on the elimination of arising time differences.
3) A tariff committee, which, on a monthly basis, analyzes a correlation between the cost of services and the competitiveness of existing tariffs, and is responsible for the bank's policy in the are of operational income.

Banks should independently take decisions on setting up bodies of financial risk management in order to ensure favorable financial conditions for the protection of interests of depositors and other creditors.

Article 45. Internal Audit

Banks shall establish an internal audit service, which is a body of operative control of the Supervisory Board of a bank.

(Part 1 of Article 45 with changes made pursuant to the Law of Ukraine of 05.06.2003, N 914-IV)

The internal audit service shall perform the following functions:

1) Supervision of everyday activities of the bank.
2) Control over compliance with laws, regulations of the National Bank of Ukraine and decisions of bank management bodies.
3) Reviews of results of everyday financial activities of the bank.
4) Analysis of information and reports on activities of the bank, on professional activities of its employees, and abuse of authority/responsibilities by bank officials.
5) Development of conclusions and recommendations to the Supervisory Board by the results of audits.

(Point 5 of Part 2 of Article 45 with changes made pursuant to the Law of Ukraine of 05.06.2003, N 914-IV)

6) Other functions associated with supervision and control over activities of the bank.

The internal audit service shall be accountable to the Supervisory Board of the bank and report to them, acting on the basis of the Regulations approved by the Supervisory Board.

(Part 3 of Article 45 with changes made pursuant to the Law of Ukraine of 05.06.2003, N 914-IV)

The internal audit service shall have the right to study all documents of the bank, and supervise the work of any division of the bank. The internal audit service is authorized to require written explanations from specific bank officials in respect to weaknesses revealed in their work.

A candidate for the position of the internal audit manager shall be agreed upon with the National Bank of Ukraine.

The internal audit service shall not be held responsible for and shall not have authority over operations which it audits.

The internal audit service shall be responsible for the scope and accuracy of reports submitted to the Supervisory Board on issues pertaining to its competence, as stipulated by this Law.

(Part 7 of Article 45 with changes made pursuant to the Law of Ukraine of 05.06.2003, N 914-IV)

Internal audit employees, when appointed to their position, shall sign a written commitment not to disclose information on the bank activities and keeping bank secrecy as per Article 10 of this Law.

Article 46. Responsibility to Inform the National Bank of Ukraine

The Board (Board of Directors) of the bank shall, within 3 banking days, be obliged to inform the National Bank of Ukraine on the following:

1) Dismissal of any manager (managers) of the bank and a recommended replacement for this position.
2) Changes in the legal address and location of the bank and its separated structural subdivisions.
3) Losses in the amount that exceeds 15% of the bank's capital.
4) When capital decreases to a level lower then that of the regulatory capital.

5) There is at least one reason for the appointment of a provisional administrator or a liquidator.
6) Termination of banking activities.
7) If a bank manager, an individual holder of essential participation, or a representative of a corporate holder of essential participation are accused of felony.

The National Bank shall have the right to define a another list of information which may important for banking supervision.

Chapter 8. Requirements to Bank Activities

Article 47. Banking Operations

Banks shall have the right to conduct the following operations based on a banking license:

1) To open deposits for legal entities and individuals.
2) To open and maintain current accounts of clients and correspondent banks, including transfer of funds from these accounts by means of payment documents and posting funds to these accounts.
3) To place attracted funds in their own name, under their own terms and at their own risk.

In addition to the above operations listed in part 1 of this Article, a bank has the right to perform the following operations and contracts:

1) Operations with foreign currency.
2) Issuing their own securities.
3) Organization of the purchase and sale of securities upon instruction of clients.
4) Performance of operations on the securities market on their own behalf (including underwriting).
5) Granting guarantees, warranties and other liabilities in favor of third persons that envisage execution in cash.
6) Acquisition of the right to claim the fulfillment of liabilities in the cash form for the delivery of goods and rendering of services, accepting the risk of satisfying these claims and receipt of payments (factoring).
7) Leasing.
8) Responsible safekeeping and renting of safety boxes for storing valuables and documents.
9) Issue, purchase, sale and servicing of checks, veksels and other working payment instruments.
10) Issue of bank payment cards and performance of operations using these cards.
11) Provision of consulting and information services pertaining to banking operations.

Operations, defined in Items 1-3, part 1 of this Article, belong to banking operations exclusively, the aggregate performance of which is permitted only to legal entities possessing a banking license. Other legal entities have the right to effect operations, which are set forth in Items 2-3, part 1 of this Article, on the grounds of the license to perform specific banking operations, while other operations and agreements stipulated by this Article may be conducted in accordance with the procedure set forth by laws of Ukraine.

Banks may also conduct the following operations if they obtain a written permission from the National Bank of Ukraine:

1) Investment into statutory funds and shares of other legal entities.
2) Issuance, circulation, repayment (distribution) of a state and other monetary lotteries;
3) Transportation of currency valuables and collection of funds;
4) Operations, on behalf of clients or on their own behalf:
   - with money market instruments;
   - with instruments based on exchange and interest rates;
   - with financial futures and options.
5) Trust management of funds and securities, under agreements with legal entities and individuals.
6) Depository activity and the maintenance of registers of registered securities holders.

The National Bank of Ukraine shall establish a procedure for granting permission to banks to conduct operations set forth in Items 1-4, part 2 of this Article. Such permission shall be granted if:

1) The bank's regulatory capital meets NBU requirements, which is confirmed by an independent auditor.
2) The bank is not subject to any enforcement actions.
3) The bank has submitted a plan, specifying how such activity will be carried out, and this plan is approved by the National Bank of Ukraine.
4) The National Bank of Ukraine concludes that the bank has sufficient financial capacity and expertise to perform this activity.

The bank shall have the right to implement other agreements in compliance with the Ukrainian legislation.

The National Bank of Ukraine shall have the right to set forth special requirements, including the requirement to raise the level of the regulatory capital of a bank or other economic norms, related to a particular type of activities stipulated in this Article.

Commercial banks shall independently set interest rates and commission fees on their operations.

Article 48. Restrictions of Banking Activities

Banks shall be prohibited from carrying out activities in the sphere of material production, trade (with the exception of the sale of commemorative, jubilee and investment coins) and insurance, but may act as insurance intermediary.

Specialized banks (with the exception of the savings bank) shall be prohibited from attracting deposits from individuals in the amounts exceeding 5% of bank capital.

A bank can own real estate the total value of which does not exceed 25 percent of its capital. This restriction does not include the following:

1) Premises that ensure technological banking functions.
2) Property that was transferred into the bank ownership in realization of pledge holder rights under collateral agreement terms.
3) Property acquired by the bank in order to prevent losses, on condition that the bank should alienate this property within one year from the moment of obtaining ownership rights.

Article 49. Credit Operations

In this Article, credit operations mean operations, listed in Item 3, part 1, and Items 3 – 7, part 2 of Article 47 of the present Law.

Banks can conclude consortium crediting agreements in order to provide joint financing. Within the framework of such an agreement, participating banks determine terms for extending credit and appoint a bank, which is responsible for the implementation of the agreement. Member banks shall bear risks on extended credit proportionally to their contributions to the consortium.

A bank shall have a subdivision, that would have a functions of lending and management of credit-related operations.

Banks shall be prohibited to directly or indirectly extend credit to acquire their own securities. The use of securities of their own emission as collateral shall be possible only with the NBU permission.

During the extension of credits, banks shall adhere to general principles of lending, including evaluation of creditworthiness of borrowers and the availability of collateral, and adhere to requirements concerning risk concentration, established by the National Bank of Ukraine.

A bank can not extend credits at an interest rate which is lower than the interest rate on credits obtained by the bank itself, and the one it pays on deposits. Exceptions are possible only in cases when an operation will not result in losses to the bank.

A bank has the right to extend unsecured loans on condition that economic norms are complied with.

The granting of non-interest bearing credits is prohibited except in cases specified by the law.

In case of untimely repayment of a credit and interest thereon, the bank shall have the right to issue an order on the forced payment of debt obligations, if this is envisaged by the agreement.

Article 50. Direct Investments by Banks

Banks shall carry out direct investments and operations with securities in conformity with laws of Ukraine on securities and investment activity, and in accordance with NBU regulations.

Banks shall have the right to make investments only on the basis of written permission from the National Bank of Ukraine, which is granted in accordance with the rules set forth in Article 47 of the present Law.

A bank shall have the right to make investments without a written NBU permission in the following cases:

1) An investment in any legal entity amounts to not more than 5% of the bank's regulatory capital.
2) A legal entity into which an investment is made is engaged exclusively in activities connected with rendering financial services.
3) The bank's regulatory capital fully complies with NBU regulations on investments.

A procedure for informing on investment, stipulated in part 3 of this Article, shall be established by the National Bank of Ukraine.

It is prohibited for banks to invest funds into an enterprise or institution whose statute stipulates full liability of its owners.

A direct or indirect participation of a bank in the capital of any enterprise or institution shall not exceed 15% of the bank's capital. Total investments of a bank shall not exceed 60% of its own capital.

These restrictions shall not apply to:

1) Shares and other securities acquired by the bank to realize the right of collateral holder and are not held by a bank for more than one year.
2) Shares issued by one bank and acquired by another bank in order to create a financial holding group.
3) Securities owned by the bank for not more than one year, and obtained them as a result of underwriting.
4) Shares and other securities acquired by the bank at the expense and on behalf of its clients.

The requirements set forth in Part 2 and 6 do not apply to the activity of investment banks.

Article 51. Bank Settlement Operations

In order to perform banking activity, banks shall open and service correspondent accounts with the National Bank of Ukraine, other banks in Ukraine and abroad, as well as banking accounts for legal entities and individuals in Hryvnias and foreign currency.

Bank settlements shall be carried out in the cash and "cashless" form in accordance with rules and regulations established by the NBU regulations.

"Cashless" settlements shall be carried out on the basis of settlement documents in paper and electronic form.

As payment instruments, banks in Ukraine may use payment orders, payment requests, requests-order, veksels, checks, banking payment cards and other debit and credit payment instruments, which are used in international banking practice.

Payment instruments should be properly prepared and contain data on the issuer, payment system where they are used, legal grounds for the settlement operation and, as a rule, a holder of the payment instrument and fund recipient, value date, and other information necessary for effecting the settlement by the bank in full conformity with instructions of an account owner or other initiator of the settlement operation stipulated by law.

In the course of the settlement operation, the bank shall check the accuracy and formal adequacy of the document.

Article 52. Agreements with Related Parties

Agreements concluded with related parties of the bank can not provide for more favorable terms than agreements concluded with other persons. Agreements concluded between a bank and related parties, if they contain more favorable conditions, shall be declared invalid by the court since the moment of their conclusion.

For the purposes of this Law, related parties shall be:

1) Bank managers.
2) Holders of essential participation in the bank.
3) Close relatives, spouses, children, parents of any persons, specified in Items 1) and 2).
4) Affiliated persons of the bank, managers and holders of essential participation in such affiliated persons, as well as their close relatives.

Conditions considered more favorable shall be:

1) Acceptance of collateral that is of a lower value, than that required from other clients.
2) Purchase of low-quality property or property at a higher price from a related party.

3) Making an investment into securities of a related party that the bank would not have invested in another institution.
4) Payment for goods or services from a related party at a price higher than usual, or under circumstances when the same goods or services would have never been procured from another party.

A bank can conclude agreements with related parties, which provide for interest rates and commission fees for banking operations, which are lower than usual, and interest rates on deposits, which are higher than usual if the bank's net profit allows this without harming the bank's financial development.

It is prohibited for a bank to extend credit to any person with the purpose of: repaying obligations of this person to a related party of the bank; acquiring assets of a bank's related party; acquiring securities, placed or underwritten by a bank's related party, with the exception of goods manufactured by this person.

By issuing its order, the National Bank of Ukraine can impose restrictions on the amount of agreements with related parties.

Article 53. Ensuring Competition in the Banking System

It is prohibited for banks to conclude agreements to limit competition and monopolize crediting terms, other banking services, and the establishment of interest rates and commission fees.

It is prohibited for the bank to set interest rates and commission fees lower than the cost of services in this bank.

It is prohibited for the bank to take any other actions for the implementation of unfair competition in its practice.

Instances of unfair competition in rendering any banking services or conducting operations shall be grounds for prohibiting this bank from further providing such services or performing operations.

Article 54. Credibility of Advertising

Banks are prohibited from distributing any form of advertising that contains untrue information on their activity in the sphere of banking services.

The National Bank of Ukraine has the right to apply enforcement actions to banks and other persons violating requirements of this Article.

Chapter 9. Bank Relations with Clients

Article 55. Regulation of Bank Relations with Clients

Relations between a bank and its clients are regulated by the legislation of Ukraine, NBU regulations and agreements (contracts) between clients and the bank.

A bank shall make every effort to avoid conflicts of interest of bank employees and clients, and conflicts of interest of bank clients.

Banks are prohibited from demanding that clients acquire any product or service from the bank or from a bank's affiliate or related party as a mandatory condition to render banking services.

Article 56. Right of Clients to Information

A client shall have the right to have access to information on bank's activities. Banks shall provide the following information upon the request of clients:

1) Data, which are subject to mandatory disclosure, on financial indicators of the bank's activities and its economic position.
2) The list of bank managers and its separated subdivisions, as well as legal entities and individuals, which hold an essential participation in the bank.
3) The list of services provided by the bank.
4) The price of banking services.
5) Other information and consultations pertaining to the provision of banking services.

Article 57. Insurance of Individual Deposits

Deposits of individuals in commercial banks shall be guaranteed in accordance with a procedure foreseen by the legislation of Ukraine.

Deposits of individuals in the State Savings Bank shall be guaranteed by the State.

Article 58. Bank's Liability for its Obligations

A bank shall be liable for its obligations with all its assets in accordance with the legislation of Ukraine.

A bank shall not be held responsible for non-fulfillment or untimely fulfillment of its obligations in case of a moratorium to satisfy claims of creditors, suspension of settlement operations, arrest of bank's own funds on its accounts by authorized bodies of the state power.

Bank participants shall be liable for the bank's obligations in accordance with law of Ukraine and the Statute of the bank.

Article 59. Arrest, Suspension of Operations with Accounts and Exaction

Property and other funds of a bank, placed in its accounts, as well as funds and other valuables of legal entities and individuals, placed with a bank, may be arrested only upon an order of the investigator, sanctioned by the prosecutor, or an order of the State executor in cases stipulated by law of Ukraine, or by a court decisions.

Property may be released from arrest only by an order of a body that took a decision to impose arrest or by a court decision.

Disbursement of funds from bank own accounts, as well as disbursement of funds from accounts of legal entities and individuals that are bank clients, may be suspended by state bodies authorized in conformity with the legislation of Ukraine and exclusively in cases stipulated by the laws of Ukraine.

It is prohibited to arrest correspondent accounts of a bank or suspend transactions at these accounts.

Transactions at accounts may be resumed by the body, which took a decision to suspend them, or by a court decision.

Exaction of own funds of a bank, money and other valuables of legal entities and individuals kept in the bank is exercised only in compliance with executive documents stipulated by the laws of Ukraine.

A decision of the court on exaction of funds placed in accounts of legal entities or individuals, the expenditure operations with respect to which were suspended by an authorized body, shall be executed immediately and unconditionally, with the exception of cases when a moratorium is imposed in accordance with this Law.

Chapter 10. Banking Secrecy and Confidentiality of Information

Article 60. Banking Secrecy

Information on activities and financial position of a client, that became known to the bank in the course of servicing the client and maintaining client relations, or to third parties through the rendering of banking services, and the disclosure of which can inflict material or moral damage to the client, shall be banking secrecy.

In particular, banking secrecy include:

1) Information on clients' accounts, including correspondent accounts of banks with the National Bank of Ukraine.
2) Operations effected in favor or upon instructions of a client, and contracts executed by the client.
3) Financial and economic position of clients.
4) Security systems of the bank and clients.
5) Information on organizational and legal structure of corporate clients (legal entities), their managers and areas of activities.
6) Information on client's commercial activities or commercial secrecy, any project, inventions, product samples, and other commercial information.
7) Information on the reporting on a specific bank, with the exception of publicly disclosed information.
8) Codes used by banks to protect information.

Information on banks or clients, which is collected in the process of bank supervision, constitutes banking secrecy.

Provisions of this Article do not cover general information on banks, subject to publication. A list of information subject to mandatory publication shall be defined by the National Bank of Ukraine and additionally by a bank itself upon its discretion.

Article 61. Obligations as to Protecting the Banking Secrecy

Banks shall ensure the protection of banking secrecy by means of:

1) Limiting the number of persons who have access to information that constitutes banking secrecy.
2) Organizing a special handling and processing of documents containing banking secrets.
3) Using technical means to prevent unauthorized access to electronic and other information carriers.
4) Application of precautions aimed at protecting banking secrecy and exercising responsibility for its disclosure in agreements and contracts concluded between the bank and its client.

When hired, bank employees shall sign a commitment to keep banking secrets confidential. Managers and employees of banks shall not disclose confidential information which became known to them during the performance of their official duties, or use it for their own benefit or for the benefit of any third party.

Private individuals or organizations, which, in performing their functions or rendering services to a bank, directly or indirectly obtained confidential information, shall not disclose such information or use it for their own benefit or for the benefit of a third party.

If losses are inflicted on the bank or on its clients due to the leak of information on the bank or its clients from the bodies authorized to exercise banking supervision functions, the bodies guilty of such disclosure shall reimburse these losses.

Article 62. Procedure for Disclosing Banking Secrets

Information on legal entities and individuals, which constitutes banking secrets, shall be disclosed by banks:

1) in response to a letter of inquiry or by written permission of the owner of such information;
2) in response to a written order of the court or by the court decision;
3) to bodies of the Office of Public Prosecutor of Ukraine, the Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, and Antimonopoly Committee of Ukraine – in response to their written request concerning operations on accounts of a particular legal entity or an individual entrepreneur for a specified period of time;

(paragraph 3, Part I, Article 62 with the amendments in compliance with the Law of Ukraine of November 20, 2003, No. 1294-IV)

4) to bodies of the State Tax Service of Ukraine – in response to their written order on issues of taxation or currency control, with regard to operations at accounts of a particular legal entity or an individual entrepreneur for a specified period of time;
5) to the specially authorized executive body on financial monitoring at its written request regarding the fulfillment of financial operations subject to financial monitoring under the legislation on prevention and counteraction of legalization (laundering) of proceeds from crime.

(Part I, Article 62 is supplemented with paragraph 5 in compliance with the Law of Ukraine of November 28, 2002, No. 249-IV)

6) to state executive bodies at their written request on fulfilling the court judgements regarding the state of accounts of a particular legal person or natural person – an individual entrepreneur.

(Part I, Article 62 is supplemented with paragraph 6 in compliance with the Law of Ukraine of May 22, 2003, No. 835-IV)

A request of a relevant state agency for obtaining information which contains banking secrets shall:

1) be presented on a letterhead of the established form of a state body;
2) be signed by a manager (or deputy manager) of a state body and sealed with an official stamp;
3) contain reasons stipulated by this Law to obtain such information;
4) carry references to the provisions of the Law, in accordance with which the state body has the right to obtain such information.

A bank shall issue statements of accounts (deposits) in the event of death of their owners to persons specified by the owner of the account (deposit) in his/her bequest for the bank, to state notary offices or private notaries, and foreign consulate offices on inheritance issues on accounts (deposits) of deceased owners of accounts (deposits).

A bank is prohibited from providing information on clients of another bank, even if their names are mentioned in documents, agreements and operations of the client.

A bank shall have the right to provide general information, which constitutes banking secret, to other banks within the limits required to grant credits and bank guarantees.

Restrictions with regard to obtaining information containing banking secrets, which are stipulated by this article, shall not apply to employees of the National Bank of Ukraine or persons authorized by them, who, within the powers provided by the Law of Ukraine "On the National Bank of Ukraine," perform functions of banking supervision or foreign exchange control.

In accordance with an international treaty, which the Verkhovna Rada of Ukraine agreed to recognize as mandatory, or under the principle of reciprocity, the National Bank of Ukraine has the right to provide information on a bank to a banking supervision agency of another country if:

1) It does not violate state interests and banking secrecy.
2) There are guarantees that the information obtained will be used exclusively for bank supervision purposes.
3) There are guarantees that the information obtained will not be disclosed outside the bank supervision agency.

Provisions of this Article do not apply to the cases when banks inform, in compliance with the legislation, of the dubious operations and of other cases stipulated by the law to the specially authorized executive body on financial monitoring.

(Part 8 of Article 62 with changes made according to Law of Ukraine of 28.11.2002, N 249-I)

Persons found guilty of violating the procedure for disclosing and using banking secrets, shall bear responsibility in accordance with law of Ukraine.

Chapter 11. Prevention and Counteraction of Legalization (Laundering) of the Proceeds from Crime

Article 63. Prevention of Legalization (Laundering) of the Proceeds from Crime

Banks are obliged to develop, implement and regularly renew the rules of internal financial monitoring and the program of its fulfillment taking into account the requirements of the legislation on prevention of legalization (laundering) of the proceeds from crime.

The National Bank of Ukraine when supervising the banks' activities at least once a year conducts checking the banks as to their compliance with the legislation regulating the relations in the sphere of preventing the legalization (laundering) of the proceeds from crime.

Article 64. Obligations as regards the identification of clients

Banks are prohibited to open and keep anonymous (numbered) accounts.

Banks are prohibited to enter into contractual relations with clients - legal or physical persons in case of arising some doubts as regards the authenticity of their names.

In compliance with the law of Ukraine the bank is obliged to identify:

Clients, who open accounts with the bank;

Clients, who fulfil operations subject to financial monitoring;

clients, who perform operations in cash without opening the account for the amount exceeding an equivalent of 50,000 hryvnias;

persons authorized to act on behalf of specified clients.

Accounts for clients will be opened and specified operations will be carried out only after identifying the clients and taking the measures under the legislation regulating relations in the sphere of preventing the legalization (laundering) of the proceeds from crime.

The bank has the right to demand, and the client is obliged to give documents and information required for identification of his/her person, essence of activity and his/her financial status. Should the client fail to present the necessary documents or information or present deliberately untruthful information about himself/ herself, the bank shall refuse to serve the client. If during identification any reasonable suspicions arise as regards presenting by the client the inauthentic information or intentional presenting the information aimed at misleading, the bank is to give information about financial operations of the client to the specially authorized body of executive power in charge of financial monitoring.

For identification of a client – a legal person the bank is to identify physical persons who are the proprietors of this legal person, have direct or indirect influence on it and derive economic benefit from its activity. If a legal entity is an economic company, the bank is to identify physical persons who have majority interest in this legal entity. A client is to give the information stipulated by the legislation, which the bank needs with the purpose of implementing the requirements of legislation regulating relations in the sphere of preventing the legalization (laundering) of the proceeds from crime. Failing such information, the account will not be opened, and if any accounts were opened previously, the bank will refuse to perform services. For identification and taking measures, which are sufficient, in the bank's opinion, to confirm the identity of the client - legal person - and to ensure the possibility for the bank to fulfil the rules of internal financial monitoring and the program of its fulfillment, including the disclosure of doubtful financial operations, the bank has the right to demand the information stipulated by the legislation, as regards the identification of this person and his/ her leaders, from bodies of the state power, who carry out supervision and/or control of the activities of this legal person, banks, other legal persons, as well as to put the measures stipulated by the law into effect as regards collection of such information from other sources. The above mentioned bodies of the state power, banks, other legal persons are obliged within ten working days from the day of receiving the inquiry, to give the following information to the bank free of charge.

For identification of a client – a physical person and taking measures, which are sufficient, in the bank's opinion, to confirm his/ her person, the bank has the right to demand the information concerning identification of this person, from bodies of the state power, banks, other legal persons, as well as to put the measures into effect as regards collecting such information about this person, which is necessary for implementing the rules of internal financial monitoring and programs of its fulfillment, including the disclosure of doubtful financial operations. The above mentioned bodies of the state power, banks, other legal persons are obliged during ten working days from the day of receiving the request, to give the following information to the bank free of charge.

Identification of the bank's client is not obligatory during fulfilling each operation, if the client was previously identified according to the requirements of the legislation regulating relations in the sphere of preventing the legalization (laundering) of the proceeds from crime.

With the availability of the decision of the authorized state body on abolition of state registration of a legal person or state registration of economic entity - a physical person, acknowledgement in accordance with established procedure of a legal person as fictitious, or announcement of a physical person as deceased or missing, the bank will close the account of such person and give urgent information to the specially authorized body of executive power in charge of financial monitoring as regards such account and will not transfer or otherwise use the money on this account until receiving the orders of the above body. Failing during seven working days the above orders or the judgement as regards taking the measures on this money, the bank will decide as regards these matters in compliance with the legislation of Ukraine.

Article 65. Keeping the documents

All documents on fulfillment of financial operations, subject to financial monitoring, and the results of identification of persons, who performed such operations, should be kept by the bank during five years from the day of performing such operations.

Results of identification of the account's holder and the person authorized to act on his/ her behalf, shall be kept by the bank during five years after closing this account".

(Chapter 11 in the wording of the Law of Ukraine of 06.02.2003, N 485-IV)

Part IV. Banking Activity Regulation. Banking Supervision

Chapter 12. Authority of the National Bank of Ukraine as to Banking Activity Regulation and Banking Supervision

Article 66. Forms of Banking Activity Regulation

State regulation of banking activity shall be performed by the National Bank of Ukraine in the following forms:

I. Administrative regulation.

1) Registration of banks and licensing of their activity.
2) Establishment of requirements and limitations for activity of the banks.
3) Enforcement of administrative or financial sanctions.
4) Supervision over activity of banks.
5) Recommendations in respect to activity of the banks.

II. Indicative regulation.

1) Setting the mandatory economic norms.
2) Determination of mandatory reserve norms for banks.
3) Defining deductions to provisions against risks from active banking operations.
4) Defining interest rate policy.
5) Refinancing of banks.
6) Correspondent relations.
7) Management of gold and currency reserves, including currency interventions.
8) Operations with securities in the open market.
9) Import and export of capital.

Article 67. Purpose, Organization, Grounds and Scope of the Supervision

The purpose of banking supervision is to ensure stability of the banking system and to protect interests of depositors and creditors of the bank as to the safekeeping of client funds on banking accounts.

Supervisory activity of the National Bank of Ukraine covers all banks, their subdivisions, affiliated and related parties of banks in the territory of Ukraine and abroad, offices of foreign banks in Ukraine, as well as other legal entities and individuals in their compliance with requirements of this Law as to performing banking activity.

In the course of banking supervision, the National Bank of Ukraine has the right to require that the banks and managers thereof eliminate banking legislation violations, fulfill NBU normative-legal acts to avoid or to overcome undesirable consequences, which could jeopardize the safety of funds, entrusted to these banks or inflict damage on a proper banking activity.

In the course of banking supervision, the National Bank of Ukraine may use the services of other institutions under separate agreements.

In case the banking license is revoked, the National Bank of Ukraine informs relevant bodies of other countries, where this bank had branches or correspondent and other accounts.

The National Bank of Ukraine shall carry out banking supervision on an individual and consolidated basis and apply enforcement measures for violation of the banking activity legislation requirements.

In case the National Bank of Ukraine considers issues of enforcement measures application to a specific bank, the Chairman of the Board (Board of Directors) or Chairman of the Supervisory Council of this bank shall be invited to give explanations. An exception is the cases of appointment of a provisional administrator or revoking of bank license and appointment of a liquidator.

During supervision over the institutions, which carry out banking activity in other countries, the National Bank of Ukraine co-operates with relevant bodies of those countries. Notification sent by the relevant bodies of other countries, can only be used for the following purposes:

To check a license of an institution for carrying out activity.
To check the right for carrying out banking activity.

Chapter 13. Accounting, Reporting and Auditing

Article 68. General Principles of Accounting and Reporting in the Banks

The banks shall organize accounting in accordance with the internal accounting policy, developed on the basis of the rules and regulations established by the NBU in accordance with International Accounting Standards and regulations (standards) of Ukraine.

The accounting shall ensure a timely and full reflection of all the banking operations and provide true information to users on the status of assets and liabilities, financial performance and changes therein.

The financial statements of every bank shall show the results of its activity for the reporting period.

Article 69. Reporting of Banks

A bank is obliged to submit to the National Bank of Ukraine its financial statements and statistical reporting on its activity, operations, liquidity, solvency, profitability as well as the information on its affiliated persons with the aim to assess the bank's financial position.

The National Bank of Ukraine has the right to request consolidated statements from banks.

The National Bank of Ukraine shall establish the following for the banks:

1) Reporting forms and methodology for their preparation.
2) Frequency and time frame for submission of reports.
3) Structure of explanatory notes.
4) Minimum information subject to publication and time limits for its submission.
5) Methods for the preparation of consolidated statements.

The National Bank of Ukraine has the right in certain cases to require the submission of one-time and interim reports.

Each holder of the essential participation in the bank, who is a legal entity, shall submit an annual report to the National Bank of Ukraine within the defined term on its activity. The report should contain the following information:

1) Type of activity carried out by a legal entity.
2) Information. on economic entities, in which this legal entity's participation exceeds 10 percent, in particular: the name and address of the legal entity, size of the stake owned by this person, and type of activity.
3) Balance sheet and income statement of that entity at the end of the last fiscal year.

The National Bank of Ukraine has the right to request the submission of other periodical reports or information from the bank's essential participation holder in order to supervise the security and stability of the bank's financial position and to ensure adherence to the provisions of this Law.

The fiscal year of the bank is a calendar year beginning on January 1st.

Financial statements of banks to be submitted to the National Bank of Ukraine must be audited annually. The audit of a bank is to be performed by an auditor that has a certificate of the National Bank of Ukraine to audit banking institutions.

The auditor's report shall contain the following:
1) Bank balance sheet.
2) Profit and loss account.
3) Statement of movement of capital.
4) Schedule on assets and liabilities maturity.
5) Information on the adequacy of bank reserves and capital.
6) Information on the adequacy of accounting, internal audit and bank's control mechanisms.
7) An opinion whether the submitted financial statements reflect the bank's real financial position.

Article 70. Publication of the Financial Statement

The bank shall publish its quarterly balance sheets and an income statement in "The Uriadoviy kurier" or "Holos Ukrainy" during the month preceding the reporting quarter.

The Bank shall publish its annual financial statements confirmed by auditors before June 1, of the year following the reporting year in the newspapers "The Uriadoviy kurier" or "Holos Ukrainy".

Chapter 14. Bank Inspections

Article 71. Bank Inspections

Every bank shall be subject to on-site inspections by inspectors of the National Bank of Ukraine or by auditors appointed by the National Bank of Ukraine.

Inspections shall be performed with the purpose of identifying the level of safety and stability of the bank's operations, reliability of the bank's reporting and compliance with the Ukrainian legislation on banks and banking, and the National Bank of Ukraine normative-legal acts.

Inspection shall be performed in accordance with the plan, approved by the National Bank of Ukraine. The planned examination shall be conducted not more than once a year. The NBU shall inform the bank about conducting a planned inspection not later than in ten days prior to its beginning. .

Banks shall ensure free access to all the documents and information, observing the rules set in this Article, to the National Bank of Ukraine inspectors and other persons authorised by the latter, and during the on-site examination - the possibility of free access to all the premises during the working hours.

The management of the bank shall appoint a competent official to supply the inspectors with the required documents and explanations, and provide the representatives of the National Bank of Ukraine Banks Supervision Service with an office space for work.

The National Bank of Ukraine can take a decision to perform an extraordinary examination of the bank if sound grounds for doing so exist. Such a decision shall be signed by the National Bank of Ukraine Chairman or by the person, authorised by the Chairman.

When exercising its supervisory authority, the National Bank of Ukraine has the right to obtain from banks, free-of-charge, the information about their activity, as well as explanations on separate issues of the bank's activity.

If the inspection materials contain no data on the breach of the legislation, they cannot be transferred for the verification to third parties.

In the course of inspections of banks, the National Bank of Ukraine has the authority to inspect any reporting of any affiliate of the bank, for the purpose of determining the effect of such relationship on the bank position. For inspection purposes, affiliates shall facilitate the National Bank efforts in line with this Article and in the same manner as applied to the banks, by way of rendering assistance and co-operation as must be provided by banks under this Article.

Article 72. Examinations and Inspections of Persons Subject to the National Bank of Ukraine Supervision

The National Bank of Ukraine has the right to inspect persons subject to bank the National Bank of Ukraine supervision in order to check for the compliance with the legislation on banking activity. In the course of these inspections, the National Bank of Ukraine has the right to demand any information from these persons needed for the inspection. The persons being inspected shall submit to the National Bank of Ukraine the required information within the period of time defined by the National Bank of Ukraine.

The persons that can be subject to inspection by the National Bank of Ukraine include:

1) A holder of an essential participation in a bank, if the National Bank of Ukraine believes, that this person (entity) does not meet the requirements set forth in this Law as for the essential participation holding or negatively effects the bank's financial stability and security.
2) A person who acquired an essential participation without the National Bank of Ukraine written permission.

A person (entity) in respect of which there is information that he/it conducted or conducts banking activity without a license may also be subject to the National Bank of Ukraine inspection.

Article 73. Enforcement Measures

In case a bank or other persons (entities) under the National Bank of Ukraine supervision in compliance with this Law, violate the banking legislation of Ukraine, any normative-legal act of the National Bank of Ukraine, or perform risky operations, which threaten the interests of the bank's depositors or other creditors, the National Bank of Ukraine has the right to use the adequate enforcement measures, including:

1) A written warning requiring the termination of such violations, and adoption of measures to correct the situation; reduction of the bank's expenses; limitation of unwarranted high interest payments on the attracted funds; reduction or alienation of inefficient investment.
2) Convention of the general shareholder meeting, a meeting of the Board (Board of Directors) of the bank to agree on the action plan for a bank's financial rehabilitation or a reorganisation plan
3) A written agreement with the bank under which the bank or the bank-authorised person assumes an obligation to redress violations, improve the financial condition of the bank, etc.:

4) Issuance of the instructions concerning the:

a) Suspension of the payment of dividends or the distribution of the capital in any other form.
b) Imposition of increased individual economic norms;
c) Increase in the loan loss provisions and allowances for other assets
d) Limitation, termination or suspension of some high risk operations performed by the bank;
e) Imposing a ban on the provision of unsecured loans
f) Imposition of fines on:
    Bank directors in amount up to one hundred untaxed minimal incomes of citizens;
    Banks under the Regulations approved by the National Bank of Ukraine Board but not more than 1 percent of the registered statutory fund.
g) Temporary prohibition for the essential participation holder to use of his/her voting rights in case he/she seriously or repeatedly violated requirements of this Law or the National Bank of Ukraine normative-legal acts.
h) Temporary removal of a bank's official from his/her office and prohibition to hold any position in case of serious or repeated violation of requirements of this Law or of the National Bank of Ukraine normative-legal acts.
i) Bank reorganisation
j) Appointment of the provisional administration.

In the event of the violation of this Law or the National Bank of Ukraine regulations that caused a significant loss of assets or income and brought about the insolvency of a bank, the National Bank of Ukraine shall have the right to revoke the bank's license and initiate bank liquidation procedures under the present Law.

If any official person or a holder of an essential participation or a representative of the legal entity, which holds an essential participation, have been accused of committing a crime, but the *corpus delicti* has not been proven, and only a minor infringement on this Law or the National Bank of Ukraine Regulations has been found to occur, or if this person is found guilty of any such criminal offence without an imprisonment, the National Bank of Ukraine has the right to issue an order discharging that person from his/her position with the bank or prohibit the exercise of his/her voting rights in the bank.

A person discharged from office or temporarily stripped of the voting rights in the bank pursuant to the National Bank decision can be acquitted or his voting right renewed only subject to the prior permission of the National Bank of Ukraine.

The resolution of the National Bank of Ukraine on the appointment of a provisional administration is an executive document.

Article 74. Procedure for Enforcement Measures and Sanctions in Case of Violation of the Banking Legislation

Fines shall be imposed on bank management and officials, individuals holding an essential participation pursuant to the procedure envisaged by the Code of Ukraine on Administrative Offences.

The effective laws of Ukraine and regulations of the National Bank of Ukraine determine procedures for application of enforcement measures and the size of financial sanctions applied to banks and other legal entities subject to supervisory activities of the National Bank of Ukraine

Part V. Provisional Administration and Liquidation of Banks

Chapter 16. Provisional Administration

Article 75. Appointment of a Provisional Administration

The National Bank of Ukraine is obliged to appoint a provisional administration in the event of a considerable threat to a bank's solvency.

The National Bank of Ukraine has the right to appoint a provisional administration to a bank in the following cases:

1) Systematic violations by the bank of legal requirements stipulated by the National Bank of Ukraine.
2) Decrease in a bank regulatory capital by 30% within the last 6 month with simultaneous violation of at least one economic norm.
3) Failure to honour a bank within 15 working days at least 10 per cent of its overdue liabilities.
4) Arrest or indictment of bank managers because of criminal actions.
5) Concealing by a bank of accounts, any assets, registers, reports or documents.
6) Unjustified refusal of a bank to provide documents or information related to activities thereof to the authorised representatives of the National Bank of Ukraine.
7) Existence of public conflict in the bank management.
8) The filing of a bank's petition for appointment of a provisional administration.

The provisional administration shall assume its duties immediately after a decision has been on its appointment.

The official appointed by the National Bank of Ukraine shall head the provisional administration.

The provisional administration' term in office cannot exceed one year since its appointment.

The National Bank of Ukraine shall have the right to prolong the mandate of the provisional administration for system-forming banks for the period of up to a year.

Article 76. Requirements to be Met by a Provisional Administrator and Conditions of His/her Appointment

A provisional administration functions are performed by persons appointed by the National Bank of Ukraine..

The provisional administrator there may be:

- a legal entity, which performs professional activity as for provisional administration and liquidation of the bank, rendering of the audit, legal or consulting services and has not less than 3 employees possessing the National Bank of Ukraine certificate granting it the right to exercise the provisional administration of a bank and liquidation of a bank;
- an independent expert (under the contract);
- an employee of the National Bank of Ukraine.

Only the persons, who have the National Bank of Ukraine certificate granting them the right to exercise the provisional administration and liquidation of a bank with high professional and moral qualities, impeccable business reputation, economic or legal education and experience, necessary for fulfilment of the provisional administration function might participate in the provisional administration.

At any moment of time the National Bank of Ukraine has the right to assume control over the provisional administrator's activities, to dismiss the provisional administrator from his position in case the provisional administrator's performance does not comply with the requirements established by this Law.

The provisional administrator's work and work of the specialists, involved by him/her in order to ensure the fulfilment of his/her authorities is paid for every month of work in accordance with the contracts signed with them.

Work of a provisional administrator and of the attracted specialists is paid at the expense of the bank he/she has been appointed to.

Provisional administrator's remuneration should not be lower than the average monthly salary of the Board (Board of Directors) Chairman of this bank for the 12-month period prior to appointment of the provisional administration.

The provisional administrator within the approved cost estimate for provisional administration expenses shall determine the level of compensation of the attracted experts approved by the National Bank of Ukraine.

Additional reward to the provisional administrator and specialists might be established within the cast estimate under the National Bank of Ukraine approval.

A person cannot be appointed the provisional administrator of a bank if he or she is:

1) A creditor, related party or shareholder of the bank.
2) A person who was convicted, and the sentence was not served or cancelled in line with a legal procedure, or who is accused in a criminal case
3) A person who failed to meet obligations to any bank.

In order to reveal the conflict of interests, before being appointed a provisional administrator, the candidate shall convey to the National Bank of Ukraine the information about his personal and business interests, in particular, on:

1) The debt to the bank, labour relations with it or ownership of the property rights of the bank.
2) Relationship, during the previous five years, with any bank as its related party.
3) Failure to meet any obligations concerning any bank during the last five years.
4) Ownership of property competing with the property of the bank.
5) Other interests that can impede unbiased performance of his functions as a provisional administrator.
6) Information proving the absence of conflict of interests with the National Bank of Ukraine.

Before appointing a provisional administrator, the National Bank of Ukraine must ensure that there is no conflict of interests.

In case a conflict of interests arises after a provisional administrator is appointed, he/she must take actions to eliminate the conflict of interests and simultaneously inform thereon the National Bank of Ukraine which is to decide whether the provisional administrator can continue his/her work.

A provisional administrator shall not have the right:

1. To perform his/her functions in case of a conflict of interests, except for the cases when the National Bank of Ukraine is aware of it and allowed him to continue the work.
2. To accept any services, presents and other valuables, directly or indirectly, from persons interested in taking any actions related to the appointment of the provisional administration.
3. To use or allow to use the property that the provisional administrator has the right to control, in his/her interests or in the interests of third parties.
4. To extend promises or commit oneself on behalf of the National Bank of Ukraine without its written authorisation.
5. To disclose the banking secret or other official information, if it is not related to performing the functions of the provisional administrator.

Failure to fulfil or improper fulfilment of the provisional administrator's functions in accordance with this Law, which have inflicted losses to the creditors or the bank might be a ground for termination of his/her duties and deprivation him/her of a certificate on providing of provisional administration and liquidation of a bank.

In case a provisional administrator due to his/her activity or lack thereof inflicted the losses, a bank and/or creditors have a right to file a suit on compensation.

Article 77. Insurance of the Responsibility, Life and Health of the Provisional Administrator

Financial responsibility, life and health of the provisional administrator should be insured in accordance with the contract on provisional administration under the effective legislation of Ukraine.

Article 78. Consequences of the Provisional Administrator Appointment

Starting from the day a provisional administrator is appointed, the powers of the general shareholders' meeting, Supervisory Board and Board (Board of Directors) of the bank are suspended and transferred to the provisional administrator. Contracts, concluded by the bank's managers after appointment of the provisional administration are invalid from the moment of their signing.

Article 79. Notice on Appointment of the Provisional Administrator

Within three days after the provisional administrator is appointed, the National Bank of Ukraine shall publish the information thereon in the newspaper "The Uriadoviy kurier" or "Holos Ukrainy".

The National Bank of Ukraine shall send to the bank's head office and to every territorial sub-division of the bank its decision on appointment of a provisional administration specifying the date, when the provisional administration started.

Article 80. Rights and Responsibilities of the Provisional Administrator

Immediately following his appointment, the provisional administrator shall ensure safekeeping of the bank's assets and documentation as well as assets and documentation of the affiliated persons, where the bank holds more than 50%.

Within one month from the moment of his/her appointment, the provisional administrator is obliged to take the stock of the bank's assets and liabilities and prepare a balance sheet.

From the day the provisional administrator is appointed he/she has a full and exclusive right to manage and control the bank, and to take any actions aimed at restoring the bank to satisfactory financial position of the bank, or if possible, to prepare the bank for sale, reorganisation or liquidation in order to protect the interests of depositors or other creditors.

In particular the provisional administrator has the right:

1) To continue or stop any operations of the bank.
2) To perform any operations on behalf of the bank.
3) To terminate any contracts to which the bank had been a party that are, in the judgement of the provisional administrator, no longer necessary or loss-making to the bank.
4) To bring actions to the court institutions on property rights.
5) To apply to the court institutions for taking a decision according to which a debtor of the bank shall convey information about its assets.
6) To attract to the work on provisional administration any employee, expert, consultant as well as to entrust the managers with taking actions in respect of giving the necessary assistance to the provisional administration. The provisional administrator has the right to remove such persons any time from fulfilment of their duties.
7) To dismiss or reassign any of the bank's managers or employees, or reassign their responsibilities, and change their salaries under the effective legislation of Ukraine.
8) To suspend the bank's capital allocation or payment of dividends in any form.
9) To sell such assets and return such liabilities of the bank as may be necessary to sell or return maintain or increase the solvency of the bank.

~~10)~~ Under the National Bank of Ukraine approval, to arrange for the sale or reorganisation of the bank.

The provisional administrator must receive authorisation from the National Bank of Ukraine to sell the bank's assets whose book value exceeds the level set by the National Bank of Ukraine.

In performing his duties, the provisional administrator in terms of his/her status is equal to the representative of the NBU. Any person who deliberately impedes the provisional administrator's access to the bank, its assets, books, records, or documents shall be held responsible under the legislation. The law enforcement authorities shall assist the provisional administrator in his/her work upon his/her written request.

Article 81. Prevention of Transfer of the Bank Assets before the Provisional Administrator Is Appointed

A provisional administrator can apply to the court with a request to recognise a contract invalid if:

1) any payment or property transaction for the purpose of granting a privilege to an individual creditor of the bank (within 6 months prior to the appointment of the provisional administrator);
2) any transaction with a related party of the bank, if such a transaction does not meet the requirements of current legislation of Ukraine or threatens a bank's depositors or other creditors (within 1 year prior to the appointment of the provisional administrator);
3) any business transaction in which the payment made by the bank substantially exceeded the real value of the goods, services, or other assets received by the bank (within 3 years prior to the appointment of the provisional administrator);
4) any gratuitous transaction performed within 3 years prior to the appointment of the provisional administrator;
5) any action performed with the intention to withhold assets from creditors of the bank, or otherwise to impair their rights, within 3 years prior to the appointment of the provisional administrator;
6) any transaction based on a fraudulent or forged document.

A provisional administrator does not pay the state duty when applying to the court or court of Arbitration.

Article 82. Continuous Provision of Services

A lessor of bank premises or provider of utility services, communication services does not have the right from the provisional administrator's appointment day, to refuse such a service because of the appointment of the provisional administrator or because the bank has failed to pay for such services.

Article 83. Reports of the Provisional Administrator

Within one month from the moment of his/her appointment, a provisional administrator should submit a written preliminary report to the NBU.

The report should reflect the bank's financial position (balance sheet, income statement, disclosure of some balance sheet items), likelihood of the bank's rehabilitation and its value estimates in case of liquidation. The report also must include the following:

1) General information on the bank's compliance with the requirements of this Law, the normative-legal acts of the National Bank of Ukraine and a recommendation in respect of termination of the provisional administration and restoration of the powers of the general meeting of shareholders, Supervisory Council of the bank and the Board (Board of Directors) of the bank.

2) A detailed action plan aimed at the stabilisation of the bank's operations, and bringing the bank to compliance with the requirements stipulated by this Law and the normative-legal acts of the National Bank of Ukraine.
3) A general plan for the sale of the bank, or any part of its assets and property in order to meet the liabilities.
4) Recommendations for reorganisation of the bank or revoking its banking license and liquidation.

The provisional administrator shall submit periodic reports to the National Bank of Ukraine on his/her activity, within the timeframe determined by the National Bank of Ukraine.

Article 84. Decision of the National Bank of Ukraine as to the Provisional Administrator's Reporting

Within two weeks after receipt of the report from the provisional administrator, the National Bank of Ukraine shall make a decision whether to accept the provisional administrator's recommendation for the bank.

In case the National Bank of Ukraine agrees with the provisional administrator's recommendations concerning financial rehabilitation, sale or reorganisation of a bank, the decision is taken to implement the provisional administrator's plan.

The National Bank of Ukraine must revoke the banking license of the bank and effect the liquidation of the bank, if it determines that the bank cannot be brought into the legal and financial compliance with the requirements of this Law and the National Bank of Ukraine regulatory acts within one year. With respect to the systemic banks, the National Bank of Ukraine may prolong this period up to 2 years.

The National Bank of Ukraine has the right to amend the provisional administrator's plan, prior to or during the implementation thereof.

The National Bank of Ukraine also has the right to terminate the plan, revoke the banking license of the bank, and order the liquidation of the bank at any time if it determines that successful implementation of the plan is no longer instrumental to the rehabilitation of a bank..

Article 85. Moratorium

In order to create favourable conditions for the recovery of the bank's financial position, which would be compliant with the established requirements, the National Bank of Ukraine has the right to introduce a moratorium on the creditors' claims satisfaction for the provisional administration period not to exceed 6 months.

A moratorium on the creditors' claims satisfaction shall cover the liabilities, which have fallen due before the appointment of the provisional administration.

While the moratorium is in effect:

1) It is prohibited to perform exaction under the executive and other documents, under which the exaction is performed in accordance with the legislation of Ukraine.
2) The forfeit (fine or penalties), other financial (economic) sanctions for a failure to fulfil or improper fulfilment of the monetary and tax obligations and charges are not accrued.

The moratorium does not apply to servicing of the current operations, performed by the provisional administrator, to the salary or alimony requests, claims for compensation of the damage inflicted on the health and life of individuals, author's fee, as well as covering of the creditors' claims, which have arisen from the bank's liabilities originated during the provisional administration.

After the expiration of the moratorium, the forfeit (interest or penalties) as well as amount of the losses inflicted, that a bank should have paid to the creditors under the monetary and tax obligations, may be claimed in amounts, which existed as of the date, when a moratorium was introduced unless otherwise provided for by this Law.

Article 86. Cessation of Provisional Administration Activities

Provisional administration of a bank ceases if:

1) The completion of the term of the provisional administrator's assignment.
2) The revocation of the banking license of the bank and the decision to appoint a liquidator for the bank.
3) Reorganisation of the bank in accordance with Chapter 5 of the present Law.
4) The removal of the provisional administrator by the National Bank of Ukraine decision.

Chapter 17. Liquidation of Banks

Article 87. Legal Grounds for Liquidation of Banks

A bank can be liquidated:

1) On the basis of the bank's owners' decision
2) Pursuant to the decision of the National Bank of Ukraine / including the one based on the creditors' application.

Liquidation on the initiative of the bank's owners occurs in accordance with the Law on businesses, taking into consideration specific aspects envisaged by this Law and with the consent of the National Bank of Ukraine.

Liquidation of a bank on the NBU initiative is performed in line with this Law and normative-legal acts of the NBU.

The National Bank of Ukraine is obliged within two days after adopting the decision on bank liquidation to inform about it the Fund of guaranteeing the natural persons' deposits.

(Article 87 is supplemented with Part 4 in compliance with the Law of Ukraine of September 20, 2001, No. 2740-III)

In case of juridical appeal of the National Bank's decision on the bank liquidation the National Bank of Ukraine informs about it the Fund of guaranteeing the natural persons' deposits.

(Article 87 is supplemented with Part 5 in compliance with the Law of Ukraine of September 20, 2001, No. 2740-III)

Article 88. Peculiarities of Bank Liquidation in the Event of its Insolvency

The following entities have the right to go to the court with the application on recognizing a bank insolvent and on its liquidation:

1) Bank creditors
2) The National Bank of Ukraine

Persons mentioned in Item 1, Part 1 of this Article, shall send a letter of credence to the National Bank of Ukraine with the application on bank liquidation if there are signs that it is insolvent. To this application they shall attach documentary evidence that the bank has outstanding money obligations to them. If during a month since the filing of the application, these persons failed to obtain a response from the National Bank of Ukraine, they shall have the right to institute court proceedings as to the recognition of the bank as insolvent.

When the court examines the insolvency case, it shall apply the legislation of Ukraine on restoring debtor's solvency or recognizing the debtor bankrupt to the extent that does not contradict the norms of this Law.

In the course of case preparation for the hearing, a judge shall obtain a validated opinion of the National Bank as to the expediency bank liquidation or a decision of the National Bank of Ukraine to revoke the banking license and to appoint a liquidator. The National Bank of Ukraine shall submit one of these documents to the court within a month since receiving the court's inquiry.

The negative opinion of the National Bank of Ukraine as to the practicality of revoking the bank license constitutes the grounds for leaving the application without a consideration.

If the debtor bank is unable to meet its liabilities in keeping with the court ruling on the compulsory exaction during six months and if during this period no agreement is reached as to foregoing debt rescheduling, the National Bank of Ukraine shall revoke the banking license and initiate bank liquidation procedures.

The case on recognizing a bank insolvent pursuant to the application of persons mentioned in Part 1 of the present Article can be initiated only upon the revocation of the banking license.

Following license revocation, no sanation of the insolvent bank shall be allowed.

An agency that initiated the liquidation decision shall appoint a liquidator. The liquidator shall commence his/its activities immediately after the license revocation.

Within a month since the court has accepted the case for examination the court shall make a final decision on the bank liquidation lawsuit. The only issue that shall be taken into consideration by the court in the bank liquidation case shall be he opinion of the National Bank of Ukraine about the practicality of bank liquidation and whether the application of liquidation procedures by the National Bank of Ukraine comply with the requirements of this Law.

In its decision, the court decision shall confirm a candidate liquidator or appoint the liquidator that meets the requirements of the present Law. The conflict of interests the court has learned about may be the only grounds to decline the candidate liquidator appointed by the National Bank of Ukraine.

Examination of the liquidation case in the court shall not suspend the activity of the liquidator appointed by the National Bank of Ukraine. The bank liquidation procedure shall be completed not later than in 3 years since the revocation of the license.

Article 89. Announcement of the Liquidation

Within a three day period from the moment the National Bank of Ukraine or the bank owner has taken a decision to liquidate the bank, a liquidator shall publish the data on opening the liquidation procedure in the newspapers "The Uriadoviy kurier" or "Holos Ukrainy" at the bank's expense.

The information on the liquidation procedures initiation should contain the name and other requisites of the bank under liquidation, the date of the National Bank of Ukraine (or the bank owner's) decision on license revocation or the date of an owner's decision to liquidate a bank and appointment of the liquidator, data about the liquidator.

Within one month, starting from the moment an announcement on liquidation procedure initiation was made, the creditors have the right to present the liquidator with their claims to the bank.

It is not allowed to publish or otherwise disclose the data on the bank's insolvency until the decision on the bank's liquidation is taken.

Persons guilty of divulging this information shall be liable under the effective legislation of Ukraine.

Article 90. Requirements to be Met by the Liquidators and Conditions of the Appointment thereof

A liquidator may be:

1) An individual, who meets the requirements to the provisional administrator set forth in Article 76 of this Law.
2) A legal entity, which performs professional activity as for provisional administration and liquidation of the bank, rendering of the audit, legal or consulting services and has not less than 3 employees possessing the National Bank of Ukraine certificate granting them the right to exercise the provisional administration of a bank and liquidation of a bank.

An individual or a legal entity, who/which performed provisional administrator's functions in the bank shall not be appointed the liquidator of that bank.

Financial responsibility, life and health of the liquidator should be insured in accordance with the legislation of Ukraine, regulations of the National Bank of Ukraine, and the bank liquidation contract under the legislation of Ukraine.

Article 91. Consequences of Appointment of the Liquidator

Starting from the day when decision was made on revoking a license and the appointment of a liquidator:

1) The powers of the general meeting, Supervisory Council, the Board (Board of Directors), and of the provisional administrator, who transfers all the documentation to the liquidator of the bank, shall be terminated.
2) Bank's activity is wound up by completion of the technological cycle of specific operations in case it will assist in maintenance and growth of the liquidation mass.
3) All the bank's monetary obligations and obligations as to the payment of taxes and duties (mandatory payments) are deemed due.
4) The accrual of the interest payments, forfeit (fines or penalties) and of other economic sanctions in respect of all types of the bank's indebtedness is terminated.
5) The data on the bank's financial position is no longer considered to be confidential or constituting a banking secret.
6) Conclusion of the agreements in respect of alienation of the bank's property or its transfer to the third parties is permitted under the procedure, stipulated in this Law.
7) The arrest of the bank's property or other limitations as for this property's disposal is lifted. Imposing of the new arrests or other limitations as for the bankrupt bank's property disposal is not allowed.
8) Any claims in respect of the bank's commitments arising in the course of the liquidation are laid only within the limits of liquidation procedure.

Article 92. Powers of the Liquidator in Implementation of Liquidation Procedures

From the date of his/her appointment, the liquidator shall:

1) Take the bank's property under his/her jurisdiction, adopt measures ensuring the safekeeping thereof.
2) Perform bank property management and administration functions.
3) Perform the stock-taking and appraisal of the bank property in keeping with the effective legislation.
4) Perform functions of the bank management bodies.
5) Head the liquidation committee and form the liquidation mass.
6) Lay claims to the third parties concerning repayment of the bank's accounts receivable, including exaction thereof through court;

7) Have the right to obtain a credit in order to pay severance payments to the employees, who are dismissed due to the bank's liquidation. This credit is repaid with priority in accordance with Article 95 of this Law, from the funds raised through the sale of the bank's property.
8) From the day when the liquidation procedure was commenced the liquidator shall announce the dismissal of the bank's employees and perform it in accordance with the Ukrainian labour legislation.
9) Decline the creditors' claims to the bank in accordance with the prescribed procedure.
10) Announce the refusal to fulfill bank's contracts and their termination them in accordance with procedures, prescribed by this Law.
11) Take actions to locate and recover the bank's property held by third parties.
12) According to the existing procedure, transfer the documents of the bank subject to mandatory safekeeping in accordance with legal and regulatory documents, to the place of safekeeping.
13) Take actions, which, in his/her opinion, will provide an opportunity to get, within the shortest possible period of time, maximum proceeds from the short-notice disposal of the assets.
14) Sell the bank's property in order to cover the claims, which are included into the Register of the creditors' claims.
15) Inform (within a ten day period from the moment an appropriate decision was taken) a state bankruptcy agency about his/her appointment and provide information to be included into the consolidated database on the bankrupt enterprises.
16) Exercise other powers, stipulated by this Law.

From the moment of his appointment, a liquidator shall acquire the rights of manager (management bodies) of the bank. Within 3 days since the appointment of the liquidator, the bank's management bodies shall ensure the transfer of all the accounting and other bank's documentation, seals and stamps, tangible and other assets to the liquidator. In case they seek to evade the fulfilment of the above mentioned duties, the management bodies, including separate managers thereof shall bear responsibility in accordance with the effective legislation of Ukraine.

In performing his duties, the liquidator under his/her status shall be equal to the representative of the National Bank of Ukraine. Any person who deliberately impedes the liquidator's access to the bank, its assets, books, records, or papers are criminally or administratively liable in accordance with legislation. The law enforcement authorities are obliged to assist the liquidator in his/her work upon his/her written request.

Article 93. Preparation Measures to Satisfy Creditors' Claims

After one-month period following publication of the announcement of the liquidation procedure, the liquidator shall stop accepting the creditors' claims.

Within three months from the date indicated in the notification on liquidation, the liquidator shall take the following actions to satisfy the claims by the creditors:

1) Determine the amount of debt payable to each creditor and classify it according to the priority of repayment.
2) Decline the claims in case they are not confirmed
3) in compliance with the requirements of the normative and legal acts of the Fund of guaranteeing the natural persons' deposits he will give to the Fund within twenty working days from the day when deposits become unavailable the complete list of depositors having the right of reimbursement of funds under deposits with determined amount subject to reimbursement;

(Paragraph 3, Part 2, Article 93 in the edition of the Law of Ukraine of September 20, 2001, No. 2740-III)

4) Make the list of the claims accepted by him/her to be approved by the National Bank of Ukraine.
5) Notify the creditors on the acceptance of their claims.
6) Publish an announcement, each week within three weeks, indicating the day and place where the list of claims is available for examination and the date of its submission to the National Bank of Ukraine.

Creditors have a right to send to a liquidator their objections to the claims accepted by him/her within one month after the notification has been received.

The liquidator has the right, with the National Bank of Ukraine approval, to repay the claims to a bank after the priority list is finalised and approved by the National Bank of Ukraine, only in respect of the contracts, which ensure performance of the liquidation procedure.

The liquidator shall, within 2 month period following his/her appointment, inform all clients of the bank, who/which use the custody services that they need to remove their valuables within a 3 month period from the date of the liquidation procedure announcement.

The valuables, which were in custody with the bank and which were not taken by their owners within the indicated time limit are considered to be the funds which shall not be claimed by the bank creditors. These valuables are transferred to the National Bank of Ukraine for return to their legal owners.

Article 94. Appraisal of the Bank's Property

The liquidator in accordance with the procedure stipulated by the Ukrainian legislation shall appraise the property under the liquidation procedure. For the property to be auctioned off, this appraised value is an initial price.

In order to appraise the property the liquidator has the right to involve experts on a contractual basis. Their services are paid for at the expense of the liquidation mass, unless otherwise established by the National Bank of Ukraine.

Article 95. Property Sale

After the stock-taking and the property appraisal, the liquidator shall start the sale of property at the open auction, unless the National Bank of Ukraine establishes a different procedure for its sale.

The liquidator shall announce through the mass media the procedure for the property sale, composition thereof, conditions and timeframe for its acquisition. The procedure shall be agreed upon with the National Bank of Ukraine.

In case there are two or more bids for the purchase of the bank property, the liquidator shall hold a tender (an auction). The tender (auction) procedure is established by the legislation of Ukraine.

The bank's property with controlled circulation is sold at the closed auction. Only persons, who are authorised by law to hold such property or possess other appropriate property rights, may participate in the closed auction.

Assumption of the bank's claims is regulated by civil legislation of Ukraine.

The liquidator has the right to offer for an auction the securities and bank's claims, unless a different procedure of sale (assumption) of the bank's claims is set by the National Bank of Ukraine.

Article 96. Priority of Meeting the Claims to the Bank

Funds, which were received from liquidation procedure, are channelled to meet the creditors' claims in the following sequence:

1) Satisfied in the first place shall be:
   a) collateralised claims;
   b) Deposit Insurance Fund claims that arose in connection with the payment by the Fund of amounts stipulated by the legislation on deposit insurance;

c) severance payment to the dismissed bank employees, including repayment of the credit, obtained for this purpose;

d) expenses related to the liquidator's work, including:

- expenses related to the payment of state duty;
- expenses for the publication of the liquidation announcement;
- expenses for the mass-media publication of information concerning a bank's property sale procedure;
- expenses of the liquidator related to holding and maintenance of the bank's assets;
- audit expenses;
- labor remuneration of the employees who were involved by the liquidator to perform the liquidation.

e) Obligations that emerged due to the impairment of citizens' health and life.

The above mentioned expenses are compensated after realisation of a part of the liquidation mass, unless otherwise stipulated by this Law.

2). Secondly, there are satisfied individual depositors claims, which exceed the amount, stipulated by the individual deposit insurance system, claims arising from the bank's liabilities to its employees, claims related to the damage, committed to the health and life of the individuals.

3). Thirdly, other claims shall be satisfied.

Claims of every following priority are satisfied, when the funds from selling of the bank's property are available, and after the full satisfaction of the previous priority claims.

In case the funds are not sufficient for the full satisfaction of the claims of one priority, the claims are satisfied in proportion to the amount of claims of each creditor in the queue.

In case a creditor refuses to get satisfaction of the legally recognised claim, the liquidator does not consider the amount of this creditor's monetary claim.

Claims, placed after the deadline, shall not be considered and shall be recognised as settled.

Claims, unsatisfied because of lack of property, shall be considered as settled.

In case, when at the moment of the liquidation completion, some of the bank's assets remain unsold and their immediate selling would result in an essential loss of their value, the liquidator shall transfer these assets to administration of the legal entity, defined by the National Bank of Ukraine, which is obliged to take actions, directed at continuation of the creditors' claims' satisfaction at the expense of the received assets.

Property, left after satisfaction of the creditors' claims is transferred to the owners and property of state banks, to the relevant privatisation body for its further sale. Funds, obtained from this property sale are channelled to the State Budget of Ukraine.

Property of cooperative banks remaining after the satisfaction of creditor requirements shall be used under the legislation of Ukraine on the cooperation.

Article 97. Remuneration of Persons Involved in the Liquidation

Payment for the work of persons involved in assisting the liquidator shall be done in accordance with the procedure, established by this Law for the provisional administrator and specialists hired by him/her, and must not be lower than the payment for the work of the bank's employees for rendering similar services taking into account scope and complexity of work.

Article 98. Completion of the Liquidation

The liquidation of the bank shall be considered complete and the bank shall be considered liquidated when the relevant entry has been made to the Register of banks upon approval of the liquidator's report.

Part VI. Challenging the National Bank of Ukraine Decisions

Article 99. Challenging the National Bank of Ukraine Decisions

Bank or other persons under the National Bank of Ukraine authority, have the right, according to the procedure specified by the law, to challenge in court or court of arbitration the decisions or actions of the National Bank of Ukraine or its employee, provisional administrator or liquidator, as well as the actions or inaction of provisional administrators or liquidators.

Decisions on the appointment of the provisional administrator or liquidator can be challenged in the court in the absence of grounds stipulated by this Law.

Filing the complaint shall not terminate the execution of the challenged decisions or actions.

In the course of any judicial case examination, initiated as a result or in connection with the application of this Law against the National Bank of Ukraine or its employee, provisional administrator or liquidator, the provisional administrator, liquidator or expert, appointed to provide assistance to the provisional administrator or liquidator, shall be responsible for damage caused by his activity or inactivity, in accordance with terms of reference or in the course of its fulfilment within the framework of a bank's provisional administration or liquidation, in case such activity or inactivity were intentional.

Damage, caused as a result of provisional administrator's or liquidator's professional mistake, is compensated under the effective legislation of Ukraine, the National Bank of Ukraine regulations, and financial risk insurance contracts

Challenges or subsequent claims or some other challenge-related judicial review shall not terminate the provisional administration process, bank liquidation or other challenged measures and decisions.

Part VII. Final Provisions

1. The present Law shall come into effect since the date of its publication.

The National Bank of Ukraine shall have the right to set transitional terms for the fulfillment of norms provided for by this Law. If this allows banks to comply with the requirements of this Law, these terms shall not exceed general deadlines envisaged by the present Law requirements.

Banks created during the period prior the effectiveness date of this Law shall, within two years, bring their activities in compliance with this Law.

Within a year since effectiveness date of the present Law, the National Bank of Ukraine shall re-issue licenses to banks in line with the classification of operations provided for by this Law.

Provisions of the present Law shall apply to bank creation procedures, the granting of a license to perform bank operations initiated and not completed prior to the entry into effect of this Law.

A bank liquidation procedure initiated before effectiveness date of the present Law shall be completed pursuant to the rules set by this Law and normative-legal acts of the National Bank of Ukraine adopted in accordance with this Law.

2. Before legislation is brought in compliance with this Law, laws and other normative-legal acts shall be applied to the extent that does not contradict this Law.

3. Within six month since the publication of this Law, the Cabinet of Ministers of Ukraine and the National Bank of Ukraine shall:

- Prepare and submit to the Verkhovna Rada of Ukraine their proposals in respect of bringing laws of Ukraine in compliance with this Law;
- Bring their normative-legal acts in compliance with this Law;
- Ensure the adoption of regulations needed for the implementation of this Law;
- Ensure that the ministries and other central executive power bodies bring their normative-legal acts in compliance with this Law.

4. The following documents shall be declared null and void:

The Law of Ukraine "On the banks and banking" (Vidomosti Verkhovnoi Rady URSR, 1991, No 25 p. 281; Vidomosti Verkhovnoi Rady Ukrainy, 1992 p., #20, p. 276, # 47, p. 644, # 48, p. 656; 1993, # 10, p. 76, # 11, p. 83, # 19, p. 209,# 24, p. 272, # 26, p. 277, # 29, p. 307, p. 308; 1994, # 12, p. 60, # 27, p. 222; 1995, # 14, p. 90, p. 93, # 21, p. 154; 1996, # 3, p. 11, # 7, p. 28; 1997, # 3, p. 7, # 4, p.24, # 8, p. 63; 1998, # 10, p. 36, # 14, p. 61, # 26, p. 149; 1999, # 37, p. 334; 2000, # 35, p. 282;

Item 11, Part I of the Law of Ukraine "On Amending Individual; Legislative Acts of Ukraine in Connection with the Adoption of the Laws of Ukraine "On the State Civil Executive Service" and "On the Enforcement Procedures" of October 19, 2000, # 2056-III;

Article 62 of the Law of Ukraine "On the National Bank of Ukraine" (Vidomosti Verkhovnoi Rady Ukrainy, 1999, # 29, p. 238; 2000, # 42, p. 351);

Resolution of the Verkhovna Rada of Ukraine "On the Procedure to Enact the Law of Ukraine "On Banks and Banking" (Vidomosti Verkhovnoi Rady URSR, 1991, # 25, p. 282; Vidomosti Verkhovnoi Rady Ukrainy, 1994, # 52, p. 467).

18. *Law on Securities and Stock Market*

Not an Official Translation
Consult the original text before relying on this translation.

Law of Ukraine
On Securities and the Stock Market

This Law shall regulate the relations that arise during placement and circulation of securities and conduct of professional activities in the stock market, in order to ensure transparency and effectiveness of the stock market functioning.

Section I
GENERAL PROVISIONS

Article 1. Definition of Terms

1. Terms shall be used in the Law in the following meaning:

- securities issue – a set of issuable securities of a certain kind of the same issuer, same nominal value, same form of issue and same international identification number that grant to their owners same rights, regardless of the time of purchasing and placement in the stock market;
- delisting – a procedure of excluding securities from the register of a trade organizer for failure to meet the trade organizer rules, followed by termination of trading on the trade organizer or moving them to the category of securities admitted for trading without including them into the trade organizer's register;
- issuance – a law-established sequence of the issuer's actions with regard to issue and placement of issuable securities;
- endorsement – the signature on an order security that certifies the transfer of rights under the security to another person/entity;

- endorser – an individual or legal entity which is the owner of the security and which endorses;
- quoting – a mechanism of determining and/or fixing the market value of a security;
- listing – a set of procedures to include securities into a trade organizer register and to ensure the securities and the issuer meeting the terms and requirements set forth in the trade organizer rules;
- international identification number of securities – a number (code) permitting to identify securities or other financial instruments, which assignment is envisaged by Ukrainian laws;
- securities circulation – execution of transactions relating to transfer of ownership rights to securities and rights under securities, except for agreements concluded at the time of securities placement;
- primary owner – a person/entity which obtained ownership of securities directly from the issuer (or the person/entity which issued the securities) or the underwriter during placement of securities;
- securities prospectus – a document that contains information on open (public) securities placement;
- securities placement – alienation of securities by the issuer or the underwriter by way of conclusion of a civil and legal agreement with a primary owner;
- financial instruments – securities, futures contracts, cash instruments, forward contracts, interest rate swaps, currency swaps or index swaps, options that grant the right to purchase or sell any of the above financial instruments, including cash instruments (currency options and interest rate options).

Article 2. Stock Market

1. Stock market (securities market) shall be a totality of stock market participants and their legal relations with regard to the placement, transference and record keeping of securities and derivatives.
2. Stock market participants shall be issuers, investors, self-regulatory organizations and professional stock market participants.
An issuer shall be a legal entity, the Autonomous Republic of Crimea or municipalities, as well as the State in the person of GOU-authorized bodies of State power that, on its behalf, places issuable securities and undertakes obligations thereunder to their owners. Investors in securities shall be physical persons and legal entities, resident and nonresident, which have acquired ownership rights to securities for the purpose of getting a return on the invested funds and/or on the acquired rights assigned to securities' owners under legislation. Institutional investors shall be collective investment institutions (unit and corporate investment funds), investment funds, mutual funds of investment companies, non-State pension funds, insurance companies, and other financial institutions that perform transactions with financial assets in the interest of third parties at own cost or at the cost of said persons, and, in cases envisaged by legislation, at the cost of financial assets of other persons for the purpose of making a return or preserving the real value of said financial assets.
A self-regulatory organization of professional stock market participants shall be a non-forprofit association of professional stock market participants engaged in professional activities on the stock market in securities trading, asset management of institutional investor assets, depositary activities (registrar and custodian activities), created according to the criteria and requirements set by Securities and Stock Market State Commission.
Professional stock market participants shall be legal entities that, on the basis of licenses issued by Securities and Stock Market State Commission, carry out professional stock market activities, whose types are defined by this Law.
3. The stock market shall be divided into primary and secondary market. The primary market of securities shall be a totality of legal relations related to securities placement. The secondary market of securities shall be a totality of legal relations related to the circulation of securities.

Article 3. Securities and Their Classification

1. Securities shall be documents of the established form with relevant requisites that testify to the money and other property rights, determine interrelationships between the entity that has placed (issued) them and the owner and envisage carrying out obligations under the terms of their placement, and to the possibility of transfer to other persons of rights following from said documents.
2. According to the terms of placement (issue), securities shall be divided into issuable and non-issuable securities.

Issuable securities shall be securities that testify to equal rights of their owners within one issue with regard the person that undertakes respective obligations (issuer).
Issuable securities shall include:
- shares;
- corporate bonds;
- municipal bonds;
- government bonds of Ukraine;
- mortgage certificates;
- mortgage bonds;
- certificates of Funds of Real Estate Operations (hereinafter, FREO certificates);
- investment certificates; and
- treasury bills of Ukraine.

Securities that do not fall under the definition of issuable securities under this Law may be recognized as such by Securities and Stock Market State Commission if this does not conflict with special laws on these groups and/or types of securities.
3. By the form of existence securities shall fall into documentary and non-documentary.
4. According to the form of issue securities may be bearer, registered or order.
Rights certified by a security shall belong to the following:

- bearer of the security (bearer security);
- person indicated in the security (registered security); or
- person indicated in the security, which can independently exercise these rights or appoint by its instruction (order) another authorized person (order security).

5. In Ukraine the following groups of securities shall be in civil circulation:
1) Equity securities shall be securities, which testify to participation of their owners in the statutory capital (except for investment certificates) that entitle their owners to participate in the issuer governance and receive a portion of profit in the form of dividends, and a portion of property in case
of the issuer's liquidation. The following securities shall refer to equity securities:

- shares;
- investment certificates

2) Debt securities shall be securities that testify to the relations of borrowing and envisage the issuer's obligation to pay funds at a definite time in accordance with the obligation. The following securities shall refer to debt securities:

- corporate bonds;
- government bonds of Ukraine;
- municipal bonds;
- treasury bills of Ukraine;
- savings (deposit) certificates;
- promissory notes

3) Mortgage securities shall be securities with a mortgage coverage (pool of mortgages), which testify to the right of their owners to receive from the issuer their due funds. The following securities shall refer to mortgage securities:

- mortgage bonds;
- mortgage certificates;
- mortgage letters (zastavni);
- FREO certificates.

4) Privatization securities shall be securities, which testify to the right of their owners to obtain free of charge a share of state enterprises, state housing stock and land resources in the process of privatization.
5) Derivatives shall be securities, whose framework of issue and circulation is linked with the right to purchase or sell securities, other financial and/or commodity resources within the term established by an agreement.
6) Securities of title to goods shall be securities, which entitle their holder to dispose of goods specified in these documents.

Article 4. Transfer of Rights under Securities

1. All rights certified by a security shall transfer to the person who acquired ownership of the security.

A restriction on circulation of and/or exercise of rights under securities may be set forth only in cases and according to the procedure envisaged by law.
2. In order to transfer to another person the rights certified by a bearer security, it shall be enough to hand the security over to this person.
3. Rights certified by a registered security shall be transferred according to the procedure established by the laws of Ukraine.
4. Rights certified with an order security shall be transferred by way of endorsement. The endorser shall be responsible for the availability and exercise of this right.
Under an endorsement, all rights certified with a security shall transfer to the person to whom these rights are transferred (endorsee). The endorsement may be in the blank form (without indicating the person with regard to whom obligations shall be performed) or in the order form (with the indication of such a person).
5. Specific features of record keeping and transfer of ownership rights to securities shall be established by the legislation.

Article 5. Performance of Obligations under a Security

1. A person, who placed (issued) a security, and persons, who endorsed it, shall bear joint liability to its lawful owner. Should a claim be satisfied of the lawful owner of an order security with regard to performance of an obligation certified by this security by one or several persons of those who have such obligations, persons who endorsed this security shall acquire the right of recourse with regard to other persons, who have obligations under the security.
2. Refusal to perform obligations certified by a security for lack of grounds for the obligation or for its invalidity shall be prohibited.

Section II
TYPES OF SECURITIES

Article 6. Shares

1. A share shall be a registered security that certifies property rights of its owner (shareholder) that relate to the joint stock company, including the right to receive a portion of profit of the joint stock company in the form of dividends and the right to receive a portion of property of the joint stock company in case of its liquidation, the right to manage the joint stock company as well as non-property rights envisaged by the Civil Code of Ukraine and the law that regulates establishment, operation and termination of joint stock companies.
2. An issuer of shares shall be only a joint stock company. The procedure for making a decision by the relevant body of the joint stock company with regard to placement of shares shall be established by the law that regulates establishment, operation and termination of joint stock companies.
3. A share shall have a nominal value set in the national currency. Minimal nominal value of a share may not be less than one kopeck.
4. A joint stock company shall place only registered shares.
A share certificate shall indicate the security type, the name and location of the joint stock company, the series and number of the certificate, the number and date of issue, the international identification number of the security, the type and nominal value of the share, the name of the owner, the number of shares issued.
5. A joint stock company shall place shares of two types — common and preferred.
6. Common shares shall grant to their owners the right to receive a portion of the joint stock company's profit in the form of dividends, to participate in management of the joint stock company, to receive a portion of property of the joint stock company in case of its liquidation and other rights as envisaged by the law that regulates establishment, operation and termination of joint stock companies. Common shares shall grant equal rights to their owners.
Common shares shall not be convertible into preferred shares or other securities of a joint stock company.
7. Preferred shares shall grant to their owners preemptive rights versus owners of common shares to receive a portion of the joint stock company's profit in the form of dividends and to receive a portion of property of the joint stock company in case of its liquidation as well as the right to participate in governance of the joint stock company in cases envisaged by the charter and the law that regulates establishment, operation and termination of joint stock companies.

8. A joint stock company shall place preferred shares of different classes (with a different scope of rights) if envisaged by its charter. In this case, terms of their placement shall define the succession of receiving dividends and payments from property of the liquidated company per each class of preferred shares placed by the joint stock company and shall be set forth in the company's charter. Depending on the terms of placement, preferred shares of certain classes may be convertible into common shares or preferred shares of other classes. The percentage of preferred shares in the statutory capital of a joint stock company may not exceed 25%.
9. Registration of a share issue shall be conducted by the Securities and Stock Market State Commission according to the procedure set by the Commission. Shares circulation shall be allowed after registration of a report on the results of shares placement and issue of a registration certificate of shares issue by the Securities and Stock Market State Commission.
10. Specifics of issuance, circulation and redemption of corporate investment fund's shares shall be defined by legislation.

Article 7. Bonds

1. A bond shall be a security that certifies a contribution of cash by its owner, determines the relations of borrowing between the bondholder and the issuer, confirms the issuer's obligation to return to the bondholder the nominal value of the bond, within the period envisaged by the terms of placement, and to pay return on the bond, unless otherwise envisaged by the terms of placement.
2. Bonds shall be placed in a documentary or non-documentary form.
3. An issuer may place according to the procedure established by Securities and Stock Market State Commission interest bearing, special purpose and discount bonds. Interest bearing bonds shall be bonds that provide for payment of interest income. Special purpose bonds shall be bonds, obligations under which may be met with goods and/or services in compliance with the requirements established by the terms of placement of such obligations.
Discount bonds shall be bonds that are placed at a price that is lower than their nominal value. The difference between the purchase price and the nominal value of a bond shall be payable to the bondholder at bond repayment and shall represent return (discount) on the bond.
4. Bonds may be placed with a fixed maturity, same for the whole issue. Early redemption of bonds on the request of their holders shall be permitted if this is envisaged by the terms of bond placement that determine the procedure of setting the price of the early redemption and the time period within which bonds may be presented for early redemption.
5. Bonds may be redeemed by cash or property, depending on the terms of the bond placement.
6. A bond shall have a nominal value, set in the national currency and, if envisaged by the terms of the bond placement, in foreign currency. Minimal nominal value of a bond may not be less than one kopeck.
7. The issuer may place registered bonds and bearer bonds. Bonds circulation shall be allowed after registration by Securities and Stock Market State Commission of a report about results of bonds placement and issuance of a registration certificate of bonds issue.
8. A bond certificate shall indicate the security type, the name and location of the issuer, the international identification number of the security, the nominal value of the bond, the total amount of the issue, the maturity, the amount and terms of interest payment (for interest bearing bonds), the date when the decision on bond placement was made, the series and number of the bond certificate, the signature of the issuer's manager or other authorized person, certified with the issuer's stamp
Additional features of bond certificate may be established by Securities and Stock Market State Commission.
A registered bond certificate shall indicate the name of the holder.
A coupon (coupon sheet) shall be attached to a certificate of bearer interest bearing bonds. The coupon (coupon sheet) shall indicate the series and number of the certificate of the bond on which interest is payable, the name and location of the issuer, and the period of interest payment. A series number shall be indicated on each coupon (coupon sheet).
9. Bonds shall be sold for national currency and, if envisaged by the law and the terms of placement, for foreign currency.

Article 8. Corporate Bonds

1. Corporate bonds shall be placed by legal entities only after their statutory capital has been paid in full. Corporate bonds shall confirm the issuer's obligations thereunder and shall not grant the right to participate in governance of the issuer.
2. Corporate bonds shall not be placed for the purpose of formation and replenishment of the issuing company statutory capital and to cover the operating losses by recording proceeds from sale of bonds as a result of current business activities.
3. A legal entity shall have the right to place bonds for the amount that does not exceed the amount of three-fold equity capital or the amount of the guarantee that is provided to it by third parties for this purpose.
4. The placement terms of bonds that are placed by a joint-stock company may provide for their conversion into shares of joint stock company (convertible bonds).
5. A decision on corporate bonds placement shall be made by the relevant management body of the issuer in accordance with the provisions of the laws that regulate the procedure of establishment, operation and termination of legal entities of a relevant organizational and legal form.
6. Registration of a corporate bond issue shall be conducted by Securities and Stock Market State Commission according to the procedure set by the Commission.

Article 9. Municipal Bonds

1. Municipal bonds shall include internal and external municipal bonds. A decision on placement of municipal bonds shall be made by the Verkhovna Rada of the Autonomous Republic of Crimea or a municipal council, in accordance with the requirements set by the budget legislation.
2. Registration of an issue of municipal bonds shall be conducted by Securities and Stock Market State Commission according to the procedure set by it.
3. Specific features of repayment of and exercise of rights under municipal bonds shall be defined in the terms of placement thereof.

Article 10. Government Bonds of Ukraine

1. Government bonds of Ukraine may be:
- long-term – over 5 years;
- medium-term – from 1 to 5 years; and
- short-term – up to 1 year.

2. Government bonds of Ukraine shall be divided into bonds of internal government borrowings of Ukraine, bonds of external government borrowings of Ukraine and special purpose bonds of internal government borrowings of Ukraine.
3. Bonds of internal government borrowings of Ukraine shall be government securities that are placed solely in the internal stock market and certify Ukraine's obligations to repay to the holders of these bonds the nominal value thereof and income, according to the terms of bond placement.
4. Special-purpose bonds of internal government borrowings of Ukraine shall be bonds of internal government borrowings, whose issuance is the source of financing the deficit of the government budget within the amount envisaged for this purpose by the Law "On the State Budget of Ukraine" for the relevant year and within the ultimate amount of government debt.
The major feature of special-purpose bonds of internal government borrowings of Ukraine shall be identification of the direction for the use of funds raised as a result of placement of such bonds, as envisaged by the Law "On the State Budget of Ukraine" for the relevant year.
Funds raised to the State Budget of Ukraine as a result of placement of special-purpose bonds of internal government borrowings of Ukraine shall be used solely to finance government or regional programs and projects on a pay-back basis within the scope envisaged by the Law "On the State Budget of Ukraine" for the relevant year. Financing shall be in compliance with the loan agreements concluded between the State, represented by the Ministry of Finance of Ukraine, and the recipient of funds. The terms of loan agreements shall correspond to the terms of issue of special-purpose bonds of internal government borrowings of Ukraine, with a mandatory indication of the date of servicing and repaying the loan as 5 days before the date of servicing and repaying special-purpose bonds of internal government borrowings of Ukraine.

5. Bonds of external government borrowings of Ukraine shall be government debt securities that are placed in the international stock markets and testify to Ukraine's obligations to repay to the holders of such bonds their nominal value and return, according to the terms of bond issue.
6. Issuance of government bonds of Ukraine shall be a part of the budgetary process and shall not be regulated by Securities and Stock Market State Commission.
7. Issuance of government bonds of Ukraine shall be regulated by the Law "On the State Budget of Ukraine" for the relevant year, which shall set the ultimate amounts of the government external and internal debt.
A decision to place bonds of external and internal government borrowings of Ukraine and the terms of issue thereof shall be made in accordance with the Budget Code of Ukraine. Government bonds of Ukraine shall be placed in case of observance, at the end of the year, of the ultimate amounts of the government external and internal debt, as envisaged by the Verkhovna Rada of Ukraine in the Law "On the State Budget of Ukraine" for the relevant year.
8. The terms of placement and repayment of bonds of internal government borrowings of Ukraine and special-purpose bonds of internal government borrowings of Ukraine that are not envisaged by the terms of placement shall be set by the Ministry of Finance of Ukraine in accordance with the law.
9. The National Bank of Ukraine shall carry out operations on servicing the government debt in connection with placement of bonds of internal government borrowings and special-purpose bonds of internal government borrowings of Ukraine, repayment thereof and payment of return thereon as well as depository activities with regard thereto. The procedure of carrying out operations related to placement of these bonds shall be set by the National Bank of Ukraine with approval of the Ministry of Finance of Ukraine. Specific features of carrying out depository activities with regard to government bonds of Ukraine shall be set by Securities and Stock Market State Commission together with the National Bank of Ukraine.
10. Bonds of external government borrowings of Ukraine shall be placed, serviced and repaid by the Ministry of Finance of Ukraine, which may engage in this activity banks, investment companies, etc. The relations between the Ministry of Finance of Ukraine and these organizations shall be regulated by relevant agreements.
11. Expenses on preparation for placement as well as placement and repayment of government bonds of Ukraine and payment of return thereon shall be covered in accordance with the terms of the government bonds of Ukraine placement at the cost of the funds envisaged in the State Budget of Ukraine for such purposes.
12. Government bonds of Ukraine may be registered or bearer. Government bonds of Ukraine shall be placed in a documentary or non-documentary form.
13. Bonds of internal government borrowings shall be sold for national currency, and bonds of external government borrowings shall be sold for currency of their nomination.
14. Return shall be payable and government bonds of Ukraine shall be repaid in cash or with government bonds of Ukraine of other types, as agreed upon by the parties.

Article 11. Treasury Bills of Ukraine

1. A treasury bill of Ukraine shall be a government security that is placed solely on a voluntary basis among individuals, that testifies to the debt of the State Budget of Ukraine to the holder of the treasury bill of Ukraine, grants to the holders the right to receive cash income and is repayable according to the terms of placement of treasury bills of Ukraine.
The amount of issue of treasury bills of Ukraine together with the amount of issue of bonds of internal government borrowings of Ukraine may not exceed the ultimate amount of internal government debt and the amount of expenses associated with servicing of government debt, as determined by the Law "On the State Budget of Ukraine" for the relevant year.
Issuance of treasury bills of Ukraine shall be a part of the budgetary process and shall not be regulated by Securities and Stock Market State Commission.
Repayment of and payment of return on treasury bills of Ukraine shall be guaranteed with
the revenue of the State Budget of Ukraine.
2. Treasury bills of Ukraine may be:

- long-term – over 5 years;
- medium-term – from 1 to 5 years; and
- short-term – up to 1 year.

3. The issuer of treasury bills of Ukraine shall be the State, represented by the Ministry of Finance of Ukraine by instruction of the Cabinet of Ministers of Ukraine.
4. Treasury bills of Ukraine may be registered and bearer.
Treasury bills of Ukraine shall be placed in a documentary or non-documentary form. In case of placement of treasury bills of Ukraine in a documentary form, a certificate is issued.
A certificate of treasury bill of Ukraine shall indicate the security type, the name and location of the issuer, the amount of payment, the date of payment of cash return, the date of repayment, the venue of repayment, the date and venue of issue of the treasury bill of Ukraine, the series and number of the certificate of the treasury bill of Ukraine, the signature of the issuer's managers or other authorized person, certified with the issuer's stamp. A certificate of a registered treasury bill of Ukraine shall also indicate the holder's name.
Specific features of repayment of and exercise of rights under treasury bills of Ukraine shall be determined by the terms of placement thereof.
5. Decisions on placement of treasury bills of Ukraine shall be made in accordance with the Budget Code of Ukraine. The decision shall identify the terms of placement and repayment of treasury bills of Ukraine.
6. The terms of placement of treasury bills of Ukraine may provide for repayment thereof by way of reducing liabilities of the holder of the treasury bill of Ukraine to the State Budget of Ukraine by the value of this bill.
7. The procedure for determining the sale price of treasury bills of Ukraine at the time of placement thereof shall be set by the Ministry of Finance of Ukraine.
8. Specific features of depository activities with treasury bills of Ukraine shall be determined by Securities and Stock Market State Commission together with the National Bank of Ukraine.

Article 12. Investment Certificates

1. An investment certificate shall be a security that is placed by an investment fund, an investment company, an asset management company of a unit investment fund and testifies to the investor's ownership right to a stake in an investment fund, a mutual fund of an investment company, and a unit investment fund.
2. An issuer of investment certificates shall be an investment fund, an investment company or an asset management company of a unit investment fund.
3. The number of declared investment certificates of a unit investment find shall be indicated in the securities prospectus.
The period of placement of investment certificates of an open-end and interval unit investment funds shall not be limited.
4. Investment certificates may grant to their holders the right to receive income in the form of dividends. Dividends on investment certificates of an open-end and interval unit investment funds shall not be accruable or payable.
5. Placement of derivative securities, whose underlying asset is the right to receive investment certificates, shall not be allowed.
6. Specific features of issuance, placement, circulation, record-keeping and redemption of investment certificates shall be determined by respective legislation.

Article 13. Savings (Deposit) Certificates

1. A savings (deposit) certificate shall be a security that certifies the amount of deposit with a bank and the rights of the depositor (certificate owner) to receive, after the end of a definite period, the deposited amount and interest, indicated in the certificate, from the issuer bank.
2. Savings (deposit) certificates shall be placed for a definite period (at interest envisaged by the terms of placement). Savings (deposit) certificates may be registered or bearer. Registered savings (deposit) certificates shall be placed in a non-documentary form and bearer ones – in a documentary form.
3. A savings (deposit) certificate in a documentary form shall indicate the security type, the name and location of the issuer bank, the series and number of the certificate, the date of issue, the deposited amount, the interest rate, the period of deposit, the signature of the bank's manager or other authorized person, certified with the bank's signature.
4. A savings (deposit) certificate shall be ceded by way of concluding an agreement between the person who cedes rights under the certificate and the person who obtains these rights.
8. Specific features of depository activities with treasury bills of Ukraine shall be determined by Securities and Stock Market State Commission together with the National Bank of Ukraine.

Article 12. Investment Certificates

1. An investment certificate shall be a security that is placed by an investment fund, an investment company, an asset management company of a unit investment fund and testifies to the investor's ownership right to a stake in an investment fund, a mutual fund of an investment company, and a unit investment fund.
2. An issuer of investment certificates shall be an investment fund, an investment company or an asset management company of a unit investment fund.
3. The number of declared investment certificates of a unit investment find shall be indicated in the securities prospectus.
The period of placement of investment certificates of an open-end and interval unit investment funds shall not be limited.
4. Investment certificates may grant to their holders the right to receive income in the form of dividends. Dividends on investment certificates of an open-end and interval unit investment funds shall not be accruable or payable.
5. Placement of derivative securities, whose underlying asset is the right to receive investment certificates, shall not be allowed.
6. Specific features of issuance, placement, circulation, record-keeping and redemption of investment certificates shall be determined by respective legislation.

Article 13. Savings (Deposit) Certificates

1. A savings (deposit) certificate shall be a security that certifies the amount of deposit with a bank and the rights of the depositor (certificate owner) to receive, after the end of a definite period, the deposited amount and interest, indicated in the certificate, from the issuer bank.
2. Savings (deposit) certificates shall be placed for a definite period (at interest envisaged by the terms of placement). Savings (deposit) certificates may be registered or bearer. Registered savings (deposit) certificates shall be placed in a non-documentary form and bearer ones – in a documentary form.
3. A savings (deposit) certificate in a documentary form shall indicate the security type, the name and location of the issuer bank, the series and number of the certificate, the date of issue, the deposited amount, the interest rate, the period of deposit, the signature of the bank's manager or other authorized person, certified with the bank's signature.
4. A savings (deposit) certificate shall be ceded by way of concluding an agreement between the person who cedes rights under the certificate and the person who obtains these rights.
5. Income on savings (deposit) certificates shall be payable at the time they are presented to the bank that placed these certificates.
In case of early presentation of a savings (deposit) certificate, the bank shall repay the deposited amount and interest (on deposit, at request), unless the terms of the certificate issue provide for other interest rate.

Article 14. Promissory Note

1. A promissory note shall be a security that testifies to an absolute pecuniary obligation of the maker or his order to a third party to pay, after the maturity, a definite amount to the owner of the promissory note (note holder).
2. Promissory notes may be common or transfer, and shall exist exceptionally in a documentary form.
3. Specific features of issuance and circulation of promissory notes, operations with promissory notes, repayment of obligations under promissory notes and enforce payment under promissory notes shall be determined by the law.

Article 15. Mortgage Securities, Privatization Securities, Derivative Securities and Securities of Title to Goods

1. Specific features of issuance, circulation and record-keeping of mortgage letters, mortgage certificates, mortgage bonds, FREO certificates, privatization securities, derivatives, securities of title to goods and the procedure for information disclosure regarding them shall be determined by legislation.

Section III

PROFESSIONAL STOCK MARKET ACTIVITIES

Article 16. Types of Professional Stock Market Activities

1. Professional stock market activities shall be activities of legal entities on provision of financial and other services with regard to placement and circulation of securities, keeping records of rights under securities, management of institutional investors assets in compliance with the requirements set to such activities by the present Law and other laws.
It shall not be allowed to combine professional stock market activities with other types of professional activities, except for banking activities, unless otherwise envisaged by the law.
2. In the stock market, the following types of professional activities shall be conducted:

- activities on securities trading;
- activities on management of assets of institutional investors;
- depository activities; and
- activities on organization of trading in the stock market.

3. Professional stock market activities shall be conducted solely on the basis of a license issued by Securities and Stock Market State Commission. The list of documents necessary to receive a license, the procedure for its issuance and termination shall be established by the Securities and Stock Market State Commission.
4. Professional activity of stock market participants, except for depositaries and stock exchanges, shall be conducted on condition of membership in at least one self-regulatory organization (SRO).

Article 17. Activities on Securities Trading

1. Professional activities on securities trading in the stock market shall be conducted by securities traders – business associations for which operations with securities are an exclusive type of activities, and also by banks.
Professional activities on securities trading shall include:
- brokerage;
- dealing;
- underwriting; and
- securities management.

A securities trader may conduct dealing activities if it has the statutory capital, paid in cash, of at least 120,000 hryvnyas, brokerage activities and activities on securities management – if it has at least 300,000 hryvnyas, and activities on underwriting – if it has at least 600,000 hryvnyas.
The stake of another trader in the statutory capital of a securities trader may not exceed 10%.
A securities trader shall be prohibited from re-selling (exchanging) securities issued by it.
2. Brokerage shall be conclusion by a securities trader of civil and legal agreements (in particular commission agreement and agency agreement) with regard to securities on his own behalf (on behalf of another person), on the instruction and for the account of another person.
The securities trader may become the security or guarantor to the third parties with regard to meeting the obligations under the contracts that concluded on behalf of clients of such a trader, for which the trader receives fee specified in the agreement of a securities trader with a client.
3. Dealing shall be conclusion by a securities trader of civil and legal agreements with regard to securities on his own behalf and for his own account with an objective of reselling them, except in cases envisaged by the law.
4. Underwriting shall be placement (subscription, sale) of securities by a securities trader on the instruction, on behalf and for the account of the issuer. In case of public securities placement, an underwriter may undertaking an obligation, as agreed upon by the issuer, to guarantee sale of all or a portion of securities of the issuer to be placed. If a securities issue is publicly placed not in full, the underwriter may redeem unsold securities fully or partially at a fixed price indicated in the agreement on the basis of commercial representation according to the undertaken obligations.
In order to organize public securities placement, underwriters may conclude between themselves an agreement on joint activities.
5. Securities management shall be activities conducted by a securities trader on his own behalf for a fee during a definite period on the basis of an agreement on management of entrusted securities and cash funds intended for investment in securities as well as securities and funds owned by management initiator

(settlor) and obtained in the process of such management, in the interests in this settlor or third parties determined by him/her. A securities trader shall have the right to conclude agreements on securities management with natural persons and legal entities. The agreement value on securities management with one client that is a natural person shall amount at least 100 minimum wages. The essential terms of an agreement on securities management shall be set by law and as
agreed by parties. A securities trader shall not conclude an agreement on securities management with an asset management company.
A securities trader shall manage securities according to the requirements of the Civil Code of Ukraine, the present Law, other laws, and regulations of Securities and Stock Market State Commission.
6. An agency agreement, a commission agreement or an agreement on securities management shall be concluded with a securities trader in writing. The rights and obligations of a securities trader with regard to his client, the terms of conclusion of agreements regarding securities, the procedure of reporting by the trader to the client as well as the procedure and terms of paying a fee to the trader shall be determined in the agreement concluded between them.
A securities trader shall perform orders of clients under agency agreements, commission agreements and agreements on securities management on the most client-friendly conditions. Orders of clients shall be performed by a securities trader on the first-come first-served basis, unless otherwise envisaged by the agreement or order of the clients.
Should a securities trader conclude agreements for his own account simultaneously with conclusion by him of agreements for the client's account execution of agreements for a client shall be a priority.
7. A securities trader shall keep records of securities and cash separately per each client and separately from his own securities, cash and property, according to the requirements set by Securities and Stock Market State Commission by approval of the Ministry of Finance of Ukraine and, in cases set by the law, also of the National Bank of Ukraine. Cash and securities of clients entrusted to securities traders may not be forfeited with regard to securities traders' liabilities, which are not connected with trader's execution of manager functions.
In order to conduct activities on securities management, a client's money shall be deposited on a separate current bank account of the securities trader separately from the securities trader own funds and other clients' funds according to the terms of the securities management agreement. A securities trader shall report to the clients about the use of their cash funds.
A securities trader shall have the right to use the clients' cash if envisaged by the agreement on securities management. An agreement on securities management may provide for division of profit from use of the client's cash, received by the securities trader, between the parties.
A securities trader shall be bound to submit the information about all his securities transactions to the selected stock exchange within the terms and according to the procedure established by the stock exchange regulations.
8. The following shall not be deemed professional activities on securities trading:
- placement by the issuer of its own securities;
- redemption by the issuer of its own securities;
- making settlements with promissory notes and/or mortgage letters by legal entities and physical persons entrepreneurs;
- purchase and sale (swap) of securities by legal entities on the basis of commission agreements or agency agreements through a securities trader licensed to conduct brokerage activities, as well as on the basis of agreements of sale and purchase, or exchange concluded directly with the securities trader.
- securities contribution to the statutory capital of legal entities.
9. The following operations may be carried out without participation of a securities trader:
- gift and inheritance of securities;
- operations related to execution of court decisions; and
- purchase of shares according to the privatization law.
10. Specific features of conclusion of agreements related to transfer of ownership right to shares issued by banks shall be determined by the law.

Article 18. Activities on Management of Assets of Institutional Investors

1. Activities on management of assets of institutional investors shall be professional activities of a stock market participant – an asset management company, which it conducts for a fee on its own behalf or on the basis of the relevant agreement on management of assets owned by institutional investors.

2. Activities on management of assets of institutional investors shall be regulated by a special legislation.

Article 19. Depository Activities

1. Depository activities shall be conducted by stock market participants according to the law on the Depository System of Ukraine.

Article 20. Activities of Trade Organizers in the Stock Market

1. Activities on organization of trading in the stock market shall be activities of a professional stock market participant (trade organizer) on creation of organizational, technological, informational, legal and other conditions for collection and dissemination of information on ask and bid prices, conduct of regular trades in financial instruments according to established rules, centralized conclusion and performance of agreements with regard to financial instruments, including clearing and settlements on them and resolution of disputes between members of the trade organizer.
2. Trade organizers shall be stock exchanges that comply with requirements of the present law.
In order to perform their activities stock exchanges shall maintain an equity capital not less than 3 Mio hryvnyas, and for stock exchanges that conduct clearing and settlements – not less than 6 Mio hryvnyas.

Article 21. Establishment of a Stock Exchange and Rights of Its Members

1. A stock exchange shall be established and operate in the organizational and legal form of a company (except for full partnership, limited partnership and additional liability company) or a subsidiary of an association of securities traders and conducts its activities according to the Civil Code of Ukraine and laws that regulate establishment, operation and termination of legal entities, taking into account specific features determined by the present Law.
A stock exchange profit shall be directed for its development and is not a subject for distribution between its founders (members).
2. A stock exchange shall be established by at least 20 founders – securities traders that are licensed to conduct professional stock market activities or an association thereof that unites at least 20 securities traders. A share of one securities trader may not exceed 5% of the stock exchange statutory capital.
3. A stock exchange shall obtain a status of a legal entity from the moment of state registration. A state registration of a stock exchange shall be conducted according to the procedure established by the Law of Ukraine "About State Registration of Legal Entities and Natural Persons-Entrepreneurs". A stock exchange shall have the right to conduct activities on organization of trading in the stock market from the moment of receiving a license from Securities and Stock Market State Commission.
Only legal entities that were created and operate in compliance with the requirements of the present Law shall be allowed to use the word "stock exchange" and its derivatives.
4. Activities of a stock exchange as a trade organizer shall be temporarily suspended by Securities and Stock Market State Commission if the number of its members is less than 20 and if a stock exchange is established in the form of a subsidiary of an association of securities traders, when the number of members of such association is less than 20. If within 6 months no new members joined, the stock exchange's activities shall be terminated.
5. Members of a stock exchange may be solely securities traders that are licensed to conduct professional stock market activities and undertook an obligation to meet all rules, regulations and standards of the stock exchange.
In case of termination of a securities trader's license to conduct professional stock market activities its membership in the stock exchange shall be temporary suspended till it renews the license or submits a letter to the stock exchange to exclude him from the stock exchange membership. Other grounds for termination or suspension of membership in a stock exchange shall be determined by its rules.
Membership in a stock exchange shall be terminated in case of termination of the license to conduct professional stock market activities issued to the securities trader.
6. All members of a stock exchange shall have equal rights with regard to organization of activities of the stock exchange as a trade organizer.

Article 22. Stock Exchange Charter

1. The charter of a stock exchange shall be approved by the highest body of the stock exchange.
2. The charter of a stock exchange shall indicate the name and location of the stock exchange, the procedure for management and creation of its bodies and their authorities, the objective of activities, grounds and procedure for termination of operation of the stock exchange, and division of property of the stock exchange in case of its liquidation.

Article 23. Requirements to a Stock Exchange

1. A stock exchange shall disclose and submit to Securities and Stock Market State Commission information on the following:
- the list of securities traders admitted to conclusion of agreements on securities sale and purchase on the stock exchange;
- the list of listed securities;
- the volume of trading in securities (the number of securities, the total value of concluded transactions, the price of securities per each issuer separately) for the period set by Securities and Stock Market State Commission.
2. Securities and Stock Market State Commission shall determine the procedure and forms of submission of information indicated in Part 1 of the present Article and shall control the disclosure of information by stock exchanges.

Article 24. Organization of Trading on a Stock Exchange

1. A stock exchange shall create organizational conditions for conclusion of securities transactions by way of quoting of securities on the basis of data on ask and bid received from the participants of stock exchange trades.
Stock exchange members and other persons, as envisaged by the law, shall be entitled to participate in stock exchange trades.
2. Stock exchange trades shall be conducted according to the stock exchange rules, which shall be approved by the stock exchange board and registered by Securities and Stock Market State Commission.

Article 25. Stock Exchange Rules

1. Stock exchange rules shall include procedure for the following:
- organization and conduct of stock exchange trades;
- listing and delisting of securities;
- admittance of the stock exchange members and other persons, as envisaged by the law, to stock exchange trades;
- quoting of securities and disclosure of their stock exchange price;
- disclosure of information on activities of the stock exchange and making this information public;
- resolution of disputes between the stock exchange members and other persons, which are entitled to participate in stock exchange trades according to the law; and
- control over observance by the stock exchange members and other persons, which are entitled to participate in stock exchange trades according to the law and the stock exchange rules;
- imposing sanctions for violation of stock exchange rules.

Article 26. Combining Certain Types of Professional Stock Market Activities

1. Combining certain types of professional stock market activities shall not be allowed, except in cases envisaged by the present Law and other legal acts that regulate the procedure for conducting specific types of professional stock market activities.
2. Trade organizers shall not conduct types of professional stock market activities other than activities on organization of trades in the stock market, unless otherwise provided by law.
Trade organizers may execute clearing and settlement operations under the agreements with regard to derivatives concluded on such trade organizer.
3. Activities of a securities trader may be combined with activities of a securities custodian. Should a securities custodian be licensed to conduct activities on maintenance of registries of registered securities

owners, the custodian shall be prohibited from carrying out any operations with securities the registry of the owners of which it maintains, except for operations of the registrar under the agreement with the issuer.
4. Activities on maintenance of registries of registered securities owners shall be an exclusive type of activities, which may be combined with activities of a securities custodian and a securities trader (taking into account the requirements of Part 3 of the present Article) as well as with activities of an asset management company in cases envisaged by law.
5. Combining activities on management of assets of institutional investors with other types of professional stock market activities shall be prohibited, except for activities on maintenance of registries of registered securities owners of collective investment institutions in cases envisaged by law.

Article 27. Requirements to Professional Stock Market Participants

1. Licensing requirements, including those to the amount of the statutory capital and owners' equity, the procedure to determine it, liquidity, qualification requirements to specialists of a professional stock market participant, the essential terms of agreements concluded in the process of professional stock market activities, other requirements and indicators that limit risks of professional stock market activities shall be set by the present Law, other laws of Ukraine that regulate specific types of professional stock market activities, and regulations of Securities and Stock Market State Commission.

Section IV
ISSUANCE OF SECURITIES IN CASE OF OPEN (PUBLIC) AND CLOSED (PRIVATE) PLACEMENT

Article 28. Stages of Issuance of Securities in Case of Open (Public) and Closed (Private) Placement

1. Public (open) securities placement shall be their alienation on the basis of publicizing in mass media or advertising in some other way information about securities sale addressed to an indefinite number of persons.
In case of open (public) placement of securities among a circle of persons, which was not defined in advance, the issuance shall have the following stages:
1) making a decision on open (public) securities placement by the issuer's authorized body;
2) in case of refusal of the shares owner to use his preemptive right to purchase shares, if this envisaged by the terms of open (public) securities placement, receiving a written confirmation of refusal from him;
3) submission of the application and all the documents necessary for registration of securities issue and securities prospectus;
4) registration of the securities issue and the securities prospectus with Securities and Stock Market State Commission;
5) if necessary, making a decision on involving an underwriter for securities placement;
6) assigning an international identification number to securities;
7) concluding an agreement with a depository regarding servicing of the securities issue or with a registrar regarding maintenance of the registry of registered securities owners, except when the issuer independently keeps records of rights under securities, in accordance with the law, or in case of bearer securities;
8) manufacturing of securities certificates in case of documentary securities;
9) disclosure of the information contained in the securities prospectus;
10) open (public) securities placement;
11) approval of the securities placement results by the issuer's body authorized to make such decision;
12) approval of amendments to the charter with regard to increase of the statutory capital of a joint-stock company taking into account the shares placement results;
13) registration of amendments to the charter with the state registration authorities;
14) submission of the report on the results of open (public) securities placement;
15) registration of the report on the results of open (public) securities placement by Securities and Stock Market State Commission;
16) receiving a certificate on registration of the securities issue;
17) disclosure of the information contained in the report on the results of open (public) securities placement.
2. Private (closed) securities placement shall be securities placement by means of direct securities proposal to a predetermined circle of persons.

In case of closed (private) securities placement among a predetermined circle of persons the issuance shall have the following stages:
1) making a decision on closed (private) securities placement by the issuer's authorized body;
2) in case of refusal of the share owner to use his preemptive right to purchase shares, if this envisaged by the terms of closed (private) securities placement, receiving a written confirmation of refusal from him;
3) submission of the application and all the documents necessary for registration of securities issue;
4) registration of the securities issue with Securities and Stock market State Commission;
5) assigning an international identification number to securities;
6) concluding an agreement with a depository regarding servicing of the securities issue or with a registrar regarding maintenance of the registry of registered securities owners, except when the issuer independently keeps records of rights under securities, in accordance with the law, or in case of bearer securities;
7) manufacturing of securities certificates in case of documentary securities;
8) closed (private) securities placement;
9) approval of the securities placement results by the issuer's body authorized to make such decision;
10) approval of amendments to the charter related to increase of the statutory capital of a joint-stock company taking into account the shares placement results;
11) registration of amendments to the charter with the state registration authorities;
12) submission to Securities and Stock Market State Commission of the report on the results of closed (private) securities placement;
13) registration of the report on the results of closed (private) securities placement by Securities and Stock Market State Commission;
14) receiving a registration certificate of securities issue.
3. Per each securities placement, the issuer shall make a decision, which shall be formalized with a protocol. The requirements to the content of the protocol shall be set by Securities and Stock Market State Commission. The issuer shall have no right to change the decision on securities placement with regard to the scope of rights under securities, the terms of placement and the number of securities of one issue, except when envisaged by laws and regulations of Securities and Stock Market State Commission.
It shall be prohibited to restrict access of securities owners to the original of the decision on securities placement, which shall be kept by the issuer.
4. Primary placement of shares of an open joint stock company shall be solely closed (private), among the founders.

Article 29. Registration of a Securities Issue and a Securities Prospectus

1. Securities and Stock Market State Commission, within 30 days after receiving an application and all necessary documents for registration of the issue and the securities prospectus, shall conduct registration of the issue and the securities prospectus simultaneously, or refuse in registration.
2. Registration by Securities and Stock Market State Commission of the issue and the securities prospectus shall not be viewed as a guarantee of the value of securities.
Securities and Stock Market State Commission shall be liable only for the completeness of the information contained in the documents which it registered and for its compliance with the requirements of the law. Persons who signed documents submitted for registration of the issue and the securities prospectus shall be liable for the authenticity of the data contained in the documents.
3. The list of documents required for registration of the issue and the securities prospectus as well as the procedure of registration thereof shall be set by Securities and Stock Market State Commission.
Additional requirements to registration of the issue and the securities prospectus of banks shall be set by Securities and Stock Market State Commission with approval of the National Bank of Ukraine.

Article 30. Requirements to a Securities Prospectus

1. A securities prospectus shall contain information on the issuer, its financial and business position and the securities with regard to which the decision on open (public) placement was made.
2. Requirements to disclosure of information on the issuer and its financial and business position shall be set by Securities and Stock Market State Commission.
3. Information on securities shall include the following information:
- the kind, form of issue, type, number and nominal value of securities with regard to
which the decision on open (public) placement was made;

- the date when the decision on open (public) placement was made;
- the dates of the beginning and the end of open (public) placement; and
- the procedure and forms of payment of income on securities.

4. A securities prospectus shall contain other data envisaged by this Law and other laws that determine specific features of open (public) placement of specific types of securities and/or regulations of Securities and Stock Market State Commission.

5. A securities prospectus shall be signed by the issuer's manager (chairman of the executive body) and the auditor and shall be certified with the issuer's stamp. Persons who signed the securities prospectus shall thereby confirm the authenticity of the data contained therein, and the auditor shall confirm the authenticity of the data he audited.

Should the issuer use services of an underwriter with regard to open (public) placement of a securities issue, the securities prospectus shall be subject to approval by the underwriter.

Persons guilty of submission of inauthentic data in the securities prospectus shall be liable according to laws of Ukraine.

6. The securities prospectus shall be registered with Securities and Stock Market State Commission simultaneously with registration of the securities issue.

7. Upon registration, the issuer shall have the securities prospectus published in full in an official publication of Securities and Stock Market State Commission at least 10 days before the beginning of open (public) securities placement.

8. In case of changes in the securities prospectus, the issuer shall have them registered and have information on these changes published within 30 days after the securities prospectus was published, but at least 10 days before the beginning of open (public) securities placement. Should it be impossible to do within the established period, the changes shall also include information on extension of open (public) securities placement. A ground for refusal in registration of changes in the securities prospectus shall be non-compliance of the documents with the requirements of the law or violation of the procedure for making a decision on changes set by Securities and Stock Market State Commission.

9. Until registration and publishing of the information on changes in the securities prospectus, an issuer shall have no right to conduct open (public) securities placement.

Article 31. Keeping Records of Registered Securities Issues

1. Securities and Stock Market State Commission shall maintain the State Registry of Securities Issues according to the procedure set by the Commission.

2. Securities and Stock Market State Commission shall establish the procedure and ensure open and free access of the securities market participants to the information contained in the Register.

Article 32. Requirements to Closed (Private) Securities Placement

1. Specific features of closed (private) share placement shall be determined by the law that regulates establishment, operation and termination of joint stock companies and the law on collective investment institutions.

2. The issuer shall complete closed (private) securities placement within the period envisaged by the decision on closed (private) securities placement, but not later than within 2 months from the date of the beginning of placement.

3. During closed (private) placement, unit securities shall not be sold at a price that is less than their nominal value.

4. It shall be prohibited to establish a preemptive right to purchase securities for some investors versus other investors, except when envisaged by the law.

5. The actual number of placed securities shall be indicated in the report on the results of closed (private) securities placement, which shall be approved by the issuer's body authorized to make such decision and shall be submitted to Securities and Stock Market State Commission.

Article 33. Requirements to Open (Public) Securities Placement

1. The issuer shall conduct open (public) securities placement independently or through an underwriter which concluded an underwriting agreement with the issuer.

An underwriting agreement shall comply with the requirements to a model agreement, approved by Securities and Stock Market State Commission.
2. It shall be prohibited to conduct open (public) securities placement earlier than 10 days after the securities prospectus was published according to this Law.
3. The issuer shall complete open (public) placement of securities within the period envisaged by the decision on open (public) placement, but not later than within one year from the date of the beginning of placement.
4. During open (public) placement, unit securities shall not be sold at a price that is less than their nominal value.
5. It shall be prohibited to establish a preemptive right to purchase securities for some investors versus other investors, except when envisaged by the law.
6. The number of openly (publicly) placed securities shall not exceed the number of securities indicated in the securities prospectus. The number of actually placed securities may be less than the number of securities indicated in the prospectus.
7. The number of actually placed securities shall be indicated in the report on the results of open (public) securities placement, which shall be approved by the issuer's body authorized to make such decision and shall be submitted to Securities and Stock Market State Commission.

Article 34. Open (Public) Securities Placement with Participation of an Underwriter

1. During open (public) securities placement, the issuer shall have the right to use services of an underwriter.
2. Requirements to operations of an underwriter shall be set by Securities and Stock Market State Commission.

Article 35. Report on the Results of Securities Placement

1. The issuer shall file with Securities and Stock Market State Commission, within 15 days after registration of amendments to its charter with the State registration bodies, a report on the results of open (public) securities placement as well as other documents defined by Securities and Stock Market State Commission required for registration of the report.
Securities and Stock Market State Commission shall set requirements to disclosure of the information contained in the report on the results of open (public) securities placement.
2. Securities and Stock Market State Commission, within 15 days after receiving the required documents from the issuer, shall make a decision on registration of the report or refusal in registration.
3. A ground for refusal in registration of the report on the results of open (public) securities placement shall be violation of the requirements of the law connected with securities placement.
4. Securities and Stock Market State Commission within two weeks after registration of the report on the results of open (public) securities placement shall give a certificate on registration of the securities issue to the issuer.
5. In case of open (public) placement of bonds, within 15 days after the end of bond repayment the issuer shall submit to Securities and Stock Market State Commission a report on the results of bond repayment.
6. In case of closed (private) placement of securities, the issuer shall submit to Securities and Stock Market State Commission, within the period set by the Commission, a report on the results of closed (private) placement.
Within two weeks after the issuer submitted the report on the results of closed (private) securities placement, the issuer is given a certificate on registration of the securities issue.

Article 36. Unfair Securities Issuance

1. Unfair securities issuance shall mean actions that violate the issuance procedure set by this Law and represent a ground for making a decision on refusal in registration of securities prospectus and securities issue, suspension of open (public) securities placement.
2. Grounds for recognizing securities issuance unfair shall include:
- violation by the issuer of the requirements of this Law, non-compliance of the documents submitted by the issuer or data contain therein with the requirements of the law and/or the list set by Securities and Stock Market State Commission;

- violation of the procedure of making a decision on open (public) securities placement;
- including inauthentic data in the securities prospectus and documents submitted for registration of the securities issue and the securities prospectus; and
- regular or gross violation of investor rights by the issuer.

3. The procedure of making a decision on refusal in registration of the securities prospectus and issue, suspension of open (public) placement shall be set by Securities and Stock Market State Commission.

4. In case of unfair issuance, Securities and Stock Market State Commission shall have the right to temporarily suspend open (public) securities placement.

Suspended open (public) securities placement shall be renewed by decision of Securities and Stock Market State Commission only until the end of the period of securities placement, set in the securities prospectus, if the violations that caused suspension of open (public) placement have been eliminated.

6. Should the violations that caused suspension of open (public) placement have not been eliminated within 15 days after Securities and Stock Market State Commission made the corresponding decision, or documents that confirm elimination of the violations have not been sent to Securities and Stock Market State Commission, the Commission shall decide to invalidate securities issuance.

Article 37. Placement of Securities of Foreign Issuers on the Territory of Ukraine and Those of Ukrainian Issuers Outside Ukraine

1. Specific features of placement and circulation of securities of foreign issuers on the territory of Ukraine shall be determined by Securities and Stock Market State Commission according to the legislation of Ukraine.

2. Ukrainian issuers may place securities outside Ukraine only by permission of Securities and Stock Market State Commission, except for bonds of external government borrowings of Ukraine.

A permission to place securities of Ukrainian issuers outside Ukraine shall be granted if the following conditions are met:
- the securities issue is registered;
- the securities are admitted to trades on one of the Ukrainian stock exchanges;
- the number of securities to be placed outside Ukraine is within the limit set by Securities and Stock Market State Commission.

Article 38. Issuance of Securities of Collective Investment Institutions in Case of Open (Public) and Closed (Private) Placement

1. Specific features of issuance, placement, circulation and redemption of securities of collective investment institutions in case of open (public) and closed (private) placement thereof shall be determined by a special legislation.

Section V
INFORMATION DISCLOSURE IN THE STOCK MARKET

Article 39. Requirements to Information Disclosure by Issuers

1. Issuers that have conducted open (public) placement shall timely and fully disclose information on the following:
- the issuer’s financial and business position and performance within the period established by the law;
- any actions that may affect the issuer’s financial and business position and cause a significant change of the price of its securities; and
- owners of large blocks of shares (10% and more).

2. Information on owners of large blocks of shares (10% and more) shall be filed with Securities and Stock Market State Commission by the person who keeps records of ownership rights to the issuer’s shares in the National Depository System of Ukraine within the period, under the procedure and in the form set forth by Securities and Stock Market State Commission.

Information on owners of large blocks of shares (10% and more) shall be public and Securities and Stock Market State Commission shall make this information public by way of displaying it in the free-access SSMSC information database on the securities market.

Article 40. Regular Information on the Issuer

1. Regular information on the issuer shall be annual and quarterly reporting on the results of the issuer's financial and business activities to be filed with Securities and Stock Market State Commission (including reporting in the electronic form).
2. A reporting period for compiling annual information on the issuer shall be a calendar year.
The issuer's first reporting year may be less than 12 months and shall be calculated:
- for joint stock companies, from the date of state registration of the company until December 31 of the reporting year inclusive; and
- for bond issuers, from the date of registration of the bond issue until December 31 of the reporting year inclusive.
3. Annual information on the issuer must contain the following data:
- the name and location of the issuer, the amount of its statutory capital;
- the issuer's management body, its officials and founders;
- the issuer's business and financial activities;
- the issuer's securities (kind, category, type, number), placement and listing of securities;
- annual financial statements; and
- the auditor's opinion.
The issuer shall have the right to additionally submit other information.
4. Annual information on the issuer shall be public and shall be disclosed by the issuer no later than by 30 April of the year following the reporting year, by way of publishing it in one of the officialpublications of the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine or Securities and Stock Market State Commission and by way of displaying it in the free-access SSMSC information database on the securities market.
The issuer shall send a copy of the official publication in which annual information about him (issuer) was published to Securities and Stock Market State Commission.
5. A reporting period for compiling quarterly information on the issuer is quarters of the current year.
Quarterly information on the issuer must contain the following data:
- the name and location of the issuer, the amount of its statutory capital;
- the issuer's management body, its officials and founders;
- the issuer's business and financial activities;
- the issuer's securities (kind, form of issue, type, and amount);
- quarterly financial statements; and
- the issuer's participation in creation of other companies, institutions and organizations.
The issuer shall have the right to additionally submit other information.
6. The period, procedure and forms of submission of regular information on the issuer (annual and quarterly) shall be set by Securities and Stock Market State Commission. Securities and Stock Market State Commission shall set additional requirements to disclosure of regular information on the issuer and shall take measures to ensure its disclosure.
7. Special features of filing and making public the regular information by collective investment institutions shall be established by legislation.

Article 41. Ad Hoc Information on the Issuer

1. Ad hoc information on the issuer shall be information on any events that may affect the issuer's financial and business position and cause a significant change of the value of its securities.
Ad hoc information shall include data on the following:
- a decision on placement of securities for the amount that exceeds 25% of the statutory capital;
- a decision on redemption of the issuer's own shares;
- listing/delisting of securities on a stock exchange;
- receiving a loan or credit for the amount that exceeds 25% of the issuer's assets;
- change of the composition of the issuer's officials;
- change of owners of shares which own 10% and more of voting shares;
- the issuer's decision on creation, termination of its branches, representative offices;
- a decision of the issuer's highest body on decrease of the statutory capital;
- initiation of bankruptcy proceedings against the issuer and court's decision about its sanation;
- a decision of the issuer's highest body or the court on termination or bankruptcy of the issuer.
2. The period, the procedure and the filing forms of ad hoc information about the issuer shall be set by Securities and Stock Market State Commission.

3. Ad hoc information on the issuer shall be public and shall be made public by way of publishing it in one of the official publications of the Verkhovna Rada of Ukraine, the Cabinet of Ministers of kraine or Securities and Stock Market State Commission and by way of displaying it in the free-access SSMSC information database on the securities market.
4. Securities and Stock Market State Commission shall set forth additional requirements to disclosure of ad hoc information on the issuer and shall take measures to ensure its disclosure.

Article 42. Procedure of Disclosure of Information on the Record Keeping of Registered Securities by Participants of the Depository System of Ukraine

1. Information on keeping records of registered securities shall be disclosed by the participants of the National Depository System:
- at a written request of the owner of the information or by his written permission, except in cases envisaged by paragraphs 3 and 4 of this Part;
- in compliance with a court decision; and
- upon a written request of the Prosecutor's office, the security service, internal affairs bodies, Securities and Stock Market State Commission and the Antimonopoly Committee of Ukraine, and other governmental agencies in conformity with legislation, with regard to operations within systems of records of registered securities that are carried out by a specific legal entity or individual
within a specific period.
2. A participant of the National Depository System shall be prohibited from providing information on the clients of another participant of the National Depository System, even if their data is indicated in the documents and agreements of the client.
3. Persons guilty of violation of the procedure of disclosure and use of information on keeping records of registered securities shall be liable according to the law.

Article 43. Disclosure of Information on Professional Stock Market Participants

1. Securities and Stock Market State Commission shall provide for making information on professional stock market participants public (the number, the date of issuance and the validity period of the license, powers under the license, the manager and the authorized person who acts on his behalf).

Article 44. Insider Information and Insiders

1. Insider information shall be any information on the issuer, its securities or transactions therein that is not made public and, if made public, may significantly affect the value of securities.
2. Information on valuation of securities and/or the issuer's financial and business position, if received solely on the basis of information that was made public or information from other public sources not prohibited by the law shall not be insider information.
3. Insiders shall be persons who have insider information because they are:
(1) owners of the issuer's voting shares or stakes (units) in the issuer's statutory
capital;
(2) the issuer's officials; or
(3) persons who have access to insider information due to performance of labor (official) duties or contractual obligations, regardless of their relations with the issuer, in particular:
- legal entities that have contractual relations, or direct or indirect relations of control with the issuer;
- individuals who have labor or contractual relations, or direct or indirect relations of control with the issuer, or legal entities or individuals which have contractual relations or relations of control with the issuer; and
- government officials.
The issuer or professional stock market participants performing operations with securities of this issuer shall keep records of persons who have access to insider information. 4. Securities and Stock Market State Commission shall determine which information is considered insider information.

Article 45. Prohibition on Use of Insider Information

1. An insider shall be prohibited from the following:

- concluding, with the use of insider information, for his own benefit or for the benefit of other persons/entities, agreements on purchase or alienation of securities to which insider information relates until this information is made public;
- transferring insider information or providing access thereto to other persons, except in case of disclosure of information within the limits of performance of professional, labor or official duties and in other cases envisaged by the law; and
- giving recommendations to any person with regard to purchase or alienation of securities with regard to which he/she has insider information until this information is made public.

2. The procedure for disclosure of insider information shall be set by regulations of Securities and Stock Market State Commission.

Professional stock market participants shall inform Securities and Stock Market State Commission of securities transactions that are suspected to be involving or be able to involve insider information.

3. Clause 1 of this Article shall also apply to persons who are not insiders, but have insider information and know or should know that this information was received from an insider.

4. Liability for unlawful use of insider information shall be established by law.

Article 46. Advertising Information in the Stock Market

1. Advertising information in the stock market shall be advertising:
- of the issuer or securities being placed by the issuer or outstanding securities;
- a professional stock market participant and its activities; and
- securities transactions.

2. Advertising in the stock market shall not include information that under the requirements of this Law and of other regulatory acts is subject to mandatory disclosure.

3. Government agencies shall not engager in advertising in the stock market, except for advertising related to placement and circulation of government securities.

Section VI
REGULATION OF THE SECURITIES MARKET

Article 47. Securities Market Regulation

1. Stock market regulation shall be performed by the State and by self-regulatory organizations.

2. State regulation of the securities market shall be performed by Securities and Stock Market State Commission, as well as by other governmental organizations within their jurisdiction as established by law.

Article 48. Self-Regulatory Organizations of Professional Stock Market Participants

1. Self-regulatory organizations of professional stock market participants shall be formed in conformity with the principle “one self-regulatory organization per each type of professional securities market activities.”.

Such a self-regulatory organization shall unite over 50% of professional stock market participants in one of the types of professional activities.

2. The association shall acquire the status of a self-regulatory organization from the day of its registration by Securities and Stock Market State Commission. The procedure for and the terms of the registration of the professional stock market participants SRO and the termination of the registration shall be set forth by Securities and Stock Market State Commission.

The objective of activities of self-regulatory organizations of professional stock market participants shall be to provide for activities of professional stock market participants, which are members of the self-regulatory organization, as well as to develop and approve rules, and standards of professional behavior and conduct of the relevant type of professional activities.

3. Self-regulatory organization of stock market participants shall acquire the powers delegated to it by Securities and Stock Market State Commission from the day of promulgation of the decision of Securities and Stock Market State Commission on the delegation of respective powers to a self-regulatory organization in an official printed organ of Securities and Stock Market State Commission.

4. The terms of making a decision on delegation of Securities and Stock Market State Commission powers on the stock market regulation to an organization-candidate of professional stock market participants shall be as follows:
- rules and standards of professional activities in the stock market in place that shall be mandatory for all members of the self-regulatory organization to comply with;
- the organization have a not-for-profit status; and
- the organization shall have assets worth at least UAH 600,000 at its disposal to ensure its statutory activities.

Article 49. Delegation of Powers on Stock Market Regulation to Self-Regulatory Organizations

1. With regard to each type of professional activities, Securities and Stock Market State Commission may delegate to a self-regulatory organization the following powers:
- collection, summarization and analytical processing of data on conduct of the relevant type of professional activities;
- inspections of the performance of the relevant type of professional activities, compliance with the requirements of the securities law, and rules and standards of professional conduct;
- submission to it of a request, mandatory for review, on the termination (suspension) of the license to perform a certain type of activities by a professional stock market participant; and
- certification of stock market specialists;
- issuance of licenses to persons that perform professional activities in the stock market.

Securities and Stock Market State Commission, in line with the procedure established by same, may delegate other powers to self-regulatory organizations.
2. Securities and Stock Market State Commission shall delegate to a self-regulatory organization powers on stock market regulation according to the procedure set by the Commission in response to the application of this organization.
Within one month after receiving an application from a self-regulatory organization, Securities and Stock Market State Commission shall make a decision on delegation or refusal in delegation of powers to the self-regulatory organization.
3. A decision on delegation of powers to a self-regulatory organization shall indicate the following:
- the name of the self-regulatory organization to which the powers are being delegated;
- the powers being delegated;
- the period for which the powers are being delegated; and
- the procedure of state control over execution of the delegated powers.

4. A decision on delegation of powers to a self-regulatory organization shall be subject to state registration with the Ministry of Justice of Ukraine, as a normative and legal act, and shall be made public according to the law.
5. The period of powers delegated to a self-regulatory organization shall be extended according to the same procedure as the one that is set for obtaining them.
6. A self-regulatory organization shall have the right to submit an application on delegation of additional powers thereto only upon the condition of satisfactory execution of powers that were previously delegated.

Section VII
FINAL PROVISIONS

1. This Law shall come into effect in 30 days from the day of its promulgation, excepting:
clause 3 of article 8, which shall come into force within two years from the day of promulgation of this Law;
paragraph 2, Subitem 4 of Item 3, Section VII “Final Provisions”, which shall come into force within two years from the day of promulgation of the present Law;
clause 1 of article 48, which shall come into force within three years after the day of promulgation of this Law.
2. After this Law comes into effect, the following laws shall become ineffective:
(1) the Law of Ukraine “On Securities and Stock Exchange” (The Bulletin of the Verkhovna Rada of Ukraine, 1991 No. 38, p. 508; 1992 No. 47, p. 645; 1995 No. 14, p. 90, p. 93; 1996 No. 40, p. 185; 1997 No. 45, p. 285; 1999 No. 26, p.213, No. 31, p. 252; 2003 No. 30, p. 247, No. 38, p.313; 2004 No. 13, p. 181, No. 19, p. 271; 2005 No.42, p.465; with amendments made by the Law of Ukraine dated December 15, 2005 No.3201-IV);

Resolution of the Verkhovna Rada of Ukrainian Soviet Socialist Republic dated June18, 1991 "On Making Effective the Law of Ukrainian SSR "About Securities and Stock Exchange" (The Bulletin of the Verkhovna Rada, 1991, No.38, p.509).

3. The following legal acts of Ukraine shall be amended:

1) the Commercial Code of Ukraine (The Bulletin of the Verkhovna Rada of Ukraine, 2001 No. 25-26, pg. 131; 2005 No. 5, pg. 119)) shall be amended with Article 232-1 reading as follows:

"Article 232-1. Disclosure or Usage of Information About the Issuer or Its Securities That Have Not Been Made Public" Purposeful disclosure or other usage of unpublished or undisclosed in any other way information on the issuer, its securities or transactions therein (insider information) by a person who learnt this information through professional or official activities, in case this has caused a significant material loss to the State interests or the interests of legal entities or physical persons, -

shall carry restraint of liberty for up to three years or imprisonment for up to three years with deprivation of the right to occupy certain positions or engage in certain activities for up to three years".

2) Part 2 of Article 112 of the Criminal and Procedural Code of Ukraine after number "232" shall be supplemented with numbers "232-1";

3) the Commercial Code of Ukraine (The Bulletin of the Verkhovna Rada of Ukraine, 2003 No. 18-22, p. 144; with amendments made by the Law of Ukraine dated December 15, 2005 No.3201-IV):

- in the second sentence of clause 2 of article 163, the words "savings certificates' shall be replaced with the words "savings (deposit) certificates";
- clauses 4, 5, and 7 of article 164 shall be worded as following:

4. Business entities the exclusive activity of which is activity on management of assets of collective investment institutions shall have the rights to issue investment certificates.

5. Banking institutions depositing funds of legal entities and individuals shall furnish them with written certificates to confirm the depositors' right of depositors to get back the deposit principal and interest at the expiry of the established term (savings [deposit] certificates).

7. Business subjects shall have the right to issue, according to the procedure set by the law, promissory notes – debt securities that certify an absolute monetary obligation of the maker or his order to a third party to pay after the maturity period a definite amount to the owner of the promissory note (note holder).

- clause 2 of article 356 shall be omitted;
- clause 1 of article 360 shall read as follows:

1. In order to ensure the functioning of the securities market, a stock exchange shall be created. The procedure of creating and performing the stock exchange operations shall be determined by law.

4) in the Civil Code of Ukraine (The Bulletin of the Verkhovna Rada of Ukraine, 2003 No. 40-44, p. 356):

- clause 2 of article 158 shall be omitted;
- in clause 1 of article 194, the words "issued" and "issue" shall be replaced with the words "placed" and "placement" correspondingly;
- in item 3 of clause 1 of article 195 and of clause 2 of article 197, the word "issue" shall be replaced with the word "placement";
- in clause 3 of article 195, the word "to be issued" shall be replaced with the word "to exist";
- in clause 1 of article 198:
- in the first sentence, the word "issued" shall be replaced with the word "placed";
- in the second sentence the word "owner" shall be supplemented with the word "order";

5) in the Law of Ukraine "On State Regulation of the Securities Market in Ukraine"
(The Bulletin of the Verkhovna Rada of Ukraine, 1996 No. 51, pg. 292; 1999 No. 38, pg. 339; 2001 No. 21, pg. 103; 2002 No.16, pg.114, No.17, pg.117, No.29, pg.194; 2004 No.13, pg.181; 2005 No.42, pg.465, 466; No.48, pg.481; with amendments made by laws of Ukraine dated December 15, 2005 No.3201-IV and December 22, 2005 No.3273-IV):

- paragraphs 3, 4, and 6 – 8 of article 1 shall be omitted;
- the title of article 4 and parts 1 and 2 of this article shall read as follows:

"**Article 4. Securities Market Activities That Shall Be Subject to Licensing**.

Securities and Stock Market State Commission, under the procedure established by same, shall grant licenses to engage in the following types of activities:

1) brokerage activity – entering by a securities broker into civil law contracts (particularly commission and agency agreements) on securities on his/its behalf (or on behalf of another person), on the order of and at the cost of another person;

2) dealership activity - entering by a securities broker into civil law securities contracts on his/its behalf and at its/his cost for resale purposes, except for cases envisaged by law;
3) underwriting – placement (subscription, sale) of securities by the broker of these securities on the order of, on behalf of and at the cost of the issuer;
4) securities management activity – activity performed by the securities broker on its/his behalf for a fee for the duration of a specified period based on an agreement to manage the securities given and, upon consent of the principal, the cash funds to invest in securities, as well as the securities and cash funds earned in the process of managing owned by management initiator (settlor), in his interests or in the interests of third persons specified by him;
5) asset management activity – professional activity of a stock market participant – an asset management company, - performed by it for a fee on its behalf or based on a corresponding asset management agreement to manage assets owned by institutional investors;
6) mortgage coverage management activity – activity performed foe a fee by a bank or by another financial institution under a respective mortgage coverage management agreement;
7) depositary activity of a securities depositary – activity to provide services such as security safekeeping, servicing securities transactions on the accounts of securities custodians, as well as issuers' operations with their securities;
8) depositary activity of a securities custodian - activity to provide services such as securities custody and servicing securities transactions on the accounts of securities owners;
9) registered securities owners registers keeping activity – collecting, recording, processing, safekeeping, and giving access to data that make up the register system of registered securities owners on registered securities, their issuers, and owners;
10) stock market trading organization activity – activity of a professional stock market participant (trade organizer) with regard to providing organizational, technological, informational, legal, and other conditions to collect and disseminate ask and bid information, to conduct regular trading of financial instruments by established rules, to centralize conclusion and execution of financial instruments contracts, including clearing and settlement of same; and to resolve disputes between trade organizer members;
11) clearing and settlement activity – activities to determine mutual obligations under securities contracts and to settle same.
Securities and Stock Market State Commission, under the procedure established by same, in the event of professional securities market participants engaging in several types of activities envisaged by clause 1 of this article, shall issue one form of license for such activities.
In clause 2 of article 7:
Item 13 shall read as follows:
"13) shall exercise control over compliance with legislation and shall appoint government representatives on stock exchanges, at depositaries, and trade-and-information systems;";
item 14-1 shall be added to read as follows:
"14-1) shall set forth a standard sample and issue certificate of registration of the association of professional stock market participants as a self-regulatory organization";
article 17 shall be omitted;
6) in the Law of Ukraine "On Advertising" (The Bulletin of the Verkhovna Rada of Ukraine, 2004 No. 8, pg. 62):
- to add the following paragraph to clause 4 of article 25:
"*to use information on income on securities or the amount of profit received by the issuer in the past without indication that this profit does not guarantee receiving income in the future*";
- to add the following paragraphs to clause 1 of article 26:
"the Ministry of Finance of Ukraine – with regard to advertising of government securities;
Securities and Stock Market State Commission – with regard to advertising in the stock market."
7) Paragraph 2, clause 1 of article 27 of the Law of Ukraine dated December 22,
2005 "About Mortgage Bonds" words "activity of mortgage coverage manager and mortgage coverage" shall be added following the words "circulation of mortgage bonds";
8) in sub-item "ф" of clause 3, article 3 of the Cabinet of Ministers Decree 7-93 "On State Duty" dated 1/21/93 (The Bulletin of the Verkhovna Rada of Ukraine, 1993 No. 13, pg. 113; 1995 No. 30, pg. 229; 2004 No. 2, pg.6 with amendments made by the Law of Ukraine dated December 22, 2005 No. 3273-IV), the word "concession" shall be added after the words "as well as for notarization of agreements".
4. Stock market participants, within 3 years after this Law comes into effect, shall bring their activities in compliance with this Law.

Stock market participants that are licensed to conduct professional stock market activities shall conduct their activities in accordance with the issued licensed within 3 years after this Law comes into effect. Stock market participants that are licensed to conduct activities on organization of securities market trading shall conduct activities on organization of trading in the stock market as trade organizers.
After the license expires, conduct of the relevant type of professional activities shall be allowed if a new license is obtained in accordance with this Law.
5. The Cabinet of Ministers of Ukraine, together with the National Bank of Ukraine, within 3 months from the date of promulgation of the present Law shall prepare and submit to the Verkhovna Rada of Ukraine a draft law of Ukraine on amendments to the Law of Ukraine "On Payments Systems and Money Transfer in Ukraine" with regard to opening an account by a securities trader for his client with the purpose to conduct activities on securities management.
6. This Law shall not apply to securities issues, decisions on which had been approved prior to this Law coming into force.

President of Ukraine Victor Yushchenko
City of Kyiv
February 23, 2006
No.3480-IV

19. *Law on Financial Services and State Regulation of Financial Markets*

LAW OF UKRAINE

On Financial Services and State Regulation of Financial Markets
(Official Journal of the Verkhovna Rada (OJVR), 2002, No. 1, page 1)

(As amended pursuant to Laws
No. 485-IV (485-15) of 06.02.2003, OJVR, 2003, No. 14, page 104
No. 3201-IV (3201-15) of 15.12.2005, OJVR, 2006, No. 13, page 110)

This Law shall establish general legal fundamentals in the sphere of provision of financial services, regulation and supervision of activities in providing financial services.

The goal of this Law is to establish a legal basis for protecting interests of customers of financial services, legal framework for operation and development of the competitive financial service market in Ukraine, and legal framework for a unified state policy in the Ukrainian financial sector.

Section I. General provisions

Article 1. Definition of terms

1. In this Law, terms shall have the following meaning:

1) **Financial institution** – a legal entity which, according to the legislation, provides one or a number of financial services and which is entered in the appropriate register according to the procedure established by the law. Financial institutions will include banks, credit unions, pawnshops, leasing companies, trust companies, insurance companies, accumulation pension provision institutions, investment funds and companies, and other organizations whose exclusive activity is to render financial services.
2) **Credit institution** – a financial institution that is, according to the effective legislation, entitled to risk to provide financial credits from the funds it raises;
3) **Financial credit** – funds that are lent to a legal entity or an individual for a determined period and on an interest basis.

4) **Financial assets** – funds, securities, debt instruments and the right to claim repayment of debts that do not have the status of securities.
5) **Financial service** – an operation with financial assets that is performed in the interest of third parties at own or third parties' expense and in cases envisaged by the legislation – through external financing – with the purpose to make profit or secure the real value of financial assets.
6) **Financial services markets** – sphere of activities by participants of the financial services markets, aimed at rendering and consuming certain financial services. Financial services markets incorporate professional services in markets of banking services, insurance services, investment services, operations with securities as well as other types of markets that ensure financial assets flow;
7) **Participants of the financial services market** – legal entities and individuals entitled to be engaged in financial services rendering activities on the territory of Ukraine and consumers of such services.
8) **Essential participation** – direct or indirect, separate or joint interest in a legal entity or the right of vote which is based on holding shares of a legal entity or other means (different from formal ownership) of decisive influence on management or activities of a legal entity.
9) **Self-regulatory organization** – a non-profit association of financial institutions set up with the purpose of protecting interests of its members and other participants of financial markets, to which state financial service market regulators delegate authorities for developing and implementing rules of conduct in financial service markets and/or licensing experts in financial service markets. Laws on regulating financial service markets may establish other authorities which might be delegated to self-regulatory organizations.
10) **State regulation of financial services markets** – taking a set of measures by the State as to regulation and supervision over financial services markets, with the purpose of protecting interests of financial services consumers and preventing crises events.
11) **Professional secret** – materials, documents, and other information which are used in the course and in connection with discharging regular duties by officials of government bodies regulating financial services and persons involved in performing these functions and which are prohibited to disclose in any form until a relevant decision is made by a authorized government body.
12) **Authorized body** – specially authorized body of the executive power in the sphere of regulation of financial service markets.

2. Meaning of other terms used in the Law shall be defined by specialized laws of Ukraine regulating particular financial service markets.

Article 2. Scope of the Law

1. The Law regulates relations arising among participants of financial service markets in performing operations of rendering financial services.

2. The Law applies to activities of banks and other financial institutions taking into consideration specific features of specialized laws on their activities.

3. Provisions of the Law shall have no effect in respect to:

- Activities of financial institutions in Ukraine that have the status of intergovernmental international organizations;
- Activities of the State Treasury and State Special Purpose Funds;

Article 3. Legislation on Regulation of Activities in Rendering financial services

1. Relationship arising from functioning of financial market and the rendering of financial services to consumers shall be regulated by the Ukrainian Constitution (254k/96-BP), this Law, other laws of Ukraine in the sphere of financial services as well as by regulations issued under these laws.

Section II. Terms of rendering financial services

Article 4. Financial Services

1. The following operations are considered to be financial services:

1) Issue of payment documents, payment cards, travel checks, and/or their servicing, clearing, other forms of securing settlements;

2) Trust management of financial assets;
3) Foreign exchange operations;
4) Taking deposits and other financial assets with commitments to their further return;
5) Financial leasing;
6) Lending money, including on the financial credit conditions;
7) Granting guarantees and securities;
8) Money transfer;
9) Services in the sphere of insurance and accumulation pension provision;
10) Trading with securities;
11) Factoring;
12) Other operations meeting criteria specified in Article 1, Part 1, Item 5 of this Law.

Article 5. Eligibility for Rendering Financial Services

1. Financial services shall be rendered by financial institutions and, should it be directly stipulated by specialized laws – by self-employed individuals (hereinafter referred to as "Businesses").

2. The exclusive right or other restriction in respect to rendering particular financial services shall be established by specialized laws on activities of a respective financial institution and by regulations issued by state regulators of financial service markets.

3. Only a credit institution shall be entitled to extend financial credits for the account of raised funds based on an appropriate license.

4. Possibility and procedure of providing individual financial services by legal entities not being financial institutions by their legal status shall be provided for by specialized laws and regulations issued by state regulators in sphere of financial institutions activities within their competence.

Article 6. Agreement on Providing Financial Services

1. Under this Law financial services shall be provided by businesses on a contractual basis.

Unless otherwise envisaged by the Law an agreement on rendering financial services shall include:

1) Name of the document;
2) Name, mailing and legal address of a business;
3) Full name and address of an individual being the recipient of financial services;
4) Name and location of the legal entity;
5) Name of the financial operation;
6) Monetary value of the financial assets, time of contributing the assets, terms for mutual settlements;
7) Effective period of the agreement;
8) Terms and conditions for amending and terminating the agreement;
9) Rights and responsibilities of the parties; liabilities of the parties for poor performance or non-performance of conditions of the agreement;
10) Other terms and conditions as agreed by the parties;
11) Signatures of the parties.

The authorized body may establish additional requirements to agreements concluded by individuals if relevant issues are not regulated by the Ukrainian legislation.

When entering into agreement a legal entity or individual may request the provider for its balance or certificate of its financial status certified by an auditor (audit firm) and a business plan unless otherwise envisaged by the Ukrainian legislation.

2. Grounds and procedure for terminating agreements on provision of financial services as well as legal consequences for such termination will be specified by the civil legislation, laws on regulation of particular financial service markets, and agreements entered into under these laws and legislation.

Section III. Terms of creation and activity of financial institutions

Article 7. Business Commencement Terms

1. An entity shall acquire the status of a financial institution after the record in its respect has been made in the appropriate state register of financial institutions.

2. If laws of Ukraine require licensing to render some specific financial services, then a financial institution is entitled to provide such services no sooner it has obtained the appropriate licenses.

3. A financial institution shall not start providing financial services unless:

1) Its record keeping and registration system meets requirements established by law and other normative and legal acts;
2) Its internal regulations comply with Laws and regulations issued by agencies responsible for regulation and supervision of financial services market;
3) There is necessary staff in place, whose professional qualification and business reputation meet established requirements;

Article 8. Organizational Rules

1. Financial institutions may be set up in any legal forms unless laws regulating specific financial services markets include special rules and restrictions.

2. Laws of Ukraine regulating activities of business associations and legal entities of other legal forms will be applied to financial institutions with taking into consideration specific aspects defined by this Law and specialized laws regulating individual financial services markets.

Article 9. Capital

1. The minimum capital of financial institutions required for their foundation and general requirements to normative capital *(to be established by the Nation Bank of Ukraine for various purposes – translator's note)* needed for functioning shall be established by specialized laws on regulating specific financial markets.

2. When setting up a financial institution or increasing registered statutory (shared) capital, the statutory (shared) capital must be paid in the monetary form and placed in accounts with commercial banks, which are legal entities under the Ukrainian legislation unless otherwise envisaged by laws of Ukraine on regulation of particular financial service markets.

3. Sale and purchase of a share of the statutory (shared) capital will be made on terms and conditions established by the Ukrainian legislation.

Article 10. Making Decisions under Conflicts of Interests

1. The head or officer of a financial institution will not be allowed to take part in preparing and making decision on assuming any commitment by a financial institution for his/her benefit.

2. The head, official or appointed expert of a financial institution may not participate in preparing and making decision in favor of an institution or a company in which their close relatives or the company they own in one or another way, have a business interest.

3. A person being an official or member of the managerial body of a financial institution shall not enter into agreements with this financial institution on providing him/her with financial services on conditions that differ from regular ones.

4. A person being a member of the managerial body of a financial institution shall not enter into agreement on providing professional services (works) to this financial institution unless owners' general meeting gives preliminary consent for entering into such agreement.

Article 11. Reliability of advertisement and information

1. Financial institutions will be prohibited to disseminate advertising and any other information that contains false data on their activities in the sphere of financial services.

Article 12. Client's Right to Obtain Information

1. A client shall haves the right for an access to the information on activities of a financial institution. At client's request, financial institutions will be obliged to provide the following information:

1) Data on financial performance and economic status which are subject to mandatory publication;
2) List of managers of a financial institution and its separated structural units;
3) List of services rendered by a financial institution;
4) Prices/fees for financial services;

5) Number of shares held by member of the executive body of the institution and list of persons whose interest in the charter capital exceeds five percent;
6) Other information on rendering financial services and the information, the right to obtain which is established by laws of Ukraine;

Article 13. Procedure for Reorganizing and Liquidating Financial Institutions

1. Financial institutions will be reorganized and liquidated based on requirements of relevant laws and regulations issued by state agencies responsible for regulating activities of financial institutions and financial service markets.

Article 14. Accounting and Reporting

1. A financial institution is required to keep records of all its operations and submit reports in accordance with requirements of laws and regulations issued by state agencies responsible for regulating activities of financial institutions and financial service markets.

Article 15. Requirements to External Audits

1. Audits of financial institutions may be carried out by auditors that:
   1) Have an appropriate certificate;
   2) Have no property relationships with the financial institution they examine, have no indebtedness to this institution or other conflicts on interests;
   3) Are entered into appropriate registers that are kept by bodies engaged in regulation of financial services markets. The procedure for maintaining the register shall be specified by a government body responsible for regulation of activities of financial institutions and financial service markets.

Article 16. Associations of Financial Institutions

1. Financial institutions may combine their activities on a voluntary basis, unless it conflicts with the Ukrainian antimonopoly legislation and requirements of laws on regulation of individual financial services markets. The legal status, types, set up procedure, legal regime of functioning and termination of operations of such associations will be determined in accordance with laws of Ukraine.

2 An association of financial institutions shall acquire the status of self-regulatory organization on making relevant entry into corresponding register which is maintained by state bodies regulating activities of financial institutions and financial service markets within their competence.

Article 17. Preventing Limitation of Competition in Financial Services Markets

1. Financial institutions shall act with due regard to requirements of the antimonopoly legislation and legislation on protection from unfair competition.

Article 18. Preventing Legalization of Money Acquired in a Criminal Way

It is prohibited for financial institutions within rendering financial services to enter into the contractual relations with anonymous entities, in order to establish and carry out of anonymous (numerical) accounts.

It is prohibited for financial institutions to enter into negotiations with the clients, both legal and natural entities, in the case of doubt occurred concerning person acts in not one’s own name.

A financial institution shall identify, in accordance with Ukrainian Legislation:

clients that open accounts in financial institution and/or conclude the contracts on rendering of financial services;

clients which fulfil the operations which are subjected to financial monitoring;

persons authorized to act on noted above client’s behalf.

Financial institution renders corresponding financial services only after establishing of identity of the clients and fulfilment measures in compliance with Legislation which regulates the relations in the sphere of prevention of the legalization (laundering) of the proceeds of crime.

Financial institutions are entitled to require, and the client shall submit the documents and statements contemplated by Legislation, necessary for verifying of his/her identity. In the case of client's failure to submit necessary documents and statements contemplated by Legislation or deliberate submitting false statements identifying her/himself, the financial institution shall refuse to attend to client's request and/or rendering of financial services and/or does not open an account and in the case of earlier opened accounts the financial institution refuses to attend to client's request and/or does not conclude a contract on rendering of financial services

In the case of doubt that person does not acts in his/her name the financial institution shall identify person in who's name the financial operation is going to be fulfilled.

In case the result of identification is causing the motivated suspicion concerning client submitting false information or deliberate submitting information with the purpose of confusion, the financial institution shall submit information on client financial operations to Specially Authorized Body of Executive Power on the matter of financial monitoring.

In order to identify the client who is a legal entity, the financial institution shall identify natural persons who are owners of this legal entity, have a direct or intermediate influence on it and get an economic benefit from its activity. In the case of legal entity is an company the financial institution shall identify natural person who has an essential share in such legal entity. The client shall submit statements contemplated by Legislation which are required by bank with the purpose of fulfilment of the requirements of Legislation which regulates the relations in the sphere of prevention of legalization (laundering) of proceeds of crime. In case of client's failure to submit such statements, the financial institution shall refuse to render services and/or shall not open an account and in the case of earlier opened accounts the financial institution refuses to attend to clients request and/or does not conclude a contract on rendering of financial services. In order to identify and take measures contemplated by Legislation to establish the identity of the client, who is legal entity, and ensuring the financial institution capacity to fulfil the rules of internal financial monitoring and the program of its implementation, including an exposure of suspicious financial operations, the financial institution is entitled to require an information contemplated by Legislation concerning identification of such person and his/her superiors, state power bodies which executing supervision and/or control of legal entity activity, from banks and other legal entities as well as to fulfil measures contemplated by Legislation upon the acquisition of such information from other sources. Mentioned bodies of state power, banks, and other legal entities shall submit such information to financial institution free of charge within ten working days from the date of the inquiry acquisition.

In order to identify the client, who is a natural person, and taking measures contemplated by Legislation for verification of his/her identity the financial institution is entitled to require an information on him/her in Bodies of State power, banks, other legal entities as well as to take measures contemplated by Legislation upon acquisition of such information on such person necessary for meeting the rules of internal financial monitoring and programs of its implementation including an exposure of suspicious financial operation. Mentioned bodies of state power, banks, and other legal entities shall submit such the information for financial institution free of charge within ten working days from the date of acquiring the statement.

Identification is not obligatory for every transaction, if the client was identified earlier in compliance with Legislation which regulates the relations in the sphere of prevention legalization (laundering) proceeds from crime.

In case of the decision of corresponding body of the state power on cancellation of state registration of legal entity or state registration of the subject of entrepreneurial activity, natural person, or declaration of legal entity as fictitious in order by the Law, or declaration of court of the natural person deceased or missing, the financial institution shall interrupt farther service of such person and submit this information urgently to Special Authorized Body of Executive Power on Financial Monitoring about financial assets of such person and does not transmit or does not manage the financial assets before acquiring instructions

from noted Body. In case such instructions or court's decision concerning taking or not taking measures regarding such financial assets, financial institution manage such financial assets according Legislation of Ukraine.
(amendments to article 18 published in Official Journal of the Law of Ukraine No. 485-IV (485-15) of 06.02.2003 – became an applicable from 11.06.2003)

5. Financial institutions shall develop programs to counteract legalization of money acquired in a criminal way that include development of internal checks and implementation of training programs for their officials.

Section IV. State Regulation of Financial Services Markets

Article 19. Purpose of State Regulation of Financial Services Markets

The purpose of state regulation of the financial services markets in Ukraine shall be:

1) Pursuing of a unified efficient state policy in the sphere of financial services;
2) Protection of interests of consumers of financial services;
3) Creation of favourable conditions for development and functioning of the financial services markets;
4) Creation of conditions for effective mobilization and placement of financial resources by the participants of financial services markets, with taking into account public interests;
5) Ensuring of equal opportunities for access to the financial services markets and protection of rights of their participants;
6) Compliance by participants of the financial services markets with legislation requirements;
7) Prevention of monopolization and creation of conditions for development of fair competition in the financial services markets;
8) Ensuring of transparency and openness of the financial services markets; and
9) Promotion of integration in the European and world financial services markets.

Article 20. Forms of State Regulation of Financial Services Markets

1. State regulation of activities on rendering financial services shall be exercised through:

1) Maintenance of state registries of financial institutions and licensing of activities on rendering of financial services;
2) Normative and legal regulation of financial institutions' activities;
3) Oversight over financial institutions' activities;
4) Taking of enforcement measures by authorized government agencies; and
5) Taking of other measures on state regulation of the financial services markets.

Article 21. Agencies Responsible for State Regulation of the Financial Services Markets

1. The responsibility for state regulation of the financial services markets shall rest :

- in respect to the banking services market - with the National Bank of Ukraine;
- in respect to the market of securities and their derivatives - with the State Commission on Securities and Stock Market; and
- in respect to other financial services markets - with a specially authorized body of the executive power in the sphere of regulation of financial service markets.

The Antimonopoly Committee and other state agencies shall check activities of participants of the financial services market and obtain information from them within their powers defined by the Law.

2. State regulation of activities in provision of financial services shall be exercised pursuant to this Law and other Laws of Ukraine.

Article 22. Cooperation and Coordination of Activities between/among State Regulators of Financial Services Markets

1. The National Bank of Ukraine, State Commission on Securities and Stock Market, and Authorized Body shall cooperate in accordance with the provisions of this Law.

2. The National Bank of Ukraine, State Commission on Securities and Stock Market, and Authorized Body shall inform each other on any observations and conclusions that are necessary for fulfilment of their obligations.

3. The National Bank of Ukraine, State Commission on Securities and Stock Market, and Authorized Body shall have the right to access information data bases of each other maintained with the purpose of regulation of financial services markets.

4. The Head of the state body responsible for regulation of the financial services markets or a person authorized by him shall have the right to participate in activities of other agencies involved in regulation of financial services markets, with the right of advisory vote when the issues of oversight over activities on rendering financial services are discussed.

5. The National Bank of Ukraine, State Securities and Stock Market Commission, and Authorized Body, with the purpose of cooperation and coordination of their activities, shall convene meetings at least on a quarterly basis or more frequently at the request of the Head of any of these agencies. Corresponding memoranda and/or interagency agreement shall be prepared/concluded based on results of such meetings. Decisions specified by these memoranda and agreements shall be binding for each state regulator of financial services.

Section V. Organizational Structure, Authorities, and Activities of the Specially Authorized Body of the Executive Power in the Sphere of Regulation of Financial Service Markets

Article 23. Activities of the Authorized Body

1. The Authorized Body shall be the central body of the state executive power working on a collective principle.

2. The Authorized Body cannot participate in financial markets as an issuer of internal or external government bonds or perform other activities in financial markets except for activities specified by this Law.

3. The Regulation on the Authorized Body shall be approved by the President of Ukraine at the proposal of the Cabinet of Ministers of Ukraine.

4. The Authorized Body shall be a legal entity with its own segregated property of state ownership.

5. The Authorized Body shall consist of the Chairman, his/her deputies, and at least three members of the Authorized Body – Directors of Departments (hereinafter – "Department Directors") who will be appointed and dismissed by the President of Ukraine.

6. The structure of the central office of the Authorized Body shall be defined by the Regulation on the Authorized Body.

7. The Authorized Body may set up and liquidate its regional offices with the purpose to exercise its authorities. Regional offices of the Authorized Body shall not have the status of a legal entity and shall act on the basis of the Regulation approved by the Authorized Body.

8. The Authorized Body may decide to set up an Advisory Expert Council which will be a deliberative body acting on a permanent and voluntary basis that would participate in discussion of draft documents being developed and/or considered by the Authorized Body. The responsibility for approving the composition of the Advisory Expert Council and Regulation on the Advisory Expert Council shall rest with the Authorized Body.

9. Meetings will be a major form of activities of the Authorized Body which will be convened as necessary but at least on a monthly basis. The Regulation on the Authorized Body shall specify the procedure for making decisions by the Authorized Body.

Article 24. Chairman of the Authorized Body

1. The Chairman of the Authorized Body shall be appointed and dismissed by the President of Ukraine.

2. The President of Ukraine shall dismiss the Chairman of the Authorized Body in the following cases:

1) The Chairman office term has ended;

2) The court pleaded the Chairman guilty of a criminal offence and the court judgment came into effect;
3) The Chairman has died or the court has declared the Chairman deceased or missing;
4) The Chairman has ceased the Ukrainian citizenship or has moved from Ukraine for permanent residence;
5) The Chairman has applied for resignation in a written form;
6) For other reasons.

3. Authorities of the Chairman of the Authorized Body shall be terminated in case of his/her death.

4. The Chairman of the Authorized Body may be a person of excellent business reputation with higher education in economics or law with seven year experience of professional work.

5. The Chairman of the Authorized Body shall:

1) Manage current activities of the Authorized Body and address all issues related to activities of the Authorized Body except those within the competence of the Authorized Body;
2) Act without power of attorney on behalf of the Authorized Body within the limits established by the Ukrainian legislation;
3) Represent the Authorized Body in its relationship with state agencies of other countries in respect to issues of surveillance of financial institutions activities and with international organizations;
4) Issue orders, instructions on the issues within his competence;
5) Hire and dismiss employees of the Authorized Body, give bonus and impose disciplinary punishments; and
6) Perform other functions necessary to ensure smooth operation of the Authorized Body.

6. The Chairman of the Authorized Body shall be held liable for activities of the Authorized Body to the President of Ukraine.

Article 25. Deputy Chairmen of the Authorized Body

1. Deputy Chairmen of the Authorized Body shall be appointed and dismissed by the President of Ukraine.

2. A Deputy Chairman of the Authorized Body may be a person of excellent business reputation with higher education with at least five year experience of permanent work in an area matching his/her functional duties in the Authorized Body.

3. Deputy Chairmen of the Authorized Body shall be responsible for ensuring coordination functions within the Authorized Body, performing research and methodological activities, and shall also address staffing, financial, IT, and equipment issues. The Regulation on the Authorized Body shall specify the number of Deputy Chairmen and distribution of responsibilities among them.

Article 26. Member of the Authorized Body – Department Directors

1. Department Directors will be appointed and dismissed by the President of Ukraine.

2. Department Director may be a person with excellent business reputation with higher education and at least five year experience of permanent work in an area matching his/her functional duties in the Authorized Body.

3. Authorities of Department Directors shall be terminated because of completion of their office terms or based on grounds envisaged by the labor and public service legislation.

4. Department Directors will be responsible for organizing and exercising regulation and surveillance of activities of individual types of financial institutions and financial service markets attributed to supervisory competence of the departments they head.

5. Department Directors, within their competence, shall be entitled to sign on behalf of the Authorized Body documents of a law application nature, address issues related to entering financial institutions to the register and licensing, take enforcement and other measures aimed at exercising their authorities specified by the Regulation on the Authorized Body.

Article 27. Tasks of the Authorized Body

Major tasks of the Authorized Body shall include:

1) Designing strategy for development and addressing of system issues related to functioning of financial services markets in Ukraine;
2) Exercising state regulation and oversight over provision of financial services and compliance with legislation in this sphere;
3) Protecting financial services consumers' rights through taking, within their authorities, enforcement measures with the purpose to prevent and eliminate violations of the legislation in the financial service market;
4) Summarizing practice of application of the Ukrainian legislation on financial services and markets and preparing proposals on improving this legislation;
5) Drafting and approving normative and legal acts within its competence;
6) Coordinating activities with the other state agencies; and
7) Introducing internationally acknowledged rules of financial service markets development.

Article 28. Authorities of the Authorized Body

The Authorized Body, within its competence, shall:

1) Draft and approve normative and legal acts that shall be obligatory for central and local bodies of executive power, bodies of local self-administration, participants of financial services markets, their associations, as well as check fulfilment of these normative and legal acts;
2) Register financial institutions and maintain the Register of financial institutions;
3) grants to financial institutions corresponding permissions according to the Laws on the matters of the regulation of the separate financial service markets as well as the licenses on carrying out of activity on rendering of financial services and approve the terms of carrying out of activity on rendering of financial services which execution requires a corresponding license or permit, approve procedure of control for its observance; *(point 3, part one, article 28 in Official Journal of the Law № 3201-IV (3201-15) of 15.12.2005)*;
4) Establish capital requirements and other indicators and requirements aimed at limiting risks for all operations with financial assets;
5) Set fees for issuing licenses and registering documents and provide information at request of legal entities ;
6) Make conclusions on attributing operations to certain types of financial services;
7) Set restrictions on combining activities in provision of certain financial services;
8) Verify authenticity of information provided by participants in financial services markets;
9) Perform, independently or together with other competent supervisory authorities, on-site and off-site audits of financial institutions' activities;
10) Take enforcement measures and apply administrative sanctions in case of violation of the financial service legislation and regulations issued by the Authorized Body;
11) Appeal to court and arbitration court because of violation of the Ukrainian legislation on financial services;
12) Send to financial institutions and self-regulatory organizations obligatory resolutions requiring to eliminate violations of financial service legislation and request for necessary documents;
13) Send materials on offences detected by audits to law-enforcement bodies;
14) Send materials to the Antimonopoly Committee of Ukraine in the event of detecting violations of the antimonopoly legislation;
15) Require to convene a meeting of the participants of a financial institution;
16) Monitor capital flows in Ukraine and abroad through financial services markets;
17) Set requirements to software and special technical equipment used by the financial institutions in provision of financial services;
18) Establish a procedure for disclosing information and reporting by participants in financial services markets in accordance with the legislation of Ukraine; and
19) Determine professional requirements to top managers and chief accountants of financial institutions and require dismissal of persons who do not meet qualification requirement.
20) Approve, according to the Laws on the matters of the regulation of the separate financial service markets, financial institutions documents, which determine the terms of rendering of the financial

services; *(part one, article 28 has been supplemented by point 20 pursuant to Law № 3201-IV(3201-15) of 15.12.2005)*

2. Decisions of the Authorized Body related to evaluation of efficiency and coordination of activities in regulation and supervision of individual financial service markets will be binding for Department Directors.

Article 29. Areas of Supervision

1. The major areas to be supervised by the Authorized Body shall be meeting of established criteria and normatives in respect to:

1) Liquidity;
2) Capital and solvency;
3) Profitability;
4) Assets' quality and risk of operations;
5) Quality of management systems and qualification of managerial staff;
6) Observance of rules for provision of financial services.

2. Procedures for preparation, submission and processing of data in respect to the activity of financial institutions in the light of the areas of supervision shall be established by the Authorized Body.

Article 30. Inspection

1. The Authorized Body, within its terms of reference, shall have the right to inspect financial institutions as well as entities/persons which/who are related or affiliated to them.

2. The Authorized Body shall establish the periodicity of inspections depending on the type of an institution.

3. The Authorized Body may engage external experts with appropriate qualification to carry out inspections.

4. The Authorized Body may investigate data on clients of financial institutions only for the purpose of implementing its supervision duties.

5. For inspection purposes, any person mandated by the Authorized Body to carry out an inspection in the place of location of the legal entity that is subject to the inspection shall have the right to call in officials of this legal entity for clarifications and to require all necessary information and written documents.

Article 31. Mandatory Observance of the Professional Secrecy

1. Materials that are provided for analysis and audit purposes as well as data and documents describing financial, property, and tax status of legal entities and individuals which are provided to the Authorized Body shall constitute professional secret and can be used for the only purpose of performance by the Authorized Body of its regular functions including legally specified data sharing.

2. Unauthorized disclosure of any data, materials, document through mass media in either oral or written form, in the first place, in respect to officials who used or were aware of such data, materials or documents shall be subject to prosecution unless such disclosure is conditioned by the necessity to prevent legalization of criminal money.

Article 32. Cooperation with Other Countries' Government Agencies on Oversight of Financial Institutions Activities and International Organizations

1. The Authorized Body, within its competence, shall cooperate with international organizations, state agencies and non-government organizations of other countries on issues attributed to their competence.

2. The Authorized Body may, within international cooperation mentioned in Item 1 of this Article and on mutual basis, provide and obtain information on supervision of financial markets and financial institutions which neither constitute state secret nor lead to disclose of professional secret.

3. The Authorized Body may, within international cooperation mentioned in Item 1 of this Article,

provide information on activities of individual financial institutions in cases and according to the procedure specified by international agreements in which Ukraine participates.

Article 33. Reporting

1. The Authorized Body, with due regard to legislation requirements to protection of state and commercial secrets, shall disclose basic provisions of its annual reports in mass media.

Section VI. Licensing Activities of Financial Institutions

Article 34. Mandatoriness of Licensing

1. The Authorized Body shall issue licenses for the following activities of financial institutions:

1) Insurance activities;
2) Activities in providing accumulation pension provision services;
3) Provision of loans from raised funds;
4) Provision of any financial services involving direct or indirect raising of individuals' financial assets.

2. Activities specified in Part 1 of this Article shall be permitted no sooner than after obtaining a relevant license. Persons guilty of performing such activities without a license shall be held liable under Ukrainian laws.

3. A license for provision of financial services cannot be transferred to third parties.

Article 35. Documents to Be Submitted to a Licensing Agency to Obtain a License

1. An individual/entity wishing to be involved in certain economic activities in provision of financial services subject to licensing shall, in person or through an authorized entity or individual, submit to the Authorized Body an application of the established form for issuing the license.

An application for licensing shall show data on an applicant, in particular, name, location, bank account, ID number. If the applicant has branches or other segregated structural units which will perform economic activities based on the license the application must also show location of these branches of structural units.

2. An application for issuing the license shall come with a certificate of state registration of the applicant as a business or a copy of the certificate of entering the applicant in the Unified State Register of Ukrainian enterprises and organizations which is certified by a notary or issuer, documents, which list and contents is subjected to certain requirements according to the Laws on the matters of the regulation of the separate financial service markets, and the application for issuing the license for the rendering of the financial services, noted in Article 34 Part 1 items 3 and 4, shall be accompanied by the documents, which list and contents is subjected to the requirements of the Authorized Body.

3. An application for issuing the license and accompanying documents shall be accepted according to the checklist a copy of which showing the date of accepting the document and signed by an authorized person shall be given to the applicant.

4. Laws on regulation of individual financial service markets may establish other requirements to the list and content of documents required to receive a license.

5. An applicant shall be notified in a written form of refusing his/her application for a license with indication of reasons for the refusal within terms established for issuing the license. After elimination of reasons for which the application was refused the applicant may reapply for the license according to the procedure established by this Law.

Article 36. Decision on Issuing or Refusal to Issue a License

1. The Authorized Body shall supervise activities of corresponding financial institutions and make a decision on issuing or refusal to issue a license within thirty calendar days of the day of receiving the application with accompanying documents unless a specialized law regulating relationship in certain spheres of economic activities envisages different term for issuing a license for individual activities.

2. An applicant shall be send a written notification of issuing or refusal to issue the license with indication of reasons for the refusal within three business days of the day of making the decision.

3. The application for the license shall be refused on the following grounds:

1) Falsification of data in documents submitted by the applicant;
2) Failure of an applicant to meet the licensing requirements to certain type of economic activity subject to licensing.

4. In case of refusal because of detection of false data an applicant being an economic entity may reapply for the license no sooner than three months after the day of making the decision on the refusal.

5. In case of refusal because of failure to comply with licensing requirement to certain type of economic activity subject to licensing an applicant being an economic entity may reapply for the license as soon as the reasons for the refusal are eliminated.

6. A decision on refusal of an application for a license may be appealed judicially.

Article 37. Information Included in a License

1. The Authorized Body shall use a unified license form to be approved by the Cabinet of Ministers of Ukraine.

2. The license form shall contain both series and number and be subject to strict reporting requirement.

3. A license shall show:

1) Name of issuer;
2) Type of economic activity in provision of financial services for which the license is issued;
3) Name of the legal entity;
4) ID number of the legal entity;
5) Location of the legal entity;
6) Date and number of the decision on issuing the license;
7) Position and name of a person who signed the license;
8) Data of issuing the license.

A license shall be signed by the director of a relevant department or his/her deputy and certified by the Authorized Body's seal.

Article 38. Issuing a License

1. If the Authorized Body makes a positive decision on issuing a license it shall issue the license within five business days of the day of receiving a document certifying payment of the license fee.

2. The Authorized Body shall make a check mark on a copy of the description given to the applicant when accepting the application to confirm acceptation of documents certifying payment of the license fee by the applicant.

3. If the applicant fails to provide a document certifying payment of the license fee or apply to the Authorized Body for the issued license within thirty calendar days of the day of sending notification of issuing the license, the Authorized Body may withdraw the license.

4. Activities in provision of financial services based on a license issued by the Authorized Body may be performed throughout Ukraine.

Section VII. Enforcement Measures

Article 39. Taking Enforcement Measures

1. In case of breach of laws and other normative acts governing the provision of financial services, the Authorized Body shall take enforcement measures under the legislation in force.

2. The Authorized Body shall choose and take enforcement measures based on the analysis of data and information on the violation in question, with due regard to consequences of the violation and those likely to result from taking such measures.

Article 40. Enforcement Measures

1. The Authorized Body may take the following enforcement measures:

1) To oblige violator to take action to eliminate the violation;
2) To require the immediate convening of an extraordinary shareholders meeting of the financial institution ;
3) To impose penalties at rates specified by Article 41, 43 of this Law;
4) To suspend or withdraw the license for provision of financial services;
5) To dismiss the managerial staff from the operation of the financial institution and appoint a temporary administration;
6) To approve the financial institution's financial rehabilitation plan;
7) To raise the issue of liquidation of the concerned institution.

2. The procedure and terms for applying enforcement measures will be established by Ukrainian laws and regulations issued by the Authorized Body.

3. A resolution of the Authorized Body related to the application of enforcement measures in the form of a temporary administration shall be binding documents.

Article 41. Penalties to Be Imposed on Businesses – Legal Entities – for Offences in Financial Service Markets

1. The Authorized Body shall impose the following penalties on businesses:

1) For performing activities in financial service markets without a special license provided for by the current legislation – at the rate of up to 5,000 untaxable individuals' incomes but at most one percent of the charter capital of the offender;
2) For failure to provide on time or for deliberate provision of false information – at the rate of up to 1,000 untaxable individuals' incomes but at most one percent of the charter capital of the offender;
3) For evasion from fulfillment or untimely fulfillment of instructions or decisions on eliminating violations in respect to provision of financial services – at the rate of up to 500 untaxable individuals' incomes but at most one percent of the charter capital of the offender;

2. A decision of the Authorized Body on imposing penalty may be appealed through the court.

3. Penalties imposed by the Authorized Body shall be collected judicially.

Article 42. Procedure for Imposing Penalties for Violating the Rules on Activities in Financial Service Markets by Businesses – Legal Entities

1. Penalties specified by Article 41 of this Law will be imposed by the Chairman of the Authorized Body, his/her deputies, department directors or the head of a regional office upon consideration of materials proving the fact of violation.

2. An authorized person who detected a violation specified in Article 41 shall execute a certificate which shall be sent together with other relevant documents to an official in a position to impose penalties within three days.

3. If in the course of audit an authorized person seized documents proving the fact of violation copies of these documents and a copy of the report on seizing these documents will be attached to the certificate of violation.

4. Documents proving the fact of violation may be seized for up to three days with mandatory execution of a report showing the date of seizing, name and position of a person who seized the documents, complete list of seized documents, and the day on which these document are to be returned under this Law.

5. The report shall be signed by an authorized person who seized the documents. At the completion of the audit a copy of the report on seizing shall be given to a representative of a business whose documents were seized.

6. Officials of the Authorized Body specified in Part 1 of this Article shall make a decision on imposing penalty within ten days of receiving documents specified in Parts 2, 3 of this Article. Resolution on imposing penalty shall be sent to a business on which the penalty was imposed and a bank with which this business's account is open.

Article 43. Liability for Administrative Offences Related to Activities in Financial Service Markets

1. Individuals – private businesses or officials – performing activities in financial service markets without a special license provided for by the current legislation will be penalized at the rate of 20 to 50 untaxable individuals' incomes.

2. Individuals – private businesses or officials – who failed to provide on time or deliberately provided false information to the Authorized body, should provision of such information is specified by the current legislation, will be penalized at the rate 50 to 100 untaxable individuals' incomes.

3. Individuals – private businesses or officials – who evade from fulfilment or fail to fulfil instructions of the Authorized Body on time will be penalized at the rate of 20 to 50 untaxable individuals' incomes.

4. In the event of detecting offences officials of the Authorized Body shall execute reports on detection of offences.

5. Penalties specified in Parts 1, 2, 3 of this Article will be imposed by the Authorized Body or its regional offices. The Chairman of the Authorized Body, his/her deputies, department directors or the head of a respective regional offices will have the right to consider administration offenses cases on behalf of these entities.

6. All proceedings related to imposing penalties specified in Parts 1, 2, 3 of this Law will be made under the Ukrainian Code on Administrative Offences (80731-10, 80732-10).

Article 44. Criminal Liability for Violating Legislation while Performing Activities in Provision of Financial Services

1. Officials guilty of violation of the legislation while performing activities in provision of financial services shall hold criminal liability under the law.

Article 45. Liability of the Authorized Body and Its Officials

1. Officials of the Authorized Body shall be held liable for non-performance of poor performance of their regular duties.
2. The Government shall reimburse participants of the financial service markets for losses incurred due to wrongdoing of the Authorized Body.

Article 46. Grounds for Appointing Temporary Administration

1. The Authorized Body may appoint a temporary administration of a financial institution subject to licensing by the Authorized Body in the following cases:

1) A financial institution violates legal requirements of the Authorized Body on a regular basis;
2) A financial institution fails to carry out 10% and over of its outstanding liabilities during 30 business days;
3) Financial institution's managers have been arrested or recognized guilty on criminal charges;
4) A financial institution has concealed accounts, assets, registers, reports and other documents;
5) A financial institution refuses, in a justified manner, to disclose documents or information, provided for in this Law to authorized persons;
6) There is a public conflict among managers of the financial institution;
7) A financial institution solicits for the appointment of a temporary administration.

2. The temporary administration shall begin to fulfill its responsibilities immediately after the decision on its appointment has been adopted.

3. The temporary administration shall be headed by a person appointed by the Authorized Body.

4. Authorities temporary administration may last for at most one year of the day of appointment.

Article 47. Requirements to temporary administrator and terms of its appointment

1. The Authorized Body shall appoint individuals who will perform temporary administration functions. The following entities/individuals may act as a temporary administrator:

1) Legal entity involved in professional activities in temporary administration, provision of audit, legal or consulting services with at least three staff members duly certified by the Authorized Body to carry out the temporary administration of financial institutions;

2) Independent expert (contracted by the Authorized Body); or
3) Official of the Authorized Body.

2. Individuals may be admitted to participate in a temporary administration only if they have been granted a certificate of the Authorized Body to perform the temporary administration, have high professional and ethical characteristics, good business reputation, education in law or economics, and sufficient experience to discharge duties of a temporary administrator.

3. The Authorized Body may at any time preclude a temporary administrator from the fulfillment of his responsibilities if the latter does not comply with the requirements established by this Law.

4. The temporary administrator (except for official of the Authorized Body) and experts involved to ensure proper discharging of temporary administrator's duties shall be remunerated at the amount specified by contracts concluded with them.

5. The remuneration of a temporary administrator (except for official of the Authorized Body) and involved experts shall be financed by the financial institution to which he has appointed.

6. The amount of remuneration of a temporary administrator (except for official of the Authorized Body) shall not be lower than the average wage of the head of the concerned financial institutions for twelve months preceding the appointment of the temporary administration.

7. The temporary administrator shall establish remuneration of the involved experts within the budget of the temporary administration's approved by the Authorized Body.

8. Bonuses to the temporary administrator and experts may be paid within the budget and will be subject to approval by the Authorized Body.

9. Financial liability, life, and health of the temporary administrator shall be insured under the law and insurance contract.

10. The following individuals cannot be appointed as temporary administrators:
1) Creditor, affiliated person or participant of the financial institution;
2) Convicted or accused person;
3) Person who failed to meet his/her liability to any financial institution.

11. In order to detect a conflict of interests prior to the appointment of a temporary administrator, the candidate shall provide the Authorized Body with information on his personal and business interests, in particular:
1) Outstanding debt before the financial institution, any employment relationship with or stakeholding interest in the institution;
2) Relationship with any financial institution as its affiliated person during the last five years;
3) Failure to meet any liabilities to any bank or financial institution during the last five years;
4) Other interests, that might preclude from unbiased discharging duties of temporary administrator;
5) Absence of conflict of interest with the Authorized Body.

12. The Authorized Body shall make sure that there is no conflict of interest prior the appointment of a temporary administrator.

13. Should a conflict of interest arise after the appointment of a temporary administrator, the latter shall make every effort to eliminate this conflict of interest, and in parallel, notify the Authorized Body which shall decide whether the temporary administrator may continue performing its functions.

14. Damage made due to professional fault of the temporary administrator shall be covered under the Ukrainian legislation and insurance contracts.

15. A temporary administrator shall not:
1) Perform activities if there is a conflict of interests unless Authorized Body is aware of the situation and has permitted to continue working;
2) Accept directly or indirectly any services, presents and other valuables from persons who may be interested in certain actions connected to the appointment of the temporary administration;
3) Use or permit to use property, that the temporary administrator is entitled to dispose, to his own benefit or to the benefit of third parties;
4) Assume commitments on behalf of the Authorized Body without its prior written permission;
5) Disclose business information unless this relates to discharging duties of a temporary administrator.

16. Temporary administrator's failure to duly exercise its authorities under this Law which resulted in losses incurred by the financial institution or its creditors may be the basis for suspending performance of his function, withdrawing the certificate for temporary administration, and calling it to account.

17. If a financial institution and/or creditors have incurred losses resulting from failure of the temporary administrator to duly perform its duties, they seek for covering the losses through the court.

Section VIII. Final Provisions

1. This Law will come into effect on the date of publishing.

2. The Cabinet of Ministers shall draft the Regulation on the Authorized Body and submit it for consideration by the President of Ukraine within three months.

3. The Authorized Body, within a year of its setting up, shall introduce the State Register of Financial Institutions and enter existing financial institutions subject to regulation by the Authorized Body.

4. Financial institutions established before enactment of this Law's shall bring their activities in line with the requirements of this Law within a year of introduction of the State Register of Financial Institutions.

5. Until legislation has been brought into compliance with this Law, laws and other normative acts shall be applied insofar as they do not conflict with this Law, unless otherwise envisaged by this Law.

6. Other laws and regulations issued by state regulators in the sphere of financial services and markets shall be applied in respect to issues which are not regulated by this Law.

7. The Cabinet of Ministers of Ukraine, the National Bank of Ukraine, and the State Commission on Securities and Stock Markets, within a year of the date of publication of this Law shall:

- Prepare and submit for consideration by the Supreme Rada of Ukraine, proposals on bringing Ukrainian laws in compliance with this Law;
- Bring their normative and legal acts in compliance with this Law;
- Ensure issuing of regulations necessary to implement this Law;
- Ensure that ministries and other central bodies of the executive power bring their by-laws in compliance with this Law.

8. To complement Part 2 of Article 2 of the Law of Ukraine «On Licensing Certain Economic Activities» (1775-14) with “activities in provision of financial services” after the phrase “licensing of banking activities”.

9. To complement Article 6 of the Law of Ukraine «On Insurance» (85/96-BP) with the following Item 34:

“34) Financial liability, life, and health of temporary administrator and liquidator of a financial institution”.

L. Kuchma, the President of Ukraine

City of Kyiv
July 12, 2001-08-14# 2664-III

20. *SCFM Order No. 40 On approval of Requirements to organization of financial monitoring by entities of initial financial monitoring in prevention and counteraction to introduction into the legal turnover proceeds from crime and terrorist financing (24.04.2003)*

Order of the State Department for Financial Monitoring
Ministry of Finance of Ukraine
April, 24, 2003 N 40

On approval of Requirements to organization of financial monitoring by entities of initial financial monitoring in prevention and counteraction to introduction into the legal turnover proceeds from crime and terrorist financing

Registered in Ministry of justice of Ukraine
April, 29, 2003 for N 337/7658

With supplements and amendments, introduced by the Order of the State Department for Financial Monitoring under the Ministry of Finance of Ukraine on July 19, 2004 No. 73

By Orders of the State Committee for Financial Monitoring of Ukraine of
August 17, 2005 No. 160,
of August 21, 2006 No. 163,
of January 16, 2007 No. 6,
of December 26, 2007 No. 238

With the purpose of providing coordination of activity of entities of initial financial monitoring in relation to organization of financial monitoring in the field of prevention and counteraction to introduction into the legal turnover proceeds from crime and terrorist financing, realization of positions of articles 5 and 13 of the Law of Ukraine "On prevention and counteraction to legalization (laundering) of proceeds from crime"

I ORDER:

1. To confirm Requirements to organization of the financial monitoring by the entities of initial financial monitoring in the area of prevention and counteraction to introduction into the legal turnover proceeds from crime and terrorist financing, which are added.

2. to department of cooperation with entities of financial monitoring (S. Nesen) jointly with the subdivision of Legal matters of Department
of International and Legal matters (I. Sachenko) to provide state registration of this order in Ministry of justice of Ukraine.

3. to division of personnel work, finance and matters (N. Poplevicheva) after state registration to provide publishing of this order in the way determined by the legislation.

4. The requirements confirmed by this order shall come into force simultaneously with the Law of Ukraine “On Prevention to the Legalization (Laundering) of the Proceeds from Crime”.

The control on the fulfillment of this Order should be laid on the first Deputy Head of the State Department for Financial Monitoring V. Diesperov.

State secretary
Ministry of Finance of Ukraine -
Head of the State department
for financial monitoring

S. Hurzhiy

Confirmed
by the order of the State Department for Financial Monitoring
April, 24, 2003 N 40
Registered
Ministry of justice of Ukraine
April, 29, 2003 for N 337/7658

REQUIREMENTS
ON ORGANIZATION OF FINANCIAL MONITORING BY ENTITIES OF INITIAL FINANCIAL MONITORING IN PREVENTION AND COUNTERACTION TO INTRODUCTION INTO LEGAL TURNOVER PROCEEDS FROM CRIME, AND TERRORIST FINANCING

Requirements on organization of the financial monitoring by the entities of initial financial monitoring in the field of prevention and counteraction to introduction into the legal turnover proceeds from crime and terrorist financing (further - Requirements) are developed in accordance with the Law of Ukraine

"On prevention and counteraction to legalization (laundering) of proceeds from crime" (further – the Law).

1. General provisions

1.1 The requirements are obligatory for implementation for the entities of initial financial monitoring (further - entities) and their separated subdivisions, which include:
(abstract one of the subparagraph 1.1. of paragraph 1
in edition of the Orders of SCFM of Ukraine
of August 17, 2005 No. 160, of August 21, 2006 No. 163)

- banks, insurance and other kinds of financial institutions etc;

- payment organizations, members of the payment systems, acquiring and clearing institutions;

- commodity, stock and exchanges;

- professional operators of stock market;

- joint investment institutions;

- enterprises, institutions which manage investment funds or non-governmental pension funds;

- communication companies and associations, other non-crediting institutions that transfer funds;

- gambling houses, pawn-shops, legal persons, which conduct any lotteries (the following Requirements are applied to gambling houses and pawn-shops taking into consideration Procedure for financial monitoring conduct by business entities, which conduct business activities on organization and maintenance of casino, other gambling houses and pawn-shops, approved by the Resolution of the Cabinet of Ministers of Ukraine of November 20, 2003 No. 1800).

(subparagraph 1.1. of paragraph 1 is supplemented
with abstract nine in accordance with the Order
of the State Department for Financial Monitoring
under the Ministry of Finance of Ukraine
of July 19, 2004 No. 73, in connection with it
abstract nine should be considered abstract ten);

- other legal persons, which according to the legislation carry out financial transactions.

In these Requirements “separated subdivision” is used in such meaning: this is a subsidiary, other subdivision of the entity that is located in another place and produces goods, fulfils works, conducts transactions, renders services on behalf of the entity or represents and protects the interests of this entity.
(subparagraph 1.1. of paragraph 1 is supplemented
with this abstract in accordance with the Order
of the State Department for Financial Monitoring
of December, 26, 2007 № 238)

1.2. By this document the common requirements are determined to:

- appointing of employee of entity, accountable for conducting of the financial monitoring (further – compliance officer), his rights and duties;

- establishment of rules of conducting of the financial monitoring and programs of its realization;

- disclosure of financial transactions subject to financial monitoring and which can be linked, relate or aimed at terrorist financing;

- identification of persons, which execute financial transactions, keeping proper documents;

- procedure of registration by the entities of financial transactions, which are subject to financial monitoring;

(subparagraph 1.2. of paragraph 1 is supplemented with new
abstract six in accordance with the Order of the
State Committee for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

- procedure for suspension of financial transactions;

(subparagraph 1.2. of paragraph 1 is supplemented with new
abstract seven in accordance with the Order of the State Committee
for Financial Monitoring of Ukraine of August 21, 2006 No. 163,
in connection with it abstracts six and seven should
be considered eight and nine accordingly)

- submission of information of financial transactions subject to financial monitoring, and assistance to entities of the state financial monitoring on the questions of conducting of analysis of such financial transactions;

- preparation of personnel of entity with the purpose of disclosure of financial transactions subject to financial monitoring.

2. Appointing, rights and duties of compliance officer

2.1. A compliance officer is a person, on whom coordination of activity for conducting by the entity (separated subdivision) of measures of the financial monitoring is laid.

(abstract one of subparagraph 2.1. of paragraph 2
with amendments, introduced in accordance with the Order
of the State Committee for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)
A compliance officer is appointed by the head of entity and is independent in the activity and accountable only to the head of entity.

In a time of absence of compliance officer or impossibility of implementation of the duties laid on him (business trip, illness, vocation, etc.) a person is to be appointed, that discharges his duties. Rights, duties and requirements set for a compliance officer spread on the indicated person.

(abstract three of subparagraph 2.1. of paragraph 2
with amendments, introduced in accordance with the Order
of the State Committee for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

In the case of pointlessness of introduction of separate position for conducting of the financial monitoring the head of entity can be appointed accountable.

For the moment of first financial transaction conduct in newly established entity (separated subdivision), compliance officer shall be appointed.

(subparagraph 2.1. of paragraph 2 is supplemented
with abstract five in accordance with the Order of
the State Committee for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

The head of the entity is compliant for organization of fulfilment of legislation of Ukraine requirements on the issues of prevention to legalization (laundering) of proceeds from crime and organization of internal system of prevention to legalization (laundering) of proceeds from crime.

(subparagraph 2.1. of paragraph 2 is supplemented
with abstract six in accordance with the Order of
the State Committee for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

2.2. Taking into account the features of organizational structure of entity separate structural subdivision can be created on the questions of conducting of the financial monitoring.

The noted subdivision functions in accordance with position about this structural subdivision, which becomes firmly established by the head of entity.

In the case of creation by the entity a special subdivision on the questions of conducting of the financial monitoring a compliance officer is the head of this subdivision.

2.3. During realization of the financial monitoring a compliance officer within the limits of the competence independently makes decision.

Job description of compliance officer becomes firmly established by the head of entity.

In the case of disagreement of compliance officer with pointing of head of entity in relation to organization of the system of prevention to legalization (laundering) of proceeds from crime, and other questions in relation to conducting of the financial monitoring, a compliance officer can report about it to State department for financial monitoring and state organ which in accordance with the legislation executes the functions of adjusting and supervision on entity, with writing exposition of the objections.

2.4. Entity is obliged to report State department for financial monitoring about setting on position or dismisses compliance officer (or persons, that temporally discharges his duties) during three days from the moment of appointment, temporary appointment or dismissal.

(abstract first of subparagraph 2.4. of paragraph 2
in edition of the Order of the State Department
for Financial Monitoring of Ukraine under
the Ministry of Finance of Ukraine of July 19, 2004 No. 73)

The form of report about setting and liberation of compliance officer (or persons, that temporally discharges his duties) is set by State department for financial monitoring.

A copy of the Card for registration of the entity of initial financial monitoring (separated subdivision) and compliance officers with information concerning appointment or dismissal of compliance officer (or person, who temporarily fulfills his duties) should be kept together with report on results of its processing during five years from the date of card submission to the SCFM of Ukraine.

(subparagraph 2.4. of paragraph 2 is supplemented
with abstract three in accordance with the Order

of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

2.5. In the case of presence at the entity separated subdivisions on the concordance with the compliance officer of entity the compliance officer of the separated subdivision is appointed. Compliance officer of the separated subdivision accountable only to the head of the separated subdivision.
One and the same person shall not be assigned as Compliance officer of the entity and its separated subdivision.
(subparagraph 2.1. of paragraph 2 is supplemented
with a new abstract in accordance with the Order of
the State Committee for Financial Monitoring of Ukraine
of December 26, 2007 No.238, in connection with it abstract
2 should be considered 3)

In the case of pointlessness of introduction of separate position in the entity, the head of the separated subdivision of entity or another employee can be appointed as compliance officer.

(subparagraph 2.5. of paragraph 2 in edition
of the Order of the State Department for Financial
Monitoring under the Ministry of Finance
of Ukraine of July 19, 2004 No. 73)

2.6. Can not be appointed as compliance officer a person, who:

has previous conviction for the commission of intentional crime, if this previous conviction is not liquidated and not taken off in the order set by a law;

has not any labour relations with the entity (separated subdivision).

(subparagraph 2.6. of paragraph 2 in edition
of the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

2.7. To the position requirements of compliance officer can be taken:

development and permanent renewal of rules of the financial monitoring and programs of its realization;

providing of training, study and consulting of personnel in relation to the disclosure of financial transactions, which are subject to the financial monitoring, by means of educational and practical measures conducting;

(abstract three of subparagraph 2.7. of paragraph 2
with amendments, introduced in accordance with
the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

providing of observance by all employees of entity (separated subdivision) of the relevant rules of the financial monitoring and programs of its realization;

(abstract four of subparagraph 2.7. of paragraph 2
with amendments, introduced in accordance with

the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

Taking decisions on suspension of financial transaction carrying out, if its participant or beneficiary is a person, who is included in the list of persons, related to terrorist financing conduct;

(abstract five of subparagraph 2.7. of paragraph 2
in edition of the Order of the State Committee
for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

taking decisions in accordance with the legislation concerning transactions, which are to be reported to the SCFM of Ukraine and to the law enforcement authorities, and realization of the relevant reports;

providing of submission of information on the issues of the financial monitoring upon the SCFM of Ukraine request;

assistance to the representatives of State department for financial monitoring and agency which in accordance with the legislation executes the functions of regulation and supervision on entity, on the issues of conducting analysis of financial transactions, which are subject to financial monitoring;

informing of head about the disclosed suspicious financial transactions and measures which were taken, not rarer than once a month;

fulfilment of other duties foreseen by the Law and job description.

(abstract ten of subparagraph 2.7. of paragraph 2
with amendments, introduced in accordance with
the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

2.8. For implementation by the compliance officer of position requirements to his plenary powers can be taken:

conducting of verifications of activity of entity (separated subdivision) and his employees for the purpose of implementation by them the rules of the financial monitoring and programs of its realization;

involving into conducting of measures on the financial monitoring and conducting of check-ups on these issues of any employees of entity (separated subdivision), giving them commissions and instructions, within the limits of the competence, obligatory to implementation, and also requirement from them of help in realization of separate actions;

receipt of explanations on the issues of realization of financial monitoring from the employees of entity (separated subdivision) regardless of positions held by them;

receipt of access to the documents and other information related to conducting of the financial monitoring.

2.9. Informing by the compliance officer of the head of the entity on disclosed financial transactions, which are subject to financial monitoring, and about measures, which were taken to comply with the legislation norms in the AML/CTF field (hereinafter referred to as informing), is carried out not rarer than once a month by means of providing to the latest of written report in any form.
(the first abstract was added to the subparagraph 2.9
in accordance with the Order of the State Committee

for Financial Monitoring of Ukraine of
December, 26, 2007 No.238)

The report, in particular, can include information concerning:

disclosed financial transactions, which are subject to financial monitoring, and measures, which were taken;

registered financial transactions with features of obligatory and internal financial monitoring;

financial transactions, which are subject to financial monitoring, sent to the SCFM of Ukraine;

repeated submission to the SCFM of Ukraine of financial transactions, after committed errors correction;

measures, taken concerning elaboration and renewal of rules of internal financial monitoring and programs of its conduct taking into considerations requirements of legislation, including normative-legal acts of SCFM of Ukraine;

measures, taken concerning training of staff as regards to disclosure of financial transactions, which are subject to financial monitoring in accordance with the Law by means of carrying out educational and practical measures.

(paragraph 2 is supplemented with subparagraph 2.9.
in accordance with the Order of the State Committee
for Financial Monitoring of Ukraine of
August 21, 2006 No. 163)

3. Establishment of rules for conducting of financial monitoring and programs of its realization

3.1. The rules for conducting of financial monitoring (further - Rules) are the internal document of entity, which determines procedure and terms for conducting of the measures, directed on non-admission of the use of entity for legalization (laundering) of proceeds from crime and terrorist financing.

Rules determine mechanism for realization of measures for internal financial monitoring conduct for prevention to use of entities for legalization of proceeds from crime and terrorist financing.

(subparagraph 3.1. of paragraph 3 in edition
of the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

3.2. Rules are elaborated by entity considering requirements of legislation on prevention and counteraction to legalization (laundering) of proceeds from crime and terrorist financing, international standards in the area of counteraction to legalization (laundering) of proceeds from crime and terrorist financing.

(abstract one of subparagraph 3.2. of paragraph 3 in edition of the Order of the State Committee for Financial Monitoring of Ukraine of August 21, 2006 No. 163)

Rules shall take into consideration specific character of financial monitoring conduct on all directions of entity’s activity and its separated subdivisions.

(subparagraph 3.2. of paragraph 3 is supplemented
with new abstract in accordance with the Order

of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163, in connection
with it, abstract two should be considered abstract three)

Rules and programs of realization of the financial monitoring are approved by the head of entity after its submitting by compliance officer.

3.3. Rules must represent the internal system of financial monitoring of entity, to provide the disclosure of financial transactions, which are subject to financial monitoring or can be related to terrorist financing, to envisage in accordance with the legislation informing on such transactions State department for financial monitoring and law enforcement authorities and to determine the order of storage of documents related to them.

Rules shall envisage informing by the entity of state agency, which according to the legislation executes functions of regulation and supervision over them, in case of failure of its branches and other separated subdivisions, which are situated abroad, to take measures for counteraction to legalization (laundering) of proceeds from crime and terrorist financing, defining reasons of failure to execute them.

(subparagraph 3.3. of paragraph 3 is supplemented
with abstract two in accordance with the Order
of the State Committee for Financial Monitoring
of Ukraine of January 16, 2007 No. 6)
abstract two of subparagraph 3.3 of paragraph 3
was amended according to the Order of the State
Committee for Financial Monitoring of Ukraine
of December, 26 , 2007 No. 238

3.4. Basic principles of development and realization of Rules and programs of the financial monitoring are:

direct participation of every employee of entity, within the limits of his competence, in the disclosure of financial transactions, which can be related to legalization (laundering) of proceeds from crime or terrorist financing;

objectivity in realization of the financial monitoring;

confidentiality of information, which is submitted to State department for financial monitoring (including the fact of transmission of information about financial transaction), and other information, on the issues of the financial monitoring;

prevention to involvement of employees of entity to legalization (laundering) of proceeds from crime.

3.5. Rules must contain:

description of the internal system of the financial monitoring;

principal bases of activity of separate structural subdivision of entity on the issues of conducting financial monitoring (in the case of availability);

requirements to qualification of compliance officer of entity (separated subdivision);

rights and duties of compliance officer of entity (separated subdivision), and also other employees of entity (separated subdivision), engaged in realization of the financial monitoring;

procedure of identification of persons, which carry out financial transactions, which are subject to financial monitoring in accordance with the Law, including opening of account;

procedure of taking measures for defining of character and purpose of financial transaction;

procedure of disclosure of financial transactions, which are subject to the financial monitoring and which can be linked, related or targeted at terrorist financing;

procedure of registration of financial transactions, which in accordance with the Law are subject to financial monitoring;

procedure of suspension of financial transaction conduct, if its participant or beneficiary is a person, included into the list of persons, related to terrorist financing conduct;

procedure of refusal to provide financial transaction conduct in case of defining that this transaction includes characteristics of transaction, which in accordance with the Law is subject to financial monitoring;

procedure of preparation and presentation to the compliance officer of information necessary for the decision-making about submitting information in accordance with the legislation to State department for financial monitoring and law enforcement authorities;

procedure of collection and storage of documents as regards to identification of persons, who carries out financial transactions, and documents concerning carried out financial transactions, which are subject to financial monitoring and/or can be related, connected or targeted at terrorist financing;

requirements to providing confidentiality of information on financial transactions which are subject to the financial monitoring and/or can be linked, related or targeted at terrorist financing;

procedure of acquainting employees with internal documents of entity (separated subdivision) on the issues of financial monitoring;

procedure of organization and conduct of educational and practical measures for employees of the entity (separated subdivision);

procedure of informing the head concerning disclosed financial transactions, which are subject to financial monitoring, and measures, which were taken;

(subparagraph 3.5. of paragraph 3 in edition
of the Order of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

description of measures, directed on prevention to possible use of modern technologies in schemes for legalization of proceeds from crime and terrorist financing.

(subparagraph 3.5. of paragraph 3 is supplemented
with abstract in accordance with the Order
of the State Committee for Financial Monitoring
of Ukraine of January 16, 2007 No. 6)

3.6. The program for realization of financial monitoring (further - Program) constitutes internal document of the entity, which contains plan for implementation of complex of measures on organization of conducting of financial monitoring, taking into consideration separate directions of entity's activity, including those, which are carried out by its separated subdivisions, and plan for conduct of check-ups of the following measures execution.

(subparagraph 3.6. of paragraph 3 in edition
of the Order of the State Committee for
Financial Monitoring of Ukraine
of August 21, 2006 No. 163, with amendments,
introduced according to the Order
of the State Committee for Financial Monitoring
of Ukraine of January 16, 2007 No. 6)

3.7. Procedure and regime of access to the Rules and Program are determined by compliance officer of the entity under approval of the head of the entity.

(paragraph 3 is supplemented with subparagraph 3.7.
in accordance with the Order of the State Committee
for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

3.8. Entities are obliged to elaborate and approve Rules and Programs during three business days from the date of compliance officer appointment, but in any case not later than first financial transaction conduct.

(paragraph 3 is supplemented with subparagraph 3.8.
in accordance with the Order of the State Committee
for Financial Monitori8ng of Ukraine
of August 21, 2006 No. 163)

4. Disclosure of financial transactions subject to financial monitoring and which can be related, aimed or targeted at terrorist financing

4.1. Procedure of disclosure of financial transactions subject to financial monitoring and which can be related, aimed or targeted at terrorist financing, shall contain:

procedure of realization of measures on finding out of essence and purpose of transactions, subject to the financial monitoring;

features of transactions which are subject to the obligatory and internal financial monitoring, separately for every type of financial transactions;

other features of suspicious financial transactions which are set in accordance with a specific character and directions of entity’s activity;

criteria of classification of persons, description of types of persons, which are characterized by the promoted degree of probability of realization by them of the transactions, which can be related to legalization (laundering) of proceeds from crime, or terrorist financing (general characteristic, country of origin, description of business activity and reputations, presence of criminal records, etc.).

4.2. Entity elaborates criteria for assessment of risk for conduct by the client of financial transactions for legalization (laundering) of proceeds from crime (further - criteria). With this aim, criteria for assessment of such risk, presented in the Appendix 1 to the present Requirements, can form the basis.

(subparagraph 4.2. of paragraph 4 with amendments,
introduced in accordance with the Order
of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163
in edition of the Order of the State Committee

for Financial Monitoring of Ukraine of January 16, 2007 No. 6)

4.3. If a probability of conducting by the person of the transactions, related to legalization (laundering) of proceeds from crime, and terrorist financing, is estimated by an entity (separated subdivision) as large, the increased attention is paid to transactions of such person.

(abstract one of subparagraph 4.3. of paragraph 4
with amendments, introduced in accordance with
the Order of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

For estimation of probability of the fact, that transaction is carried out with the purpose of legalization (laundering) of proceeds from crime, and terrorist financing, entity (separated subdivision) can study additionally other financial transactions of persons - participants of given transaction.

(abstract two of subparagraph 4.3. of paragraph 4
with amendments, introduced in accordance with
the Order of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

4.4. Entity (separated subdivision) has a right to refuse to provide realization of financial transaction in the case of determining, that this financial transaction contains the characteristics of such, that is by Law is a subject to the financial monitoring, and is under an obligation to identify and report to State department for financial monitoring about persons, which carry out the noted financial transaction, and its character.

(subparagraph 4.4. of paragraph 4
with amendments, introduced in accordance with
the Order of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

4.5. In case of disclosure of financial transaction, which is subject to financial monitoring, the entity (separated subdivision) provides its registration, takes other measures, which he considers expedient to fulfil the requirements of legislation in the area of prevention to legalization (laundering) of proceeds from crime and terrorist financing and submits, in the cases provided by the legislation, to the SCFM of Ukraine information concerning the following financial transaction.

(paragraph 4 is supplemented with subparagraph 4.5.
in accordance with the Order of the State Committee
for Financial Monitoring of Ukraine
of August 21, 2006 No. 163
subparagraph 4.5 was amended in accordance with
the Order of the State Committee for Financial Monitoring
of Ukraine of December, 26, 2007 No 238)

5. Identification of persons, which carry out financial transactions, keeping of appropriate documents

5.1. Entity (separate subdivision) is obliged to conduct identification:

(abstract one of subparagraph 5.1. pf paragraph 5
with amendments, introduced in accordance with the
Order of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

- person which carries out financial transaction, that by law is a subject to the financial monitoring;

- open an account (in that number the deposit).

If a person operates as a representative of other person, or a subject has doubting in relation to that a person comes forward from the proper name or beneficiary there is other face, a subject is under an obligation to identify also:

- person, from the name or which financial transaction is carried out on the person`s instructions;

- person which is beneficiary.

5.2. The procedure for identification of persons must contain:

- procedure for realization of initial identification of person;

- measures for conducting of identification of person in the case of change of information, necessary for conducting of identification, or ending of term of action of documents, which was conducted on the basis of;

- procedure for conducting of the measures directed on verification of information on identification of person;

- measures for conducting of additional study of person.

5.3. With the purpose of identification of person, the employee of entity (separated subdivision) finds out the following information concerning:

(abstract one of subparagraph 5.3. of paragraph 5
with amendments, introduced in accordance with
the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

а) residents - natural persons:

last name, name, patronymic;

date of birth;

series and number of passport (or other identification document), date of its issue and issuing agency;

place of residence;

identification number pursuant to the State register of natural persons - payers of taxes and other obligatory payments;

б) residents - legal persons:

name (complete and brief);

legal address;

documents about confirmation of state registration (including statutory documents, information on officers and their functions, etc.);

identification code pursuant to the Unified state register of enterprises and organizations of Ukraine;

references of the bank, which opened the account and account number;

в) nonresidents - physical persons:

last name, name, patronymic (in the case of his presence);

date of birth;

series and number of passport (or other identification document), date of its issue and issuing agency;

citizenship;

place of residence or sojourn;

г) nonresidents - legal entities:

full name;

location and references of bank, that opened the account;

account number;

are given about registration of this legal entity on the basis of copy of legalized self-control of auction, bank or judicial register or witnessed notarial registration certification of the authorized organ of the foreign state about such registration.

5.4. Identification of persons is carried out on the basis of the given originals or copies of documents, which are authenticated by notary of enterprise (institution, organization), which issued them.

(subparagraph 5.4. of paragraph 5 with amendments,
introduced in accordance with the Order of the
State Committee for Financial Monitoring of Ukraine
of August 17, 2005 No. 160, in edition of the Order
of the State Committee for Financial Monitoring
of Ukraine of January 16, 2007 No. 6)

5.5. At the study of constituent documents of legal entity and documents which confirm its state registration, it is necessary to spare the promoted attention:

- rightness of their registration (taking into account the all registered changes);

- make the founders of legal entity and its linked persons;

- structure of bodies of management of legal entity and their functions;

- size of the registered and prepaid charter fund.

5.6. During conducting of identification and study of persons it is recommended to make questionnaires. A questionnaire is the internal document of entity and can contain information, receive by the entity in result of identification and study of person, which carries out financial transaction, in particular, information on:

(abstract one of the subparagraph 5.6. of paragraph 5
with amendments, introduced in accordance with

the Order of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

identification data of person;

character of activity;

purpose and grounds for conducting of transactions;

assessment of size and sources of existent and expected receipts;

description of sources of origin and methods of transfer (bringing) of funds, which are used in transactions;

linked persons;

Questionnaire can also contain additional information concerning characteristics of person, its business reputation, financial state, etc.

Questionnaire if formed according to the results of conducting identification of person on the stage of establishment of relations with it. Information, containing in the questionnaire, is précised in the process of studying of person in procedure, prescribed by the entity.

(subparagraph 5.6. of paragraph 5 is supplemented
with new abstract nine in accordance with the Order
of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

Questionnaire is filed and signed only by employee of the entity (separated subdivision).

(subparagraph 5.6. of paragraph 5 is supplemented
with new abstract ten in accordance with the Order
of the State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163,
in connection with it abstract nine should be
considered relevantly abstract eleven)

An entity can determine the categories of persons during identification of which questionnaires are not used (clients, which carry out single transactions in small sizes and etc.).

5.7. Identification of a person is not obligatory, in case:

- Financial transaction is carried out by persons, who were earlier identified according to the legislation;

- Agreements are concluded between banks registered in Ukraine;

5.8. In case, if documents, on the basis of which identification was held, has been amended, or the period of their validity terminated, than upon conducting by the client of financial transaction, which is subject to financial monitoring, the entity (separated subdivision) is obliged to carry out identification in accordance with the legislation.

(abstract one of subparagraph 5.8. of paragraph 5
with amendments, introduced by the Order of the

State Committee for Financial Monitoring of Ukraine
of January 16, 2007 No. 6)

In case if risk of carrying out by the client of financial transaction for legalization (laundering) of proceeds from crime is estimated by the entity (separated subdivision) as large, the entity (separated subdivision) specifies information, received according to the results of identification and studying of client, which carries out financial transaction, not rarely than once a year. For other clients, the term of information specification should not be more than three years.

(subparagraph 5.8. of paragraph 5 in edition
of the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

5.9. Entity (separated subdivision) is obliged to keep documents, relevant to identification of persons, and all documentation on performance of financial transaction during five years after its carrying out.

(subparagraph 5.9. of 5 with amendments, introduced by the Order of the State Committee for Financial Monitoring of Ukraine of August 21, 2006 No. 163)

6. Procedure for registration by the entities of financial transactions, which are subject to financial monitoring

6.1. Before or after carrying out financial transaction, the entity specifies possibility to refer it to financial transaction, which according to the Law is subject to financial monitoring. In case of disclosure of such financial transaction, it is subject to registration by relevant entity.

6.2. Registration of financial transactions, which are subject to financial monitoring, is carried out in the register of financial transactions, which are subject to financial monitoring (further - Register), which is formed and kept by the entity (separated subdivision) and constitutes electronic (paper) document of determined structure.

Register is collection of information on financial transactions, which are subject to financial monitoring, and its participants.

Procedure of financial transactions registration for non-banking institutions is determined by the Cabinet of Ministers of Ukraine, and format and structure is determined by SCFM of Ukraine.

Format and structure of the Register and procedure of registration of financial transaction in register for banks (branches) is determined by the compliance officer taking into account requirements of normative-legal acts of the National Bank of Ukraine.

Keeping of Register is carried out by the entity (separated subdivision), which conducts submission of information on financial transactions to SCFM of Ukraine.

Separated subdivision of the entity, which independently doesn’t carry out submission of information on financial transactions to the SCFM of Ukraine, provides registration of financial transactions, which are subject to financial monitoring, according to requisites, determined in the Register.

6.3. Correction of data, introduced into the Register, is not permitted. In case of need to correct mistake (mistakes) in the Register, it is set forth information about annulment of file with mistakes concerning relevant financial transaction, and Register is supplemented with new file concerning this transaction.

(paragraph 6 with amendments, introduced by the
Order of the State Department for Financial Monitoring

under the Ministry of Finance of Ukraine of
July 19, 2004 No. 73, by the Order of the State
Committee for Financial Monitoring of Ukraine
of August 17, 2005 No. 160, in edition of
the Order of the State Committee for Financial
Monitoring of Ukraine of August 21, 2006 No. 163)

7. Procedure for suspension of financial transactions

7.1. In case of disclosure by the entity of financial transaction, which participant or beneficiary is a person, who is included into the list of persons, related to carrying out terrorist activities, the entity is obliged to suspend conducting of such financial transaction for the term up to two business days and during the same day to inform the SCFM of Ukraine about it.

Information is submitted to the SCFM of Ukraine complying with measures, which exclude unsupervised access to information or documents during the time of their submission.

The entity is obliged to make sure that submitted information concerning suspension of financial transaction is received by the SCFM of Ukraine.

7.2. Procedure for suspension of financial transactions is determined by the entities of of state financial monitoring, which carry out regulation and supervision over activities of the entity in the framework of their competence.

7.3. The SCFM of Ukraine can take decision concerning further suspension of financial transaction for the term till five business days, which he is obliged to inform immediately to the entity, and also law enforcement agencies, prescribed by legislation. In case of absence of relevant decision by the SCFM of Ukraine during the term, envisaged by the subparagraph 7.1, the entity renews conducting of financial transaction.

(paragraph 7 in edition of the Order of the
State Committee for Financial Monitoring
of Ukraine of August 21, 2006 No. 163)

8. Submission of information on financial transactions subject to financial monitoring, and assistance to entities of state financial monitoring regarding the issues of analysis conducting of such financial transactions

8.1. Information on financial transaction subject to obligatory financial monitoring, is submitted to SDFM in the procedure, established accordingly by the National bank of Ukraine - for banks, and the Cabinet of Ministers of Ukraine - for other entities of initial financial monitoring.

Information, which is submitted by the entity on the grounds of information, which was received from the separated subdivision, shall contain requisites of such subdivision. The list of necessary requisites is determined by the SCFM of Ukraine.

If employees of the entity (separated subdivision) have motivated suspicions that financial transaction is carried out with the purpose of legalization (laundering) of proceeds from crime, information on such transaction is also submitted to SDFM.

8.2. In case if entities, which carry out financial transactions, suspect or should have suspected, that such financial transactions are related to, are targeted or aimed at financing of terrorist activity, terrorist acts or terrorist organizations, they are obliged immediately to inform the SCFM of Ukraine and law enforcement agencies, prescribed by legislation.

8.3. Decision on information submission, mentioned in abstract 3 of paragraph 6.1, paragraph 6.2, is to be made by compliance officer of the entity (separated subdivision) in accordance with the legislation.

8.4. The entity (separated subdivision) is obliged to submit to the SCFM of Ukraine information concerning financial transaction, which is subject to obligatory financial monitoring, not later than during three business days from the moment of its registration.

8.5. Before submission to the SCFM of Ukraine of first report on financial transactions, subject to financial monitoring, the entity is obliged to submit to the SCFM of Ukraine card for registration, which is used for his further identification.

In case of amendments, made to information about the entity (separated subdivision), the entity is obliged repeatedly, during three business days from the date of their approach, to submit card of registration.

8.6. Upon the request of State department for financial monitoring entity gives additional information on financial transactions, which became the object of the financial monitoring or are related to terrorist financing, including information, which constitutes a bank and commercial secret, not later than during three business days from the moment of receipt of request.

In case of receipt by the entity (separated subdivision) of request fro SCFM of Ukraine concerning submission of information, which became object of request from relevant agency of foreign state, the entity (separated subdivision) is obliged during three business days from the moment of relevant request receipt, to provide requested information. Request of the SCFM of Ukraine concerning submission of information, necessary for execution of request of relevant agency of foreign state, shall contain reference on number and date of registration of this request in the relevant register of the SCFM of Ukraine.

8.7. Information about financial transaction in provision of performance of which it was refused to the client, and about persons, which are its participants, is submitted by the entity (separated subdivision) to the SCFM of Ukraine.

In case of impossibility to conduct complete identification of the client till the end of the third business day, the entity send to the SCFM of Ukraine report on financial transactions, defining available information. At that he continues to take measures concerning specification of identification data of person, prescribed by Law, upon termination of which he provides the SCFM of Ukraine with additional information.

8.8. In case of receipt by the entity (separated subdivision) of report from the SCFM of Ukraine on refusal to register information, in connection with its undue adjustment, mentioned entity (separated subdivision) is obliged during three business days from the date of receipt of such report, repeatedly to submit duly adjusted information to the SCFM of Ukraine.

8.9. In case of non-receipt by the entity (separated subdivision) of information concerning results of processing of information sent to the address of the SCFM of Ukraine, compliance officer of the entity (separated subdivision) is obliged to find out the reasons of non-receipt of such information.

8.10. Information is submitted to SCFM of Ukraine in an electronic kind by communication channels, on a magnetic carrier or in a paper form in procedure, prescribed by the legislation of Ukraine.

Information on a magnetic or paper carrier is sent by non-banking institutions to the SCFM of Ukraine by postal mail with the notification about servicing or by special service with observance of measures, which eliminate uncontrolled access to information or documents during their delivery.

8.11. Information, which is transmitted in accordance with requirements of legislation, constitutes information with the limited access. Exchange of such information, its revealing and defense by SCFM of Ukraine, entities, agencies of executive power and National Bank of Ukraine, which according to the legislation provide regulation and supervision over activities of entities, is carried out in accordance with legislation.

8.12. A compliance officer and other employees of entity (separated subdivision) shall provide confidentiality of information, which is submitted to SCFM of Ukraine, and other information on the issues of the financial monitoring, and also fact of its submission, and not to distribute it either within the limits of entity, or out of its framework, including to the persons in relation to financial transactions of which the report is carried out, except for the cases foreseen by the legislation.

8.13. The employees of entity (separated subdivision) are obliged to contribute to the employees of the SCFM of Ukraine and agency, which according to the legislation executes the functions of regulation and supervision over the entity, in conducting analysis of financial transactions, which are subject to financial monitoring.

(Requirements are supplemented with paragraph 8
in accordance with the Order of the State Committee
for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

9. Training of staff of the entity with the aim to disclose financial transactions, which are subject to financial monitoring

9.1. To provide the proper level of training of staff on the issues of financial monitoring conduct, compliance officer of the entity (separated subdivision) carries out training of staff concerning disclosure of financial transactions, which are subject to financial monitoring in accordance with the Law, by means of conducting of educational and practical measures.

9.2. All employees of entity (separated subdivision), which take part in carrying out or in provision of carrying out of financial transaction (further - employees), are obliged to get to know the Rules and Program, and also to take part in educational measures.

(subparagraph 9.2. of paragraph 9 with amendments,
introduced in accordance with the Order of the
State Committee for financial Monitoring of
Ukraine of January 16, 2007 No. 6)

9.3. Employees are to be warned about responsibility for violation of legislation concerning prevention and counteraction to legalization (laundering) of proceeds from crime and terrorist financing.

(subparagraph 9.3. of paragraph 9 with amendments,
introduced in accordance with the Order of the
State Committee for financial Monitoring of
Ukraine of January 16, 2007 No. 6)

9.4. Training of employees, depending on their job descriptions, is carried out by conducting of studying concerning:

- acquaintance of employees with legislation of Ukraine and international normative acts on the issues of prevention to legalization (laundering) of proceeds from crime and terrorist financing;

- acquaintance of employees with internal documents on the issues of financial monitoring;

- realization of practical measures on financial monitoring;

- study of advanced experience in the disclosure of financial transactions, which can be related to legalization (laundering) of proceeds from crime and terrorist financing;

- acquaintance with means and techniques of study of clients and verification of information on their identification.

(Requirements are supplemented with paragraph 9
in accordance with the Order of the State Committee
for Financial Monitoring of Ukraine
of August 21, 2006 No. 163)

Appendix to Requirements

Directed list of criteria for assessment of risk of conduct by the client of transaction for legalization (laundering) of proceeds from crime (in case of necessity are supplemented by the entity independently).

1) Availability of counterparts – residents of countries (territories), about which it is known from reliable sources that they:

are not compliant with generally accepted standards in the area of counteraction to legalization (laundering) of proceeds from crime;

do not envisage disclosure and provision of information concerning financial transactions;
do not fulfill recommendations of Financial Action Task Force (FATF);

are countries (territories), where military operations are in place;

are offshore zones;

are countries (territories), which do not take part in international cooperation in the area of prevention and counteraction to legalization (laundering) of proceeds from crime and terrorist financing.

2) In financial transaction takes part a person, which:

is the person, who takes (took) up post, in accordance with which has (had) wide range of powers;

not presenting financial institution, is engaged in money transfers, transactions for payment of cheques with cash, etc.;

carries out external economic transactions;

receives financial assistance from nonresidents or provides financial assistance to nonresidents;

is nonprofit organization;

initiates conducting of financial transaction without indirect contact with subject

Head of the Department of cooperation
with entities of financial monitoring

S. Nesen

21. *NBU Resolution No. 189 - Regulation on Implementing the Financial Monitoring by Banks (2003 as amended in 2003, 2005, 2006)*

Regulation on Implementing the Financial Monitoring by Banks

Resolution of the Board of the National Bank of Ukraine of 14.05. 2003, # 189.
With changes applied according to Resolution of the Board of the National Bank of Ukraine of 14.10.2003, # 446
and according to Resolution of the Board of the National Bank of Ukraine of 20.09.2005, # 341
Registered in the Ministry of Justice of Ukraine
October 11, 2005, № 1181/11461
and according to Resolution of the Board of the National Bank of Ukraine of 23.03.2006, # 104
Registered in the Ministry of Justice of Ukraine
April 6, 2006, № 394/12268

In order to ensure the realization of provisions of the Laws of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of the Proceeds Obtained from Crime" and "On Making Amendments to Certain Laws of Ukraine on Prevention to Use Banks and Other Financial Institutions for Legalization (Laundering) of the Proceeds Obtained from Crime", the Board of the National Bank of Ukraine RESOLVES:

1. To approve the Regulation on implementing the financial monitoring by banks (attached).
2. The Resolution will come in force simultaneously with becoming valid the laws of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of the Proceeds Obtained from Crime" and "On Making Amendments to Certain Laws of Ukraine on Prevention to Use Banks and Other Financial Institutions for Legalization (Laundering) of the Proceeds Obtained from Crime".
3. Banks shall bring in compliance with the current laws of Ukraine before 1 September 2003 the identification of available clients whose risk of conducting transactions in legalization of the proceeds obtained from crime is assessed as being high and of other clients – before 1 January 2004. Bringing in compliance with the current laws the identification of clients that do not have business relations with the bank and whose risk of conducting transactions in legalization of the proceeds obtained from crime is assessed as being low can be made later than the terms specified upon a client applies for a bank or effects a transaction.
4. Division on Methodological and Organizational Support of Financial Monitoring after the state registration of this Resolution in the Ministry of Justice of Ukraine shall inform regional branches of the National Bank of Ukraine and commercial banks of Ukraine about the content of the Resolution in order to apply it in their work.

Control over performing of this Resolution shall be imposed on Deputy Governor of the NBU (Mr. Shlapak) and Division on Methodological and Organizational Support of Financial Monitoring.

Governor
Sergiy Tigipko

Approved by Resolution of the Board of
the National Bank of Ukraine
of 14.05. 2003, # 189.
Registered in
the Ministry of Justice of Ukraine
May 20, 2003, # 381/7702

With changes applied according to Resolution of the Board of the National Bank of Ukraine of 14.10.2003, # 446
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Regulationon Implementing the Financial Monitoring by Banks

This Regulation has been developed to execute the Laws of Ukraine "On the National Bank of Ukraine", "On Banks and Banking", "On Prevention and Counteraction of the Legalization (Laundering) of the Proceeds Obtained from Crime".

1.General Provisions

1.1. The Regulation sets up the NBU general requirements regarding:
tracking down and registration by banks of financial operations subject to financial monitoring;
identification of clients;
provision by banks to a specially authorized government agency on financial monitoring issues (further – the Authorized body) of the information that is required by the laws of Ukraine on prevention of legalization of the proceeds obtained from crime.
1.2. This Regulation covers banks and their structural units.
1.3. The Head of the executive body of the Bank (further – Head of the Bank) is responsible for organization of compliance with Ukrainian legislation on prevention of legalization (laundering) of the proceeds obtained from crime.
1.4. The internal audit unit of a bank, periodically, but at least once a year examines a bank's compliance with the legislation on issues of legalization (laundering) of the proceeds obtained from crime. They prepare conclusions and proposals based on the results of such examinations, which are submitted for consideration to the supervisory board of the bank.
1.5. Banks are obliged to keep all the documents related to a specific financial transaction that is subject to financial monitoring, as well as documents related to identification of all parties that took part in the transaction, during five years upon completion of such transaction.
1.6. The terms of this regulation are used in the following meaning:
- **Related party** – any member of an entity (association, corporation, concern, consortium, holding, other association of enterprises provided for by the law), whose member is a client – legal person, as well as any legal person regardless of its formal membership in any economic association, who controls a client – legal person or is controlled by him or is jointly controlled together with him;
- **Means of data protection –** software and technical tools ensuring protection of electronic documents from unsanctioned actions to learn about their contents, modify or distort them at the stage of transferring them by e-mail to the NBU.
- **File-notification** – an electronic document formed and provided by a bank (a branch) to the address of the Authorized body by means of the NBU e-mail and includes data on financial operations subject to financial monitoring or another information provision of which is required by the laws of Ukraine on prevention of legalization of the proceeds obtained from crime;
- **File-acknowledgement** – an electronic document which is generated and sent by a bank (branch) to the Authorized body's address in response to receipt of a file-request, file-decision, or by the Authorized body to the address of a bank (branch) who has sent a file-answer, and indicates accepting or non-accepting of respective file;
- **File-notification of registration (denial of registration) of a financial operation (financial operations)** – an electronic document which is generated by the Authorized body, is sent to the address of a bank (branch) and indicates registration (denial of registration) by the Authorized body of a financial operation (financial operations) reported by the bank (branch) through the respective file-notification;
- **file-decision** – an electronic document which is generated and submitted by the Authorized body to a bank (branch) and includes information about the Authorized body's decision on further suspending the financial transaction, information about which was sent in the appropriate file-notification;

- **Financial transaction, which is an object of financial monitoring, - for a bank (branch)** – a financial transaction, which is entered into the register of the financial transactions being subjected to financial monitoring; for the Authorized body it is a financial transaction being subjected to financial monitoring, which is registered by the Authorized body in the established order and analyzed by it".
- **File-request** – an electronic documents prepared by the Authorized body and is submitted at the address of the bank (a branch) and that contains a request to submit additional information about a financial transaction being subjected to financial monitoring.
- **File-response** – an electronic document prepared by the bank (branch) that is submitted to the address of the Authorized body and that contains a response to request file.
- **File-appendix** – an electronic document produced by the bank (branch) and sent to the address of the Authorized body, which contains data and/or copies of documents related to a financial transaction, which became an object of financial monitoring[2].

1.7. If the structure of the bank does not include branches, the actions of financial monitoring (keeping register of financial transactions being subjected to financial monitoring, generating of files-notifications, etc.) shall be assured by the bank through its territorial subdivisions, which supervise and/or support activities of independent subdivisions which render services to clients.

Other terms and definitions used in this Regulation are used in the meaning determined in the Law of Ukraine *On prevention and counteraction of legalization (laundering) of the proceeds obtained from crime, On Banks and Banking, On Financial Services and State Regulation of Markets of Financial Services, On Payment Systems and Money Transfers in Ukraine* and in the regulations of the National Bank of Ukraine.

2. Requirements to Regulations on internal financial monitoring and programs of implementing financial monitoring

2.1. Regulations of internal financial monitoring are elaborated by a bank taking into account the legislative requirements of Ukraine regulating the issues of prevention and combating legalization (laundering) of the proceeds obtained from crime, regulations of the National Bank of Ukraine, regulations of the Authorized body, approved in the execution of and in compliance with these laws, FATF and Basle Committee on Banking Supervision recommendations.

2.2. The major principle of development and implementation of Regulations of internal financial monitoring and programs of the banks' financial monitoring is guaranteeing the participation of all the staff of a banking institution, within their competence, in detecting financial transactions that can relate to legalization (laundering) of the proceeds obtained from crime or financing terrorism.

2.3. Programs of the banks' financial monitoring are elaborated and implemented by the bank to provide for implementation of the internal banking system of preventing and combating legalization (laundering) of the proceeds obtained from crime. Programs of the banks' financial monitoring are elaborated by a bank in accordance with separate lines of its activity of servicing its clients and require permanent update, in the process of implementing financial monitoring.

Programs of financial monitoring should include features of financial transactions (determined by the law of Ukraine) subject to financial monitoring, other features of such transactions, which, according to the specificity of lines of activity, are determined and permanently updated by the bank itself, as well as taking into account the appropriate documentation handbook, the amendments to which are developed and made by the Authorized body upon approval with the National Bank of Ukraine.

Banks shall develop and renew Programmes of financial monitoring of securities trading in accordance with the requirements of this Regulation and taking into account the recommendations of the State Securities and Equity Market Commission.

[2] All electronic documents are prepared by software and hardware tools of the bank (branch) and of the Authorized Agency and submitted to the addressee via electronic mail system and information protection means of the National Bank of Ukraine. Structure and format of electronic documents are defined by the National Bank of Ukraine with the approval of the Authorized Agency and are communicated separately to the banks.

2.4. To ensure compliance with the laws of Ukraine regarding the issues of prevention of legalization of the proceeds obtained from crime banks shall elaborate and implement programs of identification and research of their clients, as well as training and skills development programs for the staff.

Banks, at their own discretion, may develop and implement other programs, within the framework of existing legislation, related to prevention of legalization (laundering) proceeds obtained from crime.

2.5. Regulations of the bank's internal financial monitoring and programs of implementation of financial monitoring are documents with limited access. The procedure and regime of access to these documents by the staff shall be determined by a bank's (branch's) head, depending on their functional responsibilities, and shall be agreed upon by the bank's (branch's) manager.

2.6. Regulations of internal financial monitoring and programs of implementation of financial monitoring and other documents on issues of prevention of legalization (laundering) of the proceeds obtained from crime shall be approved by the bank's management bodies in accordance with the procedure set in the bank's statutory documents upon submission of a responsible officer.

2.7. Regulations of the bank's internal financial monitoring and programs of implementation of financial monitoring are elaborated taking into account the following regulation:

a) the need to ensure confidentiality of the information about the fact that the data on a client's financial transaction have been submitted to the Authorized body;
b) the need to ensure confidentiality of the information about the bank's internal documents on the issues of implementation of financial monitoring;
c) the need to ensure confidentiality of the information on the bank clients' accounts and deposits, on the clients and their transactions, as well as other data constituting the bank secrecy;
d) prevention of involvement of the bank's employees in legalization (laundering) of the proceeds obtained from crime.

2.8. Regulations of the bank's internal financial monitoring shall particularly include:

- Description of organizational framework of the internal banking system of prevention of legalization (laundering) of the proceeds obtained from crime;
- Requirements to staff provision of the internal banking system of prevention of legalization (laundering) of the proceeds obtained from crime, rights and responsibilities of the bank's (branch's) responsible officers, as well as other staff responsible for execution of the programs of financial monitoring;
- Major framework of activity of a bank's separate structural unit on prevention of legalization (laundering) of the proceeds obtained from crime (in case it is established);
- Procedure of circulation and ensuring confidentiality of information regarding financial transactions subject to financial monitoring;
- Procedure of storing information regarding financial monitoring;

2.9. The programme of financial monitoring of a certain line of clients servicing shall include:

a) Features of transactions under a certain line of activity that are subject to mandatory financial monitoring;
b) Features of transactions under a certain line of activity that are subject to internal financial monitoring;
c) Procedure of detecting financial transactions that are
are subject to mandatory financial monitoring;
are subject to internal financial monitoring.
May be connected to, related to and intended for international terrorism;
d) Procedure of actions to determine the core and purpose of a client's transaction subject to financial monitoring;
e) Procedure of preparation and submission to the bank's (branch's) responsible officer of information required to make a decision to inform the Authorized body.

2.10. In case the bank's officer has any doubt as to referring the client's transaction to transactions subject to mandatory financial monitoring and internal financial monitoring, cause motivated suspicion that it is being done to launder money and it can relate to financing terrorism, the officer shall immediately inform the bank's (branch) compliance officer according to internal procedures of the bank.

The bank's (branch's) compliance officer takes final decision as to referring this transaction to the above categories and its registration. In case an officer suspects that a detected transaction is related to or is intended for the purpose of financing terrorism, the responsible officer at the same time makes a decision to immediately inform the Authorized body and respective enforcement bodies on this transaction.

2.11 In case of detection of client's financial transaction that is subject to financial monitoring, the bank (the branch) has to provide for the following:

a) registration of this transaction;
b) taking sufficient (from the Bank's (branch's) point of view) actions aimed at clarifying the transaction's nature and purpose, including inquiry of additional documents and information related to this transaction;
c) Taking other actions, within the current legislation, that the bank deems expedient in order to duly meet the requirements of the laws on prevention and combating legalization (laundering) of the proceeds obtained from crime.
d) In case there are reasons to submit information on this transaction and on parties that are or were involved in the transaction to the Authorized body, this information is submitted;

3. Procedure of identification of clients

3.1 In order to appropriately perform functions of the subject of primary (initial) financial monitoring, the Bank develops a program of identification and research of the bank's clients ("Know your customer"), which shall particularly include:

a) Procedure of client's identification, particularly when establishing relations;
b) Actions to obtain more accurate information on the client and appropriate actions plan;
c) Procedure of documenting information on the client;
d) Procedure and criteria of client classification according to the evaluation of risk of their transactions that can be related to legalization (laundering) of the proceeds obtained from crime, or to financing terrorism;
e) Procedure of implementing actions related to clarification of information on the client or on the person that acts on his/her behalf, in case of doubts on its authenticity, taking into account risks related to the fact that this transaction may be related to legalization (laundering) of the proceeds obtained from crime.
f) Actions to do additional research on a client and appropriate action plan;

In the process of implementation of the Clients' Identification and Analysis Program, the bank develops and keeps the respective questionnaires for its clients. The bank can decide to be inexpedient to keep questionnaires related to the categories of clients engaged in low risk transactions to be used for legalization of the proceeds obtained from crime, namely in cases when the clients:
during long period use the bank services for one occasion (receiving a loan, making deposit, cash transfer, etc.);

carry out transactions for small amounts without opening an account (payments of custom duty, public utilities, taxes, cash transfer, etc.);

receive through the bank their wages and salaries, pensions or scholarships (including rendering services by means of payment cards if such accounts are not enlarged from other sources), etc.

The questionnaire shall be an internal document of a bank and include information obtained by the bank from the client identification and analysis, from quarterly analysis of the client transactions as well as of bank conclusions (opinions) about the client reputation and its risk assessment of the transactions on possible legalization of proceeds obtained from crime.

The bank shall quarterly carry out an analysis of client's transactions with regard to their compatibility with client's financial standing and substance of client's business, it must cover all client's accounts opened in the bank's subdivisions.

The questionnaire is formed by the results of the client's identification in the process of establishing relations with him. Information contained in the questionnaire is being adjusted according to the order, established by the bank.

Recommended forms of questionnaires are given in Appendices ## 1-6.

3.2 According to the Ukraine's legislation, the bank shall identify:

a) clients who open accounts with a bank;
b) clients performing transactions subject to financial monitoring;
c) clients performing cash transactions without opening an account for the amount exceeding UAH 50 000, or an equivalent amount in foreign currency;
d) persons, authorized to act on behalf of the above clients.

3.3 The bank receives from the client the information and documents enabling it to identify and study the client.

These documents must be current (valid) and include accurate information at the time of its submission to the bank.

With the purpose of identification and study of a client the bank first of all, clarifies, based on the provided originals or duly certified copies of documents, the following information regarding the residents:

- **for individuals:**
  surname, name, patronymic;
  date of birth;
  passport (or another document identifying the personality) number and series, date of issue and organ that issued the document;
  place of residence;
  identification number according to the State Register of individual payers of tax and of other mandatory payments;
- **for legal persons:**
  name;
  legal address;
  documents confirming the state registration (including the statutory documents, information on the officials and their authorities etc.);
  identification code according to the Unified State Register of Enterprises and Organizations of Ukraine;
  address and data on banks where the clients have current accounts and accounts numbers.

3.4 In order to identify and study the client the bank shall clarify based on the provided documents or duly certified copies of documents the following information regarding the non-residents:

- **for individuals:**
  surname, name, patronymic (if any);
  date of birth;
  passport (or another document identifying the personality) number and series, date of issue and organ of issue;
  citizenship;
  place of residence or temporary residence;
- **for legal persons:**
  name;
  location and banking data of banks where the accounts are opened with account numbers;
  data on the legal person registration based on the copy of legalized extract from trade, banking or court register or on the duly certified document of registration issued by the Authorized body of a foreign country.

Client's identification is performed based on the original documents submitted by the client, or based upon duly certified copies of these documents, and in case of need, based on the information received from government bodies, banks, other legal entities, as well as on the results of actions taken to collect information about the client from other sources.

Duly certified copies of the documents submitted by the Client, copies of the original documents and other documents that were used as a basis for identification of legal entity or individual, have to be kept in the Client's Dossier (personal file) during the period of time that is identified by Ukrainian legislation.

3.5 A person's identification is not mandatory in case:

a) a financial transaction is performed by the persons that were identified earlier according to the current law;
b) agreements are made between banks registered in Ukraine.

3.6 In case a person acts as a representative of another person, or a bank has a doubt as to whether the person acts in his/her own name, or a beneficiary is another person, the bank shall (items 3.3., 3.4) also identify the person in whose name the transaction is performed or who is the beneficiary.

3.7 In case there is a doubt as to authenticity of information or documents, submitted by the client, the Bank, taking into consideration the level of risk that the client is engaged in a transaction aimed at laundering or legalization of proceeds obtained from crime, takes actions to verify information and documents submitted by the Client.

3.8 In the process of studying the documents, particularly the statutory documents of a legal person and the documents confirming its state registration, the bank shall pay special attention to:

a) issuance of the statutory documents (including all the registered amendments) and the documents confirming its state registration;
b) composition of the legal person's founders and its affiliated persons;
c) structure of the legal person's bodies of management and their powers;
d) size of the registered and paid-in authorized fund.

3.9 When entering into correspondent relations the bank shall clarify if the correspondent bank takes actions aimed at prevention and combating legalization (laundering) of the proceeds obtained from crime.

3.10 The bank is not recommended to enter into correspondent relations with banks that do not take actions aimed at prevention and combating legalization (laundering) of the proceeds obtained from crime.

3.11 The bank elaborates criteria of evaluation of risk of the transactions performed by the client to legalize (launder) the proceeds from crime. With this purpose, the ground can be the criteria of evaluation of such risk given in Appendix #7.

Classification of clients regarding the risk of carrying out the transactions on legalization (laundering) of proceeds obtained from crime shall be made by a bank taking into account the clients' reputation, area of work and period of their activities in the market.

3.12 The bank updates information regarding identification and research of a client at least once a year, if the risk of performing transactions by the client to legalize (launder) the proceeds from crime is estimated by the bank as high; for other clients information shall be updated each 3 years.

Mandatory update of the information on identification and research of a client is made in case of:

- Change of the owner of essential participation;
- Change of location (place of residence) of the account holder;
- Amending the statutory documents;
- Expiration of validity of the documents provided earlier.

3.13 If the risk of performing transactions by the client to legalize (launder) the proceeds from crime is estimated by the bank as high, transactions by such clients shall be paid special attention to.

During the process of identification and research of the client that is associated with high risk of involvement in laundering (legalization) of money obtained from crime, the bank takes actions to verify information obtained from the client.

3.14 If the risk of performing transactions by the client to legalize (launder) the proceeds from crime is estimated by the bank as high, the bank can send its officer on site where the client does his/her business in order to verify the information on the client.
In case the client refuses to submit documents or information that are needed for his/her identification, or intentionally provides incorrect information to the bank officer, the Bank refuses to render services to this client.

3.15 Banks are prohibited to enter into contractual relations with the clients – legal or physical persons – in case there is a doubt that a person does not act in its own name.

In the course of establishing relations with a client the bank clarifies the purpose and nature of further business relations between the client and the bank.

Should relations with a legal person be established, the bank shall also clarify the subject of its business and its financial standing, determine concerned persons, identify physical persons which hold substantial stake in the legal person or exert direct or indirect influence on it and obtain economic benefits from its business.

The assessment of client's financial standing shall be made in accordance with the bank's internal procedures.

Banks are recommended to demand from the client information and documents enabling it to identify his/her personality, core of activity, financial condition.

In case the client fails to provide the required information and documents, or intentionally provides untruthful information about himself/herself, the bank denies provision of services to the client or opening the account.

In case of a motivated suspicion regarding provision by a client of an untruthful information or intentional provision of deceptive information in the process of identification the bank submits information on the client's financial transactions to the Authorized body.

4 Procedure of registration by bank of a financial transaction subject to financial monitoring

4.1 Prior to making transactions and in the course of further servicing of a client, the bank's employees shall analyze financial transactions to reveal those being subjected to financial monitoring in accordance with the Ukraine's legislation which regulates relations in the sphere of preventing legalization of proceeds from crime.

Should the bank's employee establish that the financial transaction is subjected to financial monitoring, he/she before 12 a.m. of the next working day shall notify an authorized officer (or any person with the same function) of this transaction in accordance with the bank's internal regulations, the latter shall take decision on registration of such a transaction.

The bank's internal procedures regulating the order of notifying the authorized officer (or any person with the same function) by bank's (branch's) employee of the transaction being subjected to financial monitoring, shall provide for registration of such notification delivery to the authorized officer (the fact of acceptance of the notification by the authorized employee) and his decision concerning registration of this transaction.

4.2 Financial transactions subject to financial monitoring are registered in the appropriate register that is initiated and maintained by the bank (branch) and is an electronic documents of specified format. Format and structure of such register is designed by compliance officer of the bank (branch) based on the recommendations specified by this regulation.

Register of financial transactions that are subject to financial monitoring is a document with limited access. Procedure and regime of accessing this register are developed by compliance officer of the

bank (branch). Compliance officer is personally responsible for the protections of this register from destruction, unauthorized access, modification or distortion of data.
Correction of data put into the register is not allowed. In case there is a need to correct data related to a specific financial transaction put into the register by mistake in a certain information field of the register with information on this transaction, its cancellation is indicated, and a new entry on this transaction is added to the register.

4.3 To register a financial transaction subject to financial monitoring the compliance officer enters the following data related to the transaction into the register:
a) financial transaction registration number in the register from the beginning of the calendar year;
b) unique number of this transaction in the bank's automated system (if any);
amount of transaction;
c) the date of arrival of settlement or other documents based on which the transaction is performed;
d) the amount of transaction in foreign currency and its equivalent in the national currency according to the official exchange rate of hryvnia to this currency, set by the National Bank of Ukraine at the date when transaction;
e) surname, name and patronymic of the individual or the name of the legal entity performing a transaction, and identification code (number) for this person (entity);
f) surname, name and patronymic of the individual or the name of the legal entity – counterpart (if any);
g) type of transaction;
h) title, number and date of the original document based on which this transaction is performed;
i) feature (features) of transaction that make it subject to financial monitoring;
j) surname and initials of officer that reported on this transaction;
k) surname and initials of officer that put this information into the register.

Specified information on financial transaction has to be put in the register as soon as possible, but not later than on the next business day from the moment of time when the bank received settlement or cash documents or from the moment when bank officer detected the fact of performing a transaction that is subject to financial monitoring.

Based on the results of actions taken to clarify the essence and purpose of a transaction performed by the client that is subject to financial monitoring, data on this transaction are added by information on the decision make by responsible officer on the following:

to perform the transaction or refuse to perform it;

to submit or not to submit the information about this transaction to the Authorized body.

The authorized officer of the bank or branch shall take decision on submission or non-submission to the Authorized body of information concerning a financial transaction being subjected to financial monitoring in accordance with internal procedures of the bank specified in the Regulations of the bank's internal financial monitoring within 10 working days from the transaction registration date at the latest.

4.4 Upon submitting information on the financial transaction to the Authorized body the data entered into the register on this transaction, upon receipt of the file-acknowledgement from the Authorized body with zero error codes are added with the name of the file and number of the information line of the file-notification, in which the info on this financial transaction was sent to the Authorized body.

Error code reference book and amendments to it shall be made by the Authorized body upon agreement of the National Bank of Ukraine.

4.5 Should additional information concerning financial transaction be submitted to the Authorized body, data of the register shall be supplemented by the name of the file-response and/or file-supplement.
4.6 In case when responsible officer of the bank (branch) makes a decision not to inform the Authorized body on the financial transaction that is subject to financial monitoring, he/she prepares a report when this decision is explained. This report has to include, in particular, the number of transaction

registration in the register, date of its input, results of actions taken to clarify the essence and purpose of performing this transaction and the signature of responsible officer.

4.7 Prior to the 15th day of every month the part of register which includes transactions registered during the previous month shall be printed, formed as a dossier, stitched and certified by the signature of the authorized employee of the bank (branch), and sealed by the bank (branch).

5 Procedure of provision of information to the Authorized body

5.1 Banks and their branches in the events stipulated by law shall provide the Authorized body with the information on financial transactions that are subject to financial monitoring and on identification of the persons who performed (are performing) them, as well as other information required by Ukrainian laws covering the issues of prevention and combating legalization (laundering) proceeds obtained from crime. Such information may be submitted by bank branches to the Authorized body immediately, or through the bank-legal entity.

Information provided by a branch to the Authorized body through the bank-legal entity shall include the requisites of this branch as stipulated by paragraphs “a” and “b” of p.5.3 of this Regulation.

Procedure of submitting information to Authorized body has to provide for its guaranteed delivery and confidentiality.

The bank’s officers providing for the preparation and submission of the information on financial transactions to the Authorized body are prohibited to inform about it persons performing such transactions or any third parties.

5.2 The bank (branch) shall submit information about a financial transaction being subjected to mandatory financial monitoring, to the Authorized body within three working days from the date of its registration at the latest.

The bank (branch) shall submit information about a denied financial transaction, as well as persons participating in it, to the Authorized body on the working day following the time of its registration at the latest.

Information about a financial transaction, in respect of which the employees of the bank (branch) have reasonable suspicions that it is effectuated for legalization (laundering) of proceeds from crime, shall be submitted to the Authorized body the very same day when such suspicions arise.

Information on the transaction on which the bank has motivated suspicions that it is related to an attempt to launder money and/or on the transaction that can be related to financing terrorism, and on persons that take part (or took part) in performing such transaction, is subject to immediate registration and should be submitted to the Authorized body at the day of detection of such transaction. At the same time when such information is submitted to Authorized body, it is submitted to enforcement agencies as it is determined by Ukrainian legislation, according to the location of the bank (branch) following procedures that are agreed with the bank (branch) and this enforcement agency. Procedures according to which this information is submitted have to provide for its guaranteed delivery and confidentiality.

In case the bank closes the client’s account based on Article 64 of the Law of Ukraine On Banks and Banking, the information about such account shall be submitted by the bank to the Authorized body during three business days.

The bank (branch) submits to the Authorized body the information on financial transactions in the form of files-notifications.

5.3 The list of data for the banks to submit the Authorized body a notification on financial transactions and regarding the identification of persons who perform (or have performed) these transactions:

a) Data on the bank (branch) submitting the information:
   name of a bank as per registration;
   routing number (MFO) of a bank;
   Identification code according to the Unified State Register of Enterprises and Organization of Ukraine;
   Location
   Telephone number
b) Data on the bank's (branch's) compliance officer:
   job position;
   surname, name, patronymic;
   phone number;
   e-mail address.
c) Data on the transaction
   Individual transaction number in the bank's automated system (if any);
   Evidence of performed transaction;
   Data and time of the transaction (or denial to perform a transaction);
   Code of currency of the transaction or banking metal code;
   The amount of transaction in foreign currency and its equivalent in the national currency according to the official exchange rate of hryvnya to this foreign currency set by the National Bank of Ukraine at the date of transaction;
   Code (codes) of feature (features) of financial transaction subject to financial monitoring;
   Code of transaction type;
   Purpose pf payment;
   Related transactions (if this information is available);
   Commentary;

Reference manuals on types of transactions and characteristics of financial transactions subject to financial monitoring shall be developed, maintained and communicated to banks by the Authorized body upon agreement of the National Bank of Ukraine;

d) Data on the client.
   For legal entities:
      Full and short names;
      Residency;
      Country of registration;
      Identification code according to the Unified State Register of Enterprises and organizations of Ukraine;
      Legal address;
      Number of client's account that is used to perform a transaction;
   For individuals:
      Type (individual, individual-private entrepreneur)
      Surname, name, patronymic;
      Residency;
      Country of citizenship;
      Identification code according to the State Register of Individual Taxpayers and of other mandatory payments;
      Place of residency or temporary location (postal address);
      Data on the document that according to Ukrainian legislation can be used for identification of person (documents type, series and number, date of issue, full name of the body that issued this document);
      Number of client's account that is used to perform a transaction (if any);
e) Data on the person authorized to act in the name of the client.
   For legal entities:
      Full and short names;
      Residency;

Identification code according to the Unified State Register of Enterprises and organizations of Ukraine;
Legal address;
Data on the document that gives the right to act on behalf of the client;
For individuals:
Surname, name, patronymic;
Identification code according to the State Register of Individual Taxpayers and of other mandatory payments;
Place of residency or temporary location (postal address);
Data on the document that according to Ukrainian legislation can be used for identification of person (documents type, series and number, date of issue, full name of the body that issued this document);
Data on the document that gives the right to act on behalf of the client;

f) Other participants of the transaction (if any) and data on them:
Type participation in the transaction (counteragent, representative of counteragent, actual beneficiary, etc);
For legal entity – full and short name;
For Individual – surname, name and patronymic;
Other information on participant (if any):
For legal entity:
Residency;
Country of registration;
Identification code according to the Unified State Register of Enterprises and organizations of Ukraine;
Legal address;
Number of client's account that is used to perform a transaction;
Data on the bank (branch) that opened an account that is used to perform a transaction: name, branch routing number (MFO) – for residents, or BIC – for non-residents, legal address;
For individuals:
Type (individual, individual-private entrepreneur)
Surname, name, patronymic;
Residency;
Country of citizenship;
Identification code according to the State Register of Individual Taxpayers and of other mandatory payments;
Place of residency or temporary location (postal address);
Number of client's account that is used to perform a transaction (if any);
Data on the bank (branch) that opened an account that is used to perform a transaction: name, branch routing number (MFO) – for residents, or BIC – for non-residents, legal address;
Other information;

g) Data on correspondent account that is used to perform a transaction in foreign currency (if any): account number, name, branch routing number (MFO) – for residents, or BIC – for non-residents, legal address of the financial institution;

5.4 The data on each financial transaction submitted to the Authorized body as part of the notification file are signed by an electronic digital signature of the compliance officer with the help of the means of flash/check-up of the electronic digital signature provided by the NBU and built into the bank's automated system.

5.5 The notification file formed by the bank's automated system is encoded by the software tools build into APM-NBU, and is e-mailed through the NBU e-mail to the Authorized body.

5.6 Upon receipt of the notification file from the bank (branch) the Authorized body decodes this file with the help of APM-NBU, checks electronic digital signatures, controls the accuracy of filling out all the data of the notification file, as well as completeness of the data provided. Based on the results of such control of each notification file, the Authorized body forms and mails to the bank's address a file-acknowledgement of registration (denial of registration) of a financial transaction (financial transactions) of registration (denial of registration) of a financial transaction (financial transactions).

In case when for some reasons the Authorized body is not able to form and submit of the file-notification of registration (denial of registration) of a financial transaction (financial transactions), during three business days from the moment of receipt of notification file from the bank (branch), it has to inform the bank (branch) in writing in other way about the receipt of denial to receive data on specific transactions that are part of notification file, or notification file as a whole.

5.7 In case of non-zero error codes on certain transactions or on the notification file as a whole, the compliance officer should study why the mistakes have occurred; ensure correction of mistakes and the second provision of data on these transactions as part of a new notification file to the Authorized body. File-receipt with null error codes shall be a confirmation that a bank (bank branch) has met the requirements of laws of Ukraine in prevention of legalization (laundering) of proceeds obtained from crime as regards providing the Authorized body with relevant information.

5.8 If the received file-notification of registration (denial of registration) of a financial transaction (financial transactions) showing that the notification file has not been successfully decoded, or the result of verification of an electronic digital signature was negative, then before the second notification file is formed, the compliance officer checks the validity of the appropriate keys of electronic digital signature within APM-NBU. If it is required, he contacts the data protection department of the appropriate NBU territorial office for the receipt of the appropriate key certificate. File-notification of registration (denial of registration) of a financial transaction (financial transactions) with zero error codes concerning specific transaction, reported to the Authorized body through respective file-notification, is deemed acknowledgement of registration of this transaction by the Authorized body.

5.9 Should any emergency conditions prevent from sending file-notification, file-response or file-acknowledgement by e-mail, the authorized employee shall ask the respective territorial board of the National Bank of Ukraine to send the generated file to the address of the Authorized body. File-notification of registration (denial of registration) of a financial transaction (financial transactions) or file-acknowledgement received by the territorial board of the National Bank of Ukraine from the Authorized body by e-mail shall be sent to the authorized employee by e-mail or on electronic media the next working day at the latest.

5.10 If the bank (branch) within two working days from the moment of giving information to the Authorized body did not receive the file-notification of registration (denial of registration) of a financial transaction (financial transactions) or the file-acknowledgement, the authorized employee of the bank (branch) applies to the Authorized body and clears up reasons of the failure to submit the respective file.

5.11 All the documents regarding financial transactions are stored in electronic archives during the period of time that should not be shorter than requirements as to the period of storage of financial documents of this type in the paper form.

5.12 The bank (branch) gives supplementary information about a financial transaction which has become an object of financial monitoring, upon request of the Authorized body, and generates and sends file-response within three working days from the moment if receipt of the file-request from the Authorized body.

Upon receipt of the file-request from the Authorized body, the bank (branch) decodes this file using AWS-NBU system, verifies electronic digital signature, examines accuracy and completeness of banking details and not later than the end of that working day when the file-request was received, generates file-acknowledgement and sends it to the address of the Authorized body.

Having received file-response from the bank (branch) the Authorized body decodes this file using AWS-NBU system, verifies electronic digital signature, examines accuracy and completeness of banking details and not later than the end of the working day when the file-response was received, generates file-acknowledgement and sends it to the address of the bank (branch).

5.13 The bank (branch) on its own initiative or on the demand of the Authorized body submits the latter copies of the documents and/or other information concerning a financial transaction which has become

an object of financial monitoring by generating and sending file-supplement to the Authorized body, if such information cannot be sent in a file-notification or file-response.

The file-supplement generated by the bank's automation system shall be encoded by software built into AWS-NBU system, and sent through e-mail facility of the National Bank of Ukraine to the address of the Authorized body together with the file-notification or file-response, or delivered to the Authorized body on electronic media.

The order of delivering file-supplement on electronic media to the Authorized body shall assure its secure delivery and confidentiality".

5.14 The Copies of the files sent (delivered) to the Authorized body shall be kept with the bank during five years

6. Rights and duties of the bank's compliance officer

6.1. The internal bank system of prevention of legalization (laundering) of the proceeds obtained from crime is headed by the bank's compliance officer that is independent in his/her activity and reports only to the bank's Chairman. In case a special department of prevention of legalization (laundering) of the proceeds obtained from crime is created with the bank, the head of such department shall do the work of the compliance officer.

6.2. The bank's compliance officer is the bank's board member, is appointed and dismissed by the bank's supervisory council according to the procedure described in the statutory documents of the bank. His candidature shall be coordinated with the NBU.

6.3. Compliance officer of the bank has the right to submit for the review of the Board of the Bank proposals related to ensuring bank's compliance with legislation related to prevention of legalization (laundering) of the proceeds obtained from crime. In case the Board of the Bank rejects proposal of the compliance officer, he/she has the right to address with proposals to the bank's supervisory council (board). His/her proposals shall be considered by the supervisory board at its next sitting.

6.4. The decision of the bank to dismiss the compliance officer shall be coordinated with the NBU. Resolution of the NBU related to dismissal of the compliance officer, passed according to Article 73 of the Law on Banks and Banking is mandatory.

6.5. A bank, taking into account specifics of its organization, main lines of business, its clients base and the level of its risks, related to its clients and their business, can create a separate structural unit of that will deal with the issues of combating legalization (laundering) of the proceeds obtained from crime, headed by the compliance officer. This unit shall operate in accordance with the regulation on this structural unit that is approved in accordance with the bank's internal procedures.

6.6. The bank's officers shall assist the bank's special unit staffs who deal with the issues of combating money laundering or other bank's officers in charge of financial monitoring, in doing their job.

6.7. The compliance officer of a branch is appointed for and dismissed from this position according to the procedure determined by statutory documents of bank, and in coordination with the compliance officer of the bank. In case it is inexpedient to introduce a separate job position of a branch's compliance officer, his/her duties shall be performed by another officer of the branch.

The candidature of the compliance officer of a bank's branch or of a person to do his/her job shall be coordinated with the NBU territorial office in the location of the branch. A person doing the job of the branch's compliance officer can be removed from doing the job of a compliance officer only upon agreement or upon the request of the appropriate NBU territorial office. The branch's compliance officer can be dismissed from his/her job only upon agreement or request of the appropriate NBU territorial office.

Resolution of the NBU related to dismissal of the compliance officer, is passed by territorial office of the National Bank of Ukraine according to Article 73 of the Law on Banks and Banking.

6.8. The bank's (branch's) compliance officer shall meet the following qualification requirements:

- Higher legal or economic education and experience working at the bank for not less than three years or experience of work as a bank (branch) unit head of not less than a year, or significant (not less than three years) experience in the sphere of combating and/or prevention of financial crime;
- No previous convictions for mercenary crime;
- Impeccable business reputation.

6.9 The bank's (branch's) compliance officer's terms of reference cover:

a) Taking decision regarding notification of the Authorized body on financial transactions in case he/she has motivated suspicions that they may be performed to legalize (launder) the proceeds from crime, or that they are related or intended for financing terrorism;
b) Taking decision regarding the notification of the enforcement agencies determined by the laws of Ukraine on financial transactions suspicious of being related to financing terrorism;
c) Examinations of activity of any bank's (branch's) unit and its staff as to their compliance with the Regulation of the internal financial monitoring and execution of programs of implementation of financial monitoring;
d) Right to access any premises, documents, means of telecommunications;
e) Involving any bank's (branch's) officers in taking actions to prevent legalization (laundering) of the proceeds from crime and in carrying examinations on these issues;
f) Organization of development and submission for approval, as well as implementation of the rules of internal financial monitoring and programs of financial monitoring;
g) Receiving explanations from the bank's staff irrespective of their positions on issues of financial monitoring;
h) Assisting the NBU authorized representatives in their on-site examinations of the bank's activity regarding to compliance with Ukrainian legislation that regulates the issues of combating money laundering and legalization of proceeds from crime;
i) Taking decisions to provide information on financial monitoring issues to the requests of the Authorized body and the enforcement bodies.

The compliance officer performs other functions in line with the legislation of Ukraine, Rules of internal financial monitoring, programs of financial monitoring and other internal banking documents on issues of prevention of money laundering.

6.10 The compliance officer submits the bank's head a written report on the results of implementation of the Regulation of internal financial monitoring and programs of its implementation at least once a month.

6.11 The bank's (branch's) staff shall assist the compliance officer (his personnel) in performing their functions.

7. Training programs and development programs for banks personnel

7.1. To provide for the proper level of the personnel development regarding the issues of prevention of money laundering, the bank develops and implements, on a yearly basis, the training program and development courses for bank personnel regarding taking actions on financial monitoring.

7.2. The training program and development courses for bank personnel regarding taking actions on financial monitoring shall particularly include the following:

1) Organization of the staff training based on their job responsibilities along the following lines:

a) familiarizing the staff with the international documents and the Ukraine's legislation, Basle Committee on Bank Supervision recommendations related to the issues of money laundering prevention and combating;
b) familiarizing the staff with the internal banking documents on financial monitoring issues;

c) practical training regarding the implementation of the Regulation on implementing financial monitoring and programs of implementing financial monitoring.

2) Organization of development courses for bank personnel on issues of money laundering prevention, along the following lines:

a) studying the best practice in detecting the clients' transactions that can be related to legalization (laundering) of the proceeds from crime;
b) studying the ways and methods of research on clients and checking of the information as to their identification.

7.3. The training program is arranged based on the fact that the major prerequisite of the bank's successful activity regarding the prevention of legalization (laundering) of the proceeds from crime is the direct participation of each employee, within his/her competence, in this process.

7.4. Training of banking employees and/or raising of their qualification in preventing legalization of proceeds from crime and terrorist financing shall be conducted no less than once a year given specific features of their office duties.
Should the bank conducts his business on the securities market, the bank's employee, who is responsible for execution of programme (programmes) of financial monitoring of securities trading, shall complete training and/or raise his/her qualification in the sphere of preventing legalization of proceeds from crime and terrorist financing in accordance with the requirements of the State Securities and Equity Market Commission.

8. The procedure of suspending the financial transactions

8.1 In order to ensure the fulfilment of the article 121 of the Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime" concerning the suspending the transactions of persons related to terrorist activity, bank uses the software, which provides the revealing and blocking of the transaction immediately before it's performance, if it is performed in favour of or by the order of the client of a bank, if the transaction's participant or beneficiary is a person, which is included into the list of persons connected with conducting the terrorist activity.
Information about such a transaction is immediately transmitted to the compliance officer of a bank (branch) and is registered in the register of financial transactions that are subject to financial monitoring, according to the internal procedures.

8.2 The decision about suspending such a transaction is taken by compliance officer of the bank (branch) through an appropriate order.

8.3. In case when it is decided to stop financial transaction compliance officer of a bank (branch) is obliged to inform the Authorized body immediately by forming and sending an appropriate file-notification. The file-notification concerning such a transaction should be submitted to the Authorized body at the day of its detection.
Not later than on the next business day after submitting an appropriate file-notification compliance officer of a bank (branch) should assure of registration of this financial transaction by the Authorized body on the basis of the appropriate file-notification of registration (denial of registration) of a financial transaction (financial transactions).

In case of non-zero error codes on such a transaction or on the file-notification as a whole, the compliance officer should study immediately why the mistakes have occurred, ensure correction of mistake(s) and the provision of data on such a transaction as part of a new file-notification to the Authorized body.

8.4 In case when file-decision on further suspension of an appropriate financial transaction by the Authorized body wasn't submitted to a bank (branch) during two business days after obtaining by a bank (branch) documents for transfer (other document based on which the transaction is performed), a bank (branch) renews its performance.

8.5 In case of the receipt of file-decision from the Authorized body compliance officer of a bank (branch) ensures (depending on the decision taken by the Authorized body) further suspension of such a transaction performance for the term, specified in the Authorized body's decision, or takes measures to renew its performance by issuing an appropriate order.

In the case when the term of further suspension of financial transaction performance specified in the appropriate file-decision is finished, a bank (branch) renews its performance.

8.6 The general term of suspension of financial transaction performance cannot exceed seven business days after obtaining by a bank (branch) documents for transfer (other document based on which the transaction is performed).

8.7 A bank conducts funds accounting on transaction, which performance was suspended in order defined by the requirements of this article, on a separate analytical account of the balance-sheet account 2909 II "Other payable accounts on bank customers transactions". Accounting of a settlement document on such a transaction together with an order on its suspension should be performed on the off-balance sheet account 9809 A "Other documents on customer's settlement transactions"

Head of Methodological and Organizational Support
Of Financial Monitoring Division O.M. Berezhnyi

Head of Legal Support of Financial Monitoring Unit
Of the Methodological and Organizational Support of
Financial Monitoring O.A. Vavdiychyk

Approved
Deputy Governor of the NBU
O.V. Shlapak

__" _____ 2003

Appendix 1 to the Regulations on conducting financial monitoring

Questionnaire of the client – legal person, resident

1. Section one (in the form of a table):
1) full and abbreviated name;
2) form of legal entity's incorporation;
3) pattern of ownership;
4) address of location;
5) identification code according to the Uniform Public Register of Enterprises and Organizations of Ukraine;
6) date of state registration;
7) state registration body;
8) date and number of the Certificate of State Registration;
9) telephone and fax numbers for contacts;
10) independent subdivisions (branches, representative offices, etc.);

11) e-mail;
12) identification data of physical persons authorized to act on behalf of the client;
13) date of the opening of the first account;
14) assessment of client's reputation;
15) exposure to risk of transactions on legalization of proceeds from crime;
16) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Section two (in the form of a table):

1) information about functionaries and their authorities;
2) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
3) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
4) information about persons, who are authorized to represent interests of shareholders (participants) of the client and possess substantial share;
5) concerned persons;
6) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of;
7) amount of the Authorized capital;
8) financial standing;
9) kind (kinds) of economic activities;
10) description of subject matter of business;
11) licenses (permits) to execute certain transaction (activity) (name, series, number, name of the issuing authority, validity);
12) banking services (products) used by the client;
13) accounts opened in the bank;
14) accounts opened in other banks (name of the bank, MFO, number of account).

3. Section three (text):

1) business history (information about reorganization, changes in business, former financial problems, reputation on domestic and foreign markets, market share);
2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
2) principal counteragents;
3) analysis of compatibility of client's transactions with subject matter and sphere of its business (if the fact of non-compatibility of transactions and subject matter of client's business is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions by the client shall be mentioned);
4) analysis of compatibility of client's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
5) number of transactions, which have become objects of financial monitoring:

on the basis of mandatory financial monitoring;
on the basis of internal financial monitoring:
the Authorized body has been informed about;
in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 2
to the Regulations on conducting financial monitoring

Questionnaire of the client – legal person, non-resident

1. Section one (in the form of a table):

1) full and abbreviated name;
2) form of legal entity's incorporation;
3) pattern of ownership;
4) country of incorporation;
5) date of incorporation;
6) registration authority;
7) details of the Certificate of incorporation or extract from Banking, Commerce or Court Register;
8) address of location;
9) independent subdivisions (branches, representative offices, etc.);
10) telephone and fax numbers for contacts;
11) E-mail;
12) identification data of physical persons authorized to act on behalf of the client;
13) date of the opening the first account;
14) assessment of client's reputation;
15) exposure to risk of transactions on legalization of proceeds from crime;
16) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Part two (in the form of a table):

1) information about functionaries and their authorities;
2) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
3) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
4) information about persons, who are authorized to represent interests of shareholders (participants) of the client and possess substantial share;
5) concerned persons;
6) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of;
7) amount of the Authorized capital;
8) financial standing;
9) kind (kinds) of economic activities;
10) description of subject matter of business;
11) licenses (permits) to execute certain transaction (activity) (name, series, number, name of the issuing authority, validity);
12) banking services (products) used by the client;
13) accounts opened in the bank;
14) accounts opened in other banks (name of the bank, MFO, number of account).

3. Section three (text):

1) business history (information about reorganization, changes in business, former financial problems, reputation on domestic and foreign markets, market share);
2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;

2) principal counteragents;
3) analysis of compatibility of client's transactions with subject matter and sphere of its business (if the fact of non-compatibility of transactions and subject matter of client's business is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions by the client shall be mentioned);
4) analysis of compatibility of client's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
5) number of transactions, which have become objects of financial monitoring:

on the basis of mandatory financial monitoring;
on the basis of internal financial monitoring:
the Authorized body has been informed about;
in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 3
to the Regulations on conducting financial monitoring

Questionnaire of the client – representative office of a legal person, non-resident

1. Section one (in the form of a table):
1) full and abbreviated name;
2) Address of location;
3) registration data of income tax payer (registration number, date of registration, registration body);
4) kind (kinds) of economic activity;
5) description of the subject matter of business;
6) licenses (permits) to execute certain transaction (activity) (name, series, number, denomination of the issuing authority, validity);
7) banking services (products) used by the representative office;
8) identification data of physical persons authorized to act on behalf of the representative office;
9) telephone and fax numbers for contacts;
10) E-mail;
11) date of the opening the first account;
12) accounts opened in the bank;
13) accounts opened in other banks (name of the bank, MFO, account number);
14) assessment of client's reputation;
15) exposure to risk of transactions on legalization of proceeds from crime;
16) date of filling-in the questionnaire.
Poaition, family name, initials and office telephone number of an employee responsible for client's identification and examination.

2. Section two. Information concerning identification of a legal person – non-resident (in the form of a table):
1) full and abbreviated name;
2) form of legal entity's incorporation;
3) pattern of ownership;
4) country of incorporation;
5) date of incorporation;
6) registration authority;
7) details of the Certificate of incorporation or extract from Banking, Commerce or Court Register;
8) address of actual location;
9) independent subdivisions (branches, representative offices, etc.);
10) information about functionaries and their authorities;
11) telephone and fax numbers for contacts;
12) E-mail;

13) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
14) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
15) concerned persons;
16) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of;
17) amount of the Authorized capital;
18) kind (kinds) of economic activity;
19) description of the subject matter of business;
20) financial standing.

3. Section three (text):
1) business history of the representative office and legal person – non-resident (information about reorganization, changes in business, former financial problems, reputation on domestic and foreign markets, market share);
2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):
1) description of sources of cash and other valuables receipts (a new representative office expects to receive) put to representative office's accounts;
2) principal counteragents;
3) analysis of compatibility of client's transactions with subject matter and sphere of its business ant that of a legal person – non-resident (if the fact of non-compatibility of transactions and subject matter of business of a legal person – non-resident is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions shall be mentioned);
4) analysis of compatibility of representative office's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and representative office's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);

5) number of transactions, which have become objects of financial monitoring:
on the basis of mandatory financial monitoring;
on the basis of internal financial monitoring:
the Authorized body has been informed about;
in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 4
to the Regulations on conducting financial monitoring

Questionnaire of the client – physical person

1. Section one (in the form of a table):
1) Family name, given name, patronymic name (if any);
2) date of birth;
3) place of birth;
4) nationality;
5) address of place of residence;
6) information about a document identifying the person;
7) address of temporal residence on the territory of Ukraine (for non-residents);
8) identification number in accordance with the State Register of physical persons – taxpayers and payers of other mandatory payments (if any);
9) place of work, position;
10) telephone and fax numbers for contacts;

11) E-mail;
12) date of the opening of the first account;
13) assessment of client's reputation;
14) exposure to risk of transactions on legalization of proceeds from crime;
15) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Section two (in the form of a table):

1) identification data of the person opening account to the client's name;
2) identification data of the physical person (physical persons), authorized to act on behalf of the client;
3) information about registration of the physical person acting as an entrepreneur;
4) kind of business sphere;
5) kinds of services used by the client;
6) client's accounts opened with the bank;
7) client's accounts opened with other banks (name of the bank, MFO, number of account).

3. Section three (text):

1) description of client's financial standing (including his/her real estate and valuable movable assets);
2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
2) analysis of compatibility of client's transactions and available information about his/her financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);

3) number of transactions, which have become objects of financial monitoring:

on the basis of mandatory financial monitoring;

on the basis of internal financial monitoring:

the Authorized body has been informed about;

in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 5
to the Regulations on conducting financial monitoring

Questionnaire of the client – physical person, entrepreneurial entity

1. Section one (in the form of a table):

1) Family name, given name, patronymic name (if any);
2) date of birth;
3) place of birth;
4) nationality;
5) address of place of residence;
6) information about a document identifying the person;
7) address of temporal residence on the territory of Ukraine (for non-residents);
8) identification number in accordance with the State Register of physical persons – taxpayers and payers of other mandatory payments (if any);
9) information about state registration of physical person – entrepreneur (date of registration, registration authority, file number in the register);
10) telephone and fax numbers for contacts;
11) E-mail;
12) date of the opening of the first account;

13) assessment of client's reputation;
14) exposure to risk of transactions on legalization of proceeds from crime;
15) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Section two (in the form of a table):

1) kind (kinds) of economic activities;
2) description of subject matter of business;
3) licenses (permits) to execute certain transaction (activity) (name, series, number, name of the issuing authority, validity);
4) identification data of the physical person (physical persons), authorized to act on behalf of the client;
5) banking services used by the client;
6) accounts opened with the bank;
7) accounts opened with other banks (name of the bank, MFO, number of account).

3. Section three (text):

1) description of client's financial standing (including his/her real estate and valuable movable assets);
2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
2) principal counteragents;
3) analysis of compatibility of client's transactions with subject matter and sphere of its business (if the fact of non-compatibility of transactions and subject matter of client's business is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions by the client shall be mentioned);
4) analysis of compatibility of client's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
5) number of transactions, which have become objects of financial monitoring:

on the basis of mandatory financial monitoring;
on the basis of internal financial monitoring:
the Authorized body has been informed about;
in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 6
to the Regulations on conducting financial monitoring

Questionnaire of the client – financial institution – corespondent

1. Part one (in the form of a table):

1) full and abbreviated name;
2) form of legal entity's incorporation;
3) pattern of ownership;
4) registration number;
5) date of state registration;
6) place of state registration;
7) banking identification code (BIC);
8) MFO (for resident);
9) kind of license to execute banking (financial) transaction;
10) license number;
11) date of license issue;
12) transactions, the financial institution is authorized to carry out;

13) address of location;
14) telephone and fax numbers for contacts;
15) E-mail;
16) assessment of reputation;
17) exposure to risk of transactions on legalization of proceeds from crime;
18) date of establishing correspondent relations;
19) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client..

Account supervisor.

Back-up account supervisor (if any).

2. Section two (in the form of a table):

1) information about functionaries and their authorities;
2) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
3) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
4) information about persons, who are authorized to represent interests of shareholders (participants) of the client and possess substantial share;
5) list of concerned persons;
6) amount of the Authorized capital;
7) description of financial standing;
8) information about independent structural subdivisions (if any);
9) specialization according to banking (financial) products;
10) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of.

3. Section three (text):

1) list of client's correspondents;
2) general description of counteragent's clients database;
3) business history, scope of services on the market (information certifying client's actual existence (example: reference to "The Bankers' Almanac"), information about reorganization, changes in business, actual and former financial problems, business reputation on international and domestic markets, market share, specialization according to financial products, etc.);
4) description of services rendered by correspondent to its clients through an account (accounts) opened with the bank (branch) and assessment of risk of their use with the purpose to legalize proceeds from crime or terrorist financing;
5) description of actions taken by the correspondent to Prevent Legalization of Proceeds from Crime, and their assessment.

4. Section four (in the form of a table):

1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
2) analysis of compatibility of correspondent's transactions with services regularly rendered through an account (accounts) opened with the bank (branch) (if the fact of non-compatibility of transactions and services regularly rendered through an account (accounts) opened with the bank (branch) is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions shall be mentioned);
3) number of transactions, which have become objects of financial monitoring:

on the basis of mandatory financial monitoring;

on the basis of internal financial monitoring:

the Authorized body has been informed about;

in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

In this connection Annex 4 to be considered Annex 7.

Appendix 7
to the Regulation on Implementation of Financial Monitoring

Approximate list of criteria of evaluation of risk
as to performing transactions by a client to legalize (launder)
the proceeds obtained from crime
(if necessary, it is updated by the bank on its own)

1. Presence of counteragents – residents of the countries about which the following is known from reliable sources:
   - they do not comply with the generally accepted standards in combating money laundering;
   - they do not provide for disclosure or provision of the information on financial transactions;
   - they do not comply with the FATF recommendations;
   - they are countries where military operations take place;
   - they are offshore territories.

2. A client is a person holding (who held) a position with large powers (with central bodies and local bodies of government, local governments, political parties), or is a member of the family of such person/
3. A corporate client, who is not a financial institution, is involved in money transfers, cash checks transactions etc.
4. A corporate client doing tourism business.
5. A corporate client involved in foreign economic operations.
6. A corporate client that is a charitable public organization (except for organizations that that act under auspices of famous international organizations)
7. A corporate client that receives financial assistance from non-residents of Ukraine or provides financial assistance to non-residents of Ukraine.

Head of Methodological and Organizational Support
Of Financial Monitoring Division O.M. Berezhnyi

Head of Legal Support of Financial Monitoring Unit
Of the Methodological and Organizational Support of
Financial Monitoring O.A. Vavdiychyk

22. *SCFSMR Instruction No. 25 On Approval of Procedure of the Financial Monitoring by Financial Institutions (05.08.2003 as amended in 2003, 2004, 2006, 2007)*

N 25, 05.08.2003, Instruction, State Financial Service Markets Regulation Commission of Ukraine

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STATE FINANCIAL SERVICE MARKETS REGULATION COMMISSION OF UKRAINE

INSTRUCTION *#25 August 05, 2003*

Registered with the Ministry of Justice of Ukraine on August 15, 2003, under #715/8036

ON APPROVAL OF PROCEDURE OF THE FINANCIAL MONITORING BY FINANCIAL INSTITUTIONS

(With changes introduced under Instructions of
the State Financial Service Markets Regulation Commission
#121 of November 13, 2003;
#336 of April 15, 2004;
#5720 of April 28, 2006;
#7288 of May 10, 2007)

In order to enforce the provisions of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime" and in pursuance of Decree of the President of Ukraine #740/2003 of 22 July 2003 "On Measures to Develop the System of Combating the Legalisation (Laundering) of Proceeds of Crime and Financing of Terrorist Activity", the State Financial Service Markets Regulation Commission has RESOLVED as follows:

1. The Procedure of the Financial Monitoring by Financial Institutions (hereinafter referred to as the 'Procedure') shall be approved.

2. A.T. Holovko, Deputy Head of the Commission, shall ensure the submission of the Procedure to the Ministry of Justice of Ukraine for the state registration.

3. The Mass Media Interaction and Public Relations Unit (M.V. Nahorniak) shall cause this Procedure to be published in mass media upon the state registration thereof.

4. The control over the implementation hereof shall be laid upon A.T. Holovko, Deputy Head of the Commission.

V. Suslov, Head of the Commission

Minutes of Meeting of the Commission #7 of 05 August 2001
APPROVED
by Instruction of the State Financial Service Markets Regulation Commission of Ukraine #25 of August 05, 2003
Registered with the Ministry of Justice of Ukraine on August 15, 2003 under #715/8036

PROCEDURE OF THE FINANCIAL MONITORING BY FINANCIAL INSTITUTIONS

This Procedure has been developed in accordance with the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime" (hereinafter referred to as the 'Law').

1. General Provisions

This Procedure shall set out the general requirements of the State Financial Service Markets Regulation Commission in respect of:

- the appointment, rights and duties of the officer responsible for the financial monitoring;

- the principal requirements for the qualification of the officer responsible for the financial monitoring;

- the training and qualification development programmes for officers of institutions for the purposes of taking the financial monitoring measures;

- the establishment of rules of the performance of the financial monitoring and the financial monitoring implementation programmes;

- the detection of the transactions subject to the financial monitoring, and the provision of the information about them;

- the identification of parties, who engage into financial transactions, and the storage of the relevant documents;

- the training of the staff of the institutions for the purposes of detecting the financial transactions subject to the financial monitoring.

The terms used herein shall have the following meanings:

- 'institution' shall be understood as a financial institution as defined in the Law of Ukraine "On Financial Services and State Regulation of Financial Service Markets", as well as business entities, which provide financial services without being financial institutions in terms of their status.

The requirements of this policy shall apply to financial institutions and their separated units supervised by the State Financial Service Markets Regulation Commission, including: credit unions, pawn shops, leasing companies, trusts, insurance companies, accumulative pension institutions, and other legal entities, whose sole activity is the provision of financial services, as well as legal entities, which provide some financial services without being financial institutions in terms of their status.

(Paragraph 11 of Item 2.1.2 changed and amended according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)(The section with changes introduced under Instruction of the State Financial Service Markets Regulation Commission #121 of November 13, 2003)

2. Organisational Support for Performing the Primary Financial Monitoring in Institutions

2.1. Appointment of an Officer Responsible for Performing the Primary Financial Monitoring

2.1.1. In order to ensure the proper enforcement of the Law, the institutions shall appoint an officer responsible for the performance of the financial monitoring (hereinafter referred to as the 'responsible officer').

2.1.2. The responsible officer is the person tasked with co-ordinating the activities related to the implementation of the financial monitoring measures by the institution.

The responsible officer shall be appointed by the chief executive officer of the institution and must be independent in its activities, and report only to the chief executive officer of the institution.

An acting officer shall be appointed for the time of absence of the responsible officer or his inability to perform his duties (due to a business trip, a disease, a vacation, etc.). The rights, duties, and requirements instituted for the responsible officer shall apply to the said individual.

(Item 2.1.2 changed and amended according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

Should it be inappropriate to institute a separate position, a chief executive officer of the institution may be appointed to be responsible for the implementation of the financial monitoring.

2.1.3. Taking into account the specific features of the institution's organisational structure, a separate structural unit can be established to deal with the financial monitoring issues.

The said unit shall operate in accordance with the charter of such a structural unit to be approved by the chief executive officer of the institution.

If the institution sets up a special financial monitoring unit, the responsible officer shall be the head of such a unit.

2.1.4. While carrying out the financial monitoring, the responsible officer shall make decisions independently within the scope of his/her competence.

The chief executive officer of the institution shall approve the job description of the responsible officer.

Should the responsible officer disagree with instructions of the chief executive officer of the institution in respect of the organisation of the system of preventing the legalisation (laundering) of the proceeds of crime, and other issues related to the exercise of the financial monitoring, the responsible officer may notify thereof the State Financial Monitoring Committee of Ukraine (herein after SFMC) and the Commission by setting forth his objections in writing.

(Item 2.1.4 changed and amended according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

2.1.5. The institution must notify the SFMC within three working days of the appointment, the temporary appointment or the dismissal of the responsible officer (or the acting responsible officer).

A responsible officer shall have been appointed as of the time of the first financial transaction in a newly established institution (separated unit).

The notice of appointment or dismissal of the responsible officer (or the acting responsible officer) shall be submitted with form #1-FM approved with order of the SFMC #48 of 13 May 2003 registered with the Ministry of Justice of Ukraine on 23 May 2003 under #394/7715.

(Item 2.1.5 in the wording of Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

2.1.6. If the institution has separated units, the chief executive officer of the entity shall appoint the responsible officer of the institution in the separated unit on the basis of a proposal of the separated unit manager. The responsible officer of the institution in a separated unit shall report only to the chief executive officer of the institution. The institution must notify the SFMC within three working days of the appointment, temporary appointment or dismissal date about the appointment or the dismissal of the responsible officer (or the acting responsible officer) of the institution in a separated unit.

Should it be inappropriate to institute a separate position, the manager or another officer of the separated unit of the institution may be appointed the responsible officer of the institution in the separated unit.

(Item 2.1.6 in the wording of Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

2.1.7. The responsible officer shall have, inter alia, the following job duties:

- the development and ongoing improvement of rules of the obligatory and internal financial monitoring, and its implementation programmes;

- ensuring that all the employees of the institution comply with the appropriate financial monitoring rules and financial monitoring implementation programmes;

- ensuring the training and education of the staff;

- providing advice to the institution's staff in respect of the suspicious transactions or illegal actions detected by them;

- making decisions according to the legislation as to of which transactions the SFMC and law enforcement agencies must be notified, as well as decisions on suspending the performance of financial transactions, if the parties thereto or beneficiaries thereof are included into the list of individuals implicated into the terrorist activities, and the provision of the appropriate notices;

(Paragraph 6 of Item 2.1.7 with changes introduced under Instruction of the State Financial Service Markets Regulation Commission #5720 of April 28, 2006)

- ensuring the provision of the financial monitoring-related information in response to inquiries of the State Financial Monitoring Department;

- supporting the agents of the State Financial Service Markets Regulation Commission and the SFMC with the analysis of financial transactions subject to the financial monitoring;

- notifying the chief executive officer of the detected suspicious financial transactions, and the taken measures at least once a month;

- exercising other duties envisaged by the law and the job description.

2.1.8. For the purposes of the performance of job duties by the responsible officer, his/her scope of competence shall include, inter alia, the following:

- inspecting the operations of the institution (separated unit) and its staff in respect of their compliance with the financial monitoring rules and the financial monitoring implementation programmes;

- involving any employees of the institution (separated unit) into taking the financial monitoring measures and holding financial monitoring inspections, issuing binding instructions to them within the responsible officer's scope of competence, as well as requiring their assistance while taking certain actions;

- obtaining explanations on issues related to the exercise of the financial monitoring from employees of the institution (separated unit) regardless of their positions;

- gaining access to documents and other information related to the exercise of the financial monitoring.

2.2. Principal Requirements for the Qualification of the Officer Responsible for the Primary Financial

Monitoring

2.2.1. The responsible officer of an institution must know:

2.2.1.1. The legislation, which governs the relations in the field of the preventing and counteracting the legalisation of proceeds of crime and the financing of terrorist activity, including:

- the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime";

- Decree of the President of Ukraine #740/2003 of 22 July 2003 "On Measures to Develop the System of Combating the Legalisation (Laundering) of Proceeds of Crime and Financing of Terrorist Activity"

- Decree of the President of Ukraine #532 of 19 July 2001 "On Additional Measures to Combat the Laundering of Proceeds of Crime"

- Decree of the President of Ukraine #1199 of 10 December 2001 "On Measures to Prevent the Legalisation (Laundering) of Proceeds of Crime";

- Resolution of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine #1124 of 28 August 2001 "On Forty Recommendations of the Financial Action Task Force (FATF)";

- regulations of the SFMC and the State Financial Service Markets Regulation Commission;

- legislative and other regulatory acts, which govern the activities of the institution related to the performance of financial transactions.

2.2.1.2. The full list of types of financial transactions performed by the institution, the procedure of the performance thereof.

2.2.1.3. Job descriptions and functional responsibilities of officers of the institution involved into the performance of financial transactions.

2.2.1.4. Rules of the performance of the financial monitoring and the financial monitoring implementation programmes specified by the institution.

2.2.1.5. Provisions of the legislation, which provide for the criminal, administrative and civil liability for the violation of requirements of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime".

2.2.1.6. The list of countries (territories) that do not take part in the international co-operation in the field of preventing and counteracting the legalisation (laundering) of the proceeds of crime and the prevention of the terrorism, and the list of offshore zones to be specified by the Cabinet of Ministers of Ukraine, and the list of individuals implicated into the exercise of terrorist activities to be communicated to the primary financial monitoring entities in accordance with the procedure prescribed by the SFMC.

(Sub-item 2.2.1.6 of Item 2.2.1 in the wording of Instruction of the State Financial Service Markets Regulation Commission #5720 of April 28, 2006)

2.2.2. The responsible officer must know, and have the practical application skills in respect of, the following:

- the procedure of the identification of parties, who engage into financial transactions;

- the procedure of the storage of documents related to the identification of parties, and the documentation on the performance of a financial transaction;

- the procedure of the detection of financial transactions subject to the financial monitoring and those, which may be associated with, related to, or intended for financing the terrorist activity;

- the criteria for evaluating the probability of transactions' being considered as those related to legalising (laundering) the proceeds of crime, and financing the terrorist activity;

- features of transactions, which are subject to the obligatory financial monitoring;

- features of transactions, which are subject to the internal financial monitoring;

- the procedure of keeping a register of financial transactions, which can be related to legalising (laundering) the proceeds of crime;

- the procedure of informing the SFMC about the financial transactions subject to the financial

monitoring;

- the procedure of the notification of the SFMC and law-enforcement agencies of financial transactions, which are or have to be suspected of their being related to, associated with or intended for the financing of terrorist activities, acts of terror, and terrorist organisations;

- the requirements in respect of preventing the disclosure of the information provided to the State Financial Monitoring Department, other information on the financial monitoring issues, including the fact of the provision of such information.

2.2.3. The responsible officer must enhance his/her qualification on an ongoing basis in respect of the methodology of the detection of financial transactions, which can be related to the legalisation (laundering) of proceeds of crime and the financing of terrorist activities, while being guided by recommendations of the State Financial Service Markets Regulation Commission and the State Financial Monitoring Department.

An individual may not be appointed responsible officer, if:

he has been convicted of a wilful offence, unless the said conviction has been cancelled or lifted according to the procedure specified by the legislation;

he does not have labour relations with the institution.

(Paragraph 2 of Item 2.2.3 in the wording of Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

2.3. Training and Qualification Development Programmes for Officers of Institutions for the Purposes of Taking the Financial Monitoring Measures

The programme of the training and qualification development of officers of the institution for the purposes of taking the financial monitoring measures shall be developed and implemented in order to detect the financial transactions, which can be related to the legalisation (laundering) of proceeds of crime, and the financing of terrorist activities.

2.3.1. Measures aimed at organising the training of officers depending on their duties shall be taken along the following lines:

- the familiarisation of officers with international documents and the legislation of Ukraine, recommendations of FATF on preventing the legalisation (laundering) of the proceeds of crime;

- the familiarisation of the employees with internal documents on the financial monitoring issues;

- practical training in the enforcement of internal financial monitoring rules and the financial monitoring implementation programmes.

2.3.2. The measures aimed at organising the qualification development of the institutions officers in the field of preventing the legalisation (laundering) of proceeds of crime shall be taken along the following lines:

- studying the best practices in detecting the client transactions, which can be related to legalising (laundering) the proceeds of crime;

- familiarising with methods and techniques of the client review and the verification of the information in respect of their identification.

2.3.3. The training or qualification development of the institution's officers in the field of preventing the legalisation (laundering) of proceeds of crime shall be conducted at least once a year.

2.4. Training of the Staff of the Institution for the Purposes of Detecting the Financial Transactions Subject to the Financial Monitoring

2.4.1. In order to ensure the appropriate level of the staff training in issues related to the financial monitoring, the institution shall organise and provide appropriate training.

2.4.2. All employees of the institution who take part in performing or supporting the performance of a financial transaction must familiarise themselves with the rules and financial monitoring implementation programmes, as well as take part in training activities, which clarify in practice, what is required from the employees.

(Item 2.4.2 changed and amended according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

2.4.3. Employees must be notified of the liability for violating the legislation aimed at preventing and counteracting the legalisation (laundering) of proceeds of crime, and the financing of terrorist activity.

(Item 2.4.3 changed and amended according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

2.4.4. The training of employees based on their job duties shall be provided by means of holding the training sessions focused on:

- familiarising the employees with the legislation of Ukraine and international regulations on preventing the legalisation (laundering) of proceeds of crime, and the financing of terrorist activity;

- familiarising the employees with internal documents on the financial monitoring issues;

- taking the practical financial monitoring measures;

- studying the best practices in detecting the financial transactions, which can be related to legalising (laundering) the proceeds of crime, and funding the terrorist activity;

- familiarising with methods and techniques of the client review and the verification of the information in respect of their identification.

3. Requirements for Rules of the Performance of the Financial Monitoring and the Financial Monitoring Implementation Programmes

3.1. Institutions shall develop the financial monitoring rules (hereinafter referred to as the 'Rules'), which are an internal document of the institution, which defines the procedure and conditions of taking the measures focused on preventing the utilisation of the entity for legalising (laundering) the proceeds of crime or financing the terrorist activity.

3.2. The Rules shall be developed by the institution taking into account the requirements of the legislation of Ukraine governing the issues related to preventing and counteracting the legalisation (laundering) of the proceeds of crime, including this Procedure.

The Rules of the financial monitoring performance shall be approved by the chief executive officer of the institution on the basis of suggestions of the responsible officer; they must be compiled according to the lines of business of the institution.

3.3. To provide for the compliance with requirements of the legislation of Ukraine on preventing the legalisation of the proceeds of crime, the institutions must develop and implement the financial monitoring implementation programmes to be approved by the chief executive officer on the basis of a proposal from the responsible officer.

The programme shall be developed in accordance with the legislation in the field of preventing and counteracting the legalisation (laundering) of the proceeds of crime and the financing of terrorist activity.

The programme shall be an internal document of the institution containing a plan of the implementation of a set of measures on organising the exercise of the financial monitoring in the institution taking account of specific features of the business of the institution, including the business exercised by its separated units and the schedule of inspections of the implementation of the said measures.

The programme must specify the following measures:

the development and the ongoing review of criteria for evaluating the risk of the performance of the financial transactions for the purposes of the legalisation (laundering) of the proceeds of crime by a customer;

the familiarisation of officers of the institution with the legislation of Ukraine on the prevention of the legalisation (laundering) of the proceeds of crime and the financing of terrorist activity;

the familiarisation of officers of the institution with the procedure of the preparation of the information needed for making a decision on informing the SFMC and law enforcement agencies, and the submission thereof to the responsible officer;

the familiarisation of officers of the institution with the procedure of the collection and the storage of documents related to financial transactions subject to the financial monitoring;

the familiarisation of officers of the institution with requirements for the confidentiality of the

information on financial transactions that are subject to the financial monitoring or can be related to, associated with or intended for the financing of terrorist activity;

the familiarisation of officers of the institution with internal documents of the institution on the financial monitoring;

the familiarisation of officers of the institution with typologies of money laundering via institutions developed by competent agencies, including those foreign, that operate in the field of the prevention of the legalisation (laundering) of proceeds of crime and the financing of terrorist activity;

the familiarisation of employees of the institution with the procedure of the identification of customers of the institution;

the organisation and the performance of training sessions and courses, etc. for officers of the institution;

the notification of the chief executive officer about the detected financial transactions subject to the financial monitoring;

the ongoing updating of the internal documents related to the performance of the financial monitoring in the institution.

The above list of measures is not exhaustive. An institution may expand the above list in line with specific features of the exercised activities.

The period, for which the programme is compiled, shall be determined by the institution on the basis of its actual needs. It may be amended during the programme validity period.

(Item 3.3 in the wording of Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

3.4. The internal financial monitoring rules of the institution and financial monitoring implementation programmes shall be the restricted-access documents. The procedure and regime of the access of officers of the institution to these documents shall be specified by the responsible officer of the institution depending on their functional duties in concurrence with the chief executive officer of the institution.

The institution must develop and have approved the financial monitoring performance rules and programme within three working days of the appointment of the responsible officer, but not later than the time of the performance of the first financial transaction.

(Item 3.4 has been amended by adding a new Paragraph according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

3.5. The Rules must reflect the internal financial monitoring system of the institution, ensure the detection of financial transactions subject to the financial monitoring or those that can be linked to financing the terrorist activity, provide for notifying the SFMC and law-enforcement agencies of such transactions according to the legislation, and specify the procedure of the storage of documents related thereto.

The rules must provide for the information by an entity of the SFMC in case of the impossibility of the performance of the measures aimed at combating the legalisation (laundering) of the proceeds of crime, and the financing of terrorist activity by its branches and other separated units located abroad with the indication of reasons for the impossibility to perform the same.

(Item 3.5 has been amended by adding a new Paragraph according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

3.6. The following shall be the major principles of the development and implementation of financial monitoring Rules and programmes:

- the direct involvement of each employee of the institution (within his/her competence) into detecting the financial transactions, which can be related to legalising (laundering) the proceeds of crime, or financing the terrorist activity;

- the impartiality in implementing the financial monitoring;

- the confidentiality of the information provided to the SFMC (including the fact of the provision of the information about a financial transaction) and other financial monitoring-related information;

- the prevention of the involvement of employees of the institution into legalising (laundering) the

proceeds of crime.

3.7. The Rules must contain:

- a description of the internal organisation system of the financial monitoring;

- the major principles of the activities of an individual separate unit of the institution in respect of the financial monitoring (if any);

- the rights and responsibilities of the responsible officer of the institution, as well as other employees of the institution involved into the implementation of the financial monitoring;

- the procedure of making a decision in respect of disclosing the information about a financial transaction subject to the financial monitoring;

- the procedure of storing the financial monitoring information;

- making decisions according to the legislation as to of which transactions the SFMC and law enforcement agencies must be notified, and actioning the appropriate notifications;

- a procedure of taking measures aimed at ascertaining the nature and objective of client's transaction subject to the financial monitoring;

- the procedure of the detection and registration of financial transactions subject to the financial monitoring and those, which may be associated with, related to, or intended for financing the terrorist activity;

- the procedure of the suspension of financial transactions, if an individual included into the list of individuals implicated into the exercise of terrorist activities is a party thereto or a beneficiary thereof;

(Item 3.7 has been amended by the Paragraph under Instruction of the State Financial Service Markets Regulation Commission #5720 of April 28, 2006)

- the procedure of taking measures aimed at ascertaining the nature and objective of such transactions;

- the procedure of the identification of parties engaging into such transactions;

- the procedure of recording such transactions or the forwarding them for recording to the responsible officer;

- the procedure of the preparation and provision to the responsible officer of the information required to make a decision on informing the SFMC and law-enforcement agencies in accordance with the legislation;

- the procedure of gathering and storing the appropriately executed documents on such transactions and parties for the purposes of ensuring the possibility of reinstating the transaction details, if necessary;

- a description of measures aimed at preventing the possible use of novel technologies in arrangements for the legalisation of proceeds of crime and the financing of terrorist activities.

(Item 3.7 has been amended by adding a new Paragraph according to Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

3.8. The requirements related to ensuring the confidentiality the information on financial transactions subject to the financial monitoring and those, which may be associated with, related to, or intended for financing the terrorist activity, shall comprise, inter alia, the following:

- a procedure of taking measures aimed at ascertaining the nature and objective of transactions subject to the financial monitoring;

- the features of the transactions, which are subject to the obligatory and internal financial monitoring, specifically for each financial transaction type;

- other features of suspicious financial transactions ascertained in line with the specific features and business of the institution;

- criteria for categorising parties, descriptions of types of parties characterised by the increased degree of the probability of their engaging into transactions, which can be related to legalising (laundering) the proceeds of crime or financing the terrorist activity (the general reference information, the country of origin, the reference information on the business and reputation, the availability of convictions, etc.).

4. Detection of Transactions Subject to the Financial Monitoring, and the Provision of the Information about Them

4.1. Before, or not later than the next working day after, the performance of a financial transaction, the employee of the entity, who ensures the performance of a financial transaction or is responsible for the performance of the financial monitoring, shall determine the possibility of categorising the transaction as a transaction subject to the financial monitoring according to the Law and, in case of the detection of such a financial transaction, register the same on the same day.

The said duties shall be specified by the institution in the relevant job descriptions of the officers, who secure the performance of financial transactions.

4.2. The detection of financial transactions subject to the financial monitoring and those that can be related to, associated with, or intended for the financing of terrorist activity, and the provision of the information about financial transactions subject to the financial monitoring shall be carried out by the institution (separate unit) in accordance with the Law and under the procedure prescribed by acts of the Cabinet of Ministers of Ukraine and the SFMC.

4.3. In respect of a financial transaction, which is subject to the financial monitoring, the institution must ensure the following:

a) the registration of the said transaction according to the procedure specified by the Cabinet of Ministers of Ukraine and the State Financial Monitoring Department;

b) the performance of measures aimed at ascertaining the nature and objective of the customer's transaction, including the request for additional documents and details related to the transaction in question;

c) the performance of other measures within the framework of the legislation of Ukraine for the purposes of the proper compliance with requirements of laws of Ukraine on preventing and counteracting the legalisation (laundering) of the proceeds of crime;

d) the provision of the information about the said financial transaction and the parties involved into performing the same to the SFMC, if the relevant features are available.

The responsible officer of the institution (separate unit) shall make an independent decision in respect of informing the SFMC about transactions, which are subject to the obligatory financial monitoring.

4.4. The registration of financial transactions and the submission thereof to the SFMC shall be carried out in accordance with the procedure defined by the legislation of Ukraine in respect of the prevention of the legalisation (laundering) of the proceeds of crime and the financing of terrorist activity.

4.5. An institution shall develop own criteria for evaluating the risk of the performance of the financial transactions for the purposes of the legalisation (laundering) the proceeds of crime by a customer (hereinafter referred to as the "criteria").

The tentative list of criteria is provided as annex to Order of the SFMC No. 40 of 24 April 2003 "On Approval of Requirements for the Organisation of the Financial Monitoring by Primary Financial Monitoring Entities in the Field of the Prevention and Counteracting of Introduction of Proceeds of Crime into the Legal Circulation and the Financing of Terrorist Activity" registered with the Ministry of Justice of Ukraine on 29 April 2003 under #337/7658.

The following additional criteria may, for instance, be introduced by institutions:

- the non-conformity of non-resident insurer and re-insurer counterparties with requirements of the State Financial Service Markets Regulation Commission for financial reliability (stability) ratings of non-resident insurers and re-insurers;

- the onset of an insured accident within short time upon the conclusion of the insurance contract;

-a financial institution registered in a country (on a territory) known to not supervise financial institutions is a party to a financial transaction.

(Section 4 in the wording of Instructions of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

5. Identification of parties, who engage into financial transactions, the storage of the relevant documents

5.1. The institution must identify the parties carrying out the financial transactions subject to the

financial monitoring, opening accounts or in case of the grounds to believe that the identification information has to be clarified, in order to properly exercise the duties of a primary financial monitoring entity prescribed by Law.

If a party acts as a representative of another party, or if the entity has doubts as to whether such a party acts on its own behalf or as to whether another party is the true beneficiary, the entity must also identify:

parties, on whose behalf or instruction the financial transaction is being undertaken;

parties being true beneficiaries.

Institutions that have the legal status of financial institutions under the Law of Ukraine "On Financial Services and State Regulation of Financial Service Markets" must identify persons entering into financial service provision contracts and individuals being owners of the customer legal entity, having direct or indirect influence thereon or obtaining economic benefits from the activities of the legal entity in question. If the legal entity is a company, the financial institution must identify the individuals, who have substantial interest in the said legal entity.

The said entities shall be prohibited from entering into contractual relations with legal-entity or individual customers, in case of doubts as to whether the party acts on own behalf.

(Item 5.1 of Section 5 in the wording of Instructions of the State Financial Service Markets Regulation Commission #121 of November 13, 2003, #7288 of May 10, 2007)

5.2. The identification procedure must contain:

- the procedure of performing the primary identification of a party;

- the measures related to the identification of a party in case of changes in the information required to undertake the identification or the expiry of documents, on whose basis the identification has been undertaken;

- the procedure of taking the measures aimed at verifying the information in respect of the identification of a party;

- the measures involving the additional review of the party.

5.3. The parties shall be identified on the basis of the submitted original documents or document copies notarised or certified by the organisation, which has issued them.

5.4. In order to identify a party, the employee of the institution shall ascertain the following information in respect of:

a) resident individuals:

in case of residents - the last name, the first name, the patronymic name; the date of birth, the series and number of the passport of a citizen of Ukraine (or another identity document), the issue date and the issuing authority; the place of residence;

- the identification number in the State Register of Individuals Being Payers of Taxes and Other Statutory Fees;

b) resident legal entities:

- the full and abbreviated names; the legal address, the documents confirming the state registration (including the constituting documents, the information about officials and their powers, etc.); the identification code according to the Universal State Register of Enterprises and Organisations of Ukraine; the details of the bank, with which an account is opened, and the number of the bank account;

c) non-resident individuals:

the last name, the first name, the patronymic name (if any); the date of birth, the series and number of the passport document (or another identity document), the issue date and the issuing authority; the citizenship; the place of residence or temporary stay;

d) non-resident legal entities:

the full name; the location and details of the bank, with which an account is opened; the number of the bank account; the data on the registration of the said legal entity on the basis of a copy of a legalised excerpt from the trade, banking or court register or the notarised registration certificate of the competent

agency of the foreign state confirming such registration.

While performing the identification of individuals, the officers of the institution shall compile questionnaires to be signed by the responsible officer and kept for five years after the performance of the financial transaction. The recommended questionnaire forms are provided in Annexes 1 to 4.

(The Paragraph added to Sub-item 5.4 of Item 5 according to Instruction of the State Financial Service Markets Regulation Commission #336 of April 15, 2004)

5.5. While examining the constituting documents and documents confirming the state registration which constituting the legal entity, special attention must be paid to:

- the ascertainment of the actual owners;

- the correctness of the execution of the constituting documents (taking into account all the registered changes);

- the make-up of founders of the legal entity and its related parties;

- the structure and authorities of management bodies of the legal entity;

- the size of the registered and paid-in authorised fund;

- the match between the financial transaction and the normal business of the legal entity.

- the type of business;

(Item 5.5 has been amended by the Paragraph under Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

- the objective and grounds for the performance of transactions;

(Item 5.5 has been amended by the Paragraph under Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

- the assessment of the size and sources of existing and expected proceeds;

(Item 5.5 has been amended by the Paragraph under Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

- a description of sources of origin and methods of the transfer (contribution) of funds used in transactions.

(Item 5.5 has been amended by the Paragraph under Instruction of the State Financial Service Markets Regulation Commission #7288 of May 10, 2007)

5.6. The institution must store the documents related to the identification of parties and the whole documentation related to the performance of a financial transaction for five years after its being performed.

(Section 6 has been deleted on the basis of Instruction of the State Financial Service Markets Regulation Commission #121 of November 13, 2003)

6. Procedure of the Suspension of Financial Transactions

6.1. Before the exercise of each financial transaction, an officer of the institution that causes it to be performed shall check it for the availability of individuals implicated into the exercise of terrorist activities among the parties thereto or the beneficiaries thereof.

The primary financial monitoring entity must suspend the performance of a financial transaction for a period up to two working days, if an individual included into the list of individuals implicated into the exercise of terrorist activities is a party thereto or a beneficiary thereof.

6.2. The institution must suspend the performance of a financial transaction, if an individual included into the list of individuals implicated into the exercise of terrorist activities is a party thereto or a beneficiary thereof.

6.3. The decision to suspend a financial transaction, if an individual included into the list of individuals involved into the exercise of terrorist activities is a party thereto or a beneficiary thereof, shall be made by the responsible officer by means of issuing an appropriate written instruction binding upon all the officers of the institution.

6.4. The institution must notify the SFMC of the decision to suspend a financial transaction immediately on the same day by compiling and sending the relevant notice.

The financial transaction suspension notice shall be served to the SFMC in the electronic form via communication channels and authenticated with the electronic digital signature in accordance with the procedure prescribed by the legislation. If the institution serves the financial transaction suspension information to the SFMC on paper, then the financial transaction suspension notice shall be faxed to the SFMC.

The responsible officer shall make sure that the SFMC has received the said notice not later than on the next working day after sending the financial transaction suspension notice.

6.5. In case of the non-receipt of the decision of the SFMC of Ukraine on the further suspension of the financial transaction by the institution within two working days of the suspension thereof, the institution shall resume the financial transaction in question.

6.6. In case of the receipt of the decision of the SFMC on the further suspension of the financial transaction by the institution, the officer of the institution shall cause the financial transaction to continue to be suspended for the period indicated in the decision of the SFMC by issuing an appropriate written instruction binding upon all officers of the institution.

(The Procedure has been amended by adding Section 6 according to Instruction of the State Financial Service Markets Regulation Commission #5720 of April 28, 2006)

V. Suslov, Head of the Commission

23. *SCSSM Decision No. 538 On Approval of Procedure of the Financial Monitoring by Securities Market Members (04.10.2005)*

Decision #538 of 04.10.2005 On Approval of Procedure of the Financial Monitoring by Securities Market Members

N 538, 04.10.2005, Рішення, Державна комісія з цінних паперів та фондового ринку

STATE COMMISSION FOR SECURITIES AND STOCK MARKET

DECISION

#538
of October 04, 2005

Registered with the Ministry of Justice of Ukraine on
16 November 2005 under No. 1379/11659

ON APPROVAL OF PROCEDURE OF THE FINANCIAL MONITORING BY SECURITIES MARKET MEMBERS

In order to improve the enforcement of provisions of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime", the State Commission for Securities and Stock Market HAS RESOLVED hereby as follows:

1. The attached Procedure of the Financial Monitoring by Securities Market Members shall be approved.

2. Decision of the State Commission for Securities and Stock Market No. 359 of 13 August 2003 "On Approval of the Procedure of the Financial Monitoring by Joint Investment Institutes, Stock

Exchanges and Other Professional Members of the Securities Market" registered with the Ministry of Justice of Ukraine on 05 September 2003 under No. 769/8090, and abolish Decision of the State Commission for Securities and Stock Market No. 93 of 16 March 2003 "On Approval of the New Wording of the Procedure of the Financial Monitoring by Securities Market Members".

3. M. Nepran, head of staff of the State Commission for Securities and Stock Market shall provide for the following:

the submission of the Procedure of the Financial Monitoring by Securities Market Members to the National Bank of Ukraine and the State Financial Monitoring Committee of Ukraine to seek concurrence;

the state registration of the Procedure of the Financial Monitoring by Securities Market Members with the Ministry of Justice of Ukraine;

the publication hereof in accordance with the legislation.

4. The decision shall become effective in accordance with the legislation of Ukraine.

5. The primary financial monitoring entities shall bring their activities into compliance with requirements of this Procedure of the Financial Monitoring by Securities Market Members within 30 days of the effective date of this decision.

6. The control over the compliance herewith shall be laid upon M. Burmaka, Commission Member, and M. Nepran, Commission Staff Head.

A. BALIUK, Commission Governor

APPROVED by Decision of the
State Commission for Securities and Stock Market
No. 538 of 04 October 2005
Registered
with the Ministry of Justice of Ukraine
on 16 November 2005 under No. 1379/11659

PROCEDURE OF THE FINANCIAL MONITORING BY SECURITIES MARKET MEMBERS

This Procedure has been developed in accordance with Laws of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime" (hereinafter referred to as the "Law"), "On Financial Services and State Regulation of Financial Service Markets", and apply to traders in securities, depositors, custodians, registrars, issuers that maintain their own register of owners of nominal securities, stock exchanges and trade/information systems, asset management companies, and joint investment institutes (hereinafter referred to as the "entities"). The Procedure shall not apply to banks that exercise professional activities on the securities market.

1. General Provisions

This Procedure shall set out the general requirements of the State Commission for Securities and Stock Market (hereinafter referred to as the "Commission") in respect of:

the appointment, rights and duties of the officer responsible for the financial monitoring;

the principal requirements for the qualification of the officer responsible for the financial monitoring;

the training and qualification development programmes for officers in taking the financial monitoring measures;

the establishment of rules of the performance of the financial monitoring and the financial monitoring implementation programmes;

the detection of the transactions subject to the financial monitoring, and the provision of the information about them;

the identification of parties, who engage into financial transactions, and the storage of the relevant documents;

the training of the personnel of the institution in the detection of financial transactions subject to the financial monitoring.

The financial monitoring measures shall be organised and taken by asset management companies of joint investment institutes in the joint investment institutes.

2. Appointment, Rights and Duties of the Officer Responsible for the Financial Monitoring, Requirements for His Qualification

2.1. In order to ensure the proper enforcement of the Law, the entities shall appoint an officer responsible for the performance of the financial monitoring (hereinafter referred to as the "responsible officer").

The responsible officer charged with the performance of the financial monitoring must have his primary employment with the primary financial monitoring entity.

2.2. The responsible officer shall be the person tasked with co-ordinating the activities related to the implementation of the financial monitoring measures by the entity.

The responsible officer shall be appointed by the chief executive officer of the entity, be independent in his activities, and report only to the chief executive officer of the entity.

An acting officer shall be appointed for the time of absence of the responsible officer or the impossibility of the performance of his duties. The rights, duties, and requirements instituted for the responsible officer shall apply to the said individual.

Should it be inappropriate to institute a separate position, the chief executive officer of the entity may be appointed to be responsible for the implementation of the financial monitoring.

2.3. Taking into account the specific features of the entity's organisational structure, a separate structural unit can be established to deal with the financial monitoring issues.

The said unit shall operate in accordance with the charter of such a structural unit to be approved by the chief executive officer of the entity.

If the entity sets up a special financial monitoring unit, the responsible officer shall be the head of such a unit.

2.4. While carrying out the financial monitoring, the responsible officer shall make decisions independently within the scope of his competence.

The chief executive officer of the entity shall approve the job description of the responsible officer.

Should the responsible officer disagree with instructions of the chief executive officer of the entity in respect of the organisation of the system of preventing the legalisation (laundering) of the proceeds of crime, and other issues related to the exercise of the financial monitoring, the responsible officer may notify thereof the State Financial Monitoring Department of Ukraine and the Commission by setting forth his objections in writing.

2.5. The entity must notify the State Financial Monitoring Department of Ukraine within three working days of signing the relevant document about the appointment or dismissal of the responsible officer (or the acting responsible officer).

The newly established entities shall appoint the responsible officer within one working day of the licence obtainment date.

The form of the notification of the appointment or dismissal of the (acting) responsible officer has been specified with regulatory acts of the State Financial Monitoring Department of Ukraine.

2.6. If the entity has branches (separated units), the chief executive officer of the entity shall appoint the responsible officer of the entity in the branch (separated unit) on the basis of a proposal of the

branch (separated unit) manager. The responsible officer of the entity in a branch (separated unit) shall report only to the chief executive officer of the entity. The entity must notify the State Financial Monitoring Department of Ukraine within three working days of the appointment or dismissal date about the appointment or dismissal of the responsible officer (or the acting responsible officer) in a branch (separated unit).

Should it be inappropriate to institute a separate position, the manager of the branch (separated unit) may be appointed as the responsible officer in the branch (separated unit).

2.7. The responsible officer shall have, inter alia, the following job duties:

the development and ongoing updating financial monitoring rules and implementation programmes;

ensuring that all the employees of the entity comply with the appropriate financial monitoring rules and financial monitoring implementation programmes;

ensuring the training and education of the entity personnel;

providing advice to the entity's staff in respect of the suspicious transactions or illegal actions detected by them;

making decisions according to the legislation as to which transactions must be notified to the State Financial Monitoring Department and law enforcement agencies, and actioning the appropriate notifications;

ensuring the provision of the financial monitoring information the requirements on requests of the State Financial Monitoring Department of Ukraine;

the support to the representatives of the Commission and the State Financial Monitoring Department of Ukraine in respect of the analysis of financial transactions subject to the financial monitoring;

the notification of the chief executive officer of the detected suspicious financial transactions and measures that have been taken at least once per month (in writing, in case of the availability of a separate responsible officer position);

the exercise of other duties envisaged by the Law and the job description.

2.8. For the purposes of the performance of job duties by the responsible officer, his scope of competence shall include, inter alia, the following:

inspecting the activities of employees of the entity for their compliance with the financial monitoring rules and the financial monitoring implementation programmes;

inspecting, if any, the activities of branches (separated units) for their compliance with the financial monitoring rules and the financial monitoring implementation programmes;

involving any employees of the entity or branches (separated units) into taking the financial monitoring measures and holding financial monitoring inspections, issuing binding assignments and instructions to them within the responsible officer's scope of competence, as well as requiring their assistance while taking certain actions;

obtaining explanations on issues related to the exercise of the financial monitoring from employees of the entity or branches regardless of their positions;

obtaining access to documents and other information related to the performance of the financial monitoring.

2.9. The responsible officer of an entity must know:

2.9.1. The regulatory acts that govern the relations in the field of the preventing and counteracting the legalisation of proceeds of crime and the financing of terrorist activity.

2.9.2. The full list of types of financial transactions performed by the entity, the procedure of the

performance thereof.

2.9.3. Job descriptions and functional responsibilities of officers of the entity involved into the performance of financial transactions.

2.9.4. Rules of the performance of the financial monitoring and the financial monitoring implementation programmes specified by the entity.

2.9.5. Provisions of the legislation of Ukraine, which provide for the criminal, administrative and civil liability for the violation of requirements of the Law.

2.9.6. The list of countries, which do not take part in the international co-operation in the field of preventing and counteracting the legalisation (laundering) of the proceeds of crime and the financing of terrorist activity, and the list of offshore zones approved by the Cabinet of Ministers of Ukraine.

2.10. The responsible officer must know, and have the practical application skills in respect of, the following:

the procedure of the identification of parties (under item 6.1 of the Procedure);

the procedure of the storage of documents related to the identification of parties, and the documentation on the performance of a financial transaction;

the procedure of the detection of financial transactions subject to the financial monitoring and those, which may be associated with, related to, or intended for financing the terrorist activity;

the criteria for evaluating the probability of transactions' being considered as those related to legalising (laundering) the proceeds of crime, and financing the terrorist activity;

the features of transactions, which are subject to the obligatory financial monitoring;

the features of transactions, which are subject to the internal financial monitoring;

the procedure of keeping a register of financial transactions, which can be related to legalising (laundering) the proceeds of crime;

the procedure of informing the State Financial Monitoring Department of Ukraine about the financial transactions subject to the financial monitoring;

the procedure of the notification of the State Financial Monitoring Department and law-enforcement agencies of financial transactions, which are or have to be suspected of their being related to, associated with or intended for the financing of terrorist activities, acts of terror, or terrorist organisations;

the requirements in respect of preventing the disclosure of the information provided to the State Financial Monitoring Department of Ukraine, other information on the financial monitoring issues, including the fact of the provision of such information.

The responsible officer must enhance his/her qualification on an ongoing basis in respect of the methodology of the detection of financial transactions, which can be related to the legalisation (laundering) of proceeds of crime and the financing of terrorist activities, while being guided by recommendations of the Commission and the State Financial Monitoring Department.

2.11. An individual convicted of a wilful offence may not be appointed a responsible officer, unless the said conviction has been cancelled or lifted according to the procedure specified by the current legislation.

3. Introduction of Rules of the Performance of the Internal Financial Monitoring and the Financial Monitoring Implementation Programmes

3.1. Entities shall develop rules of the financial monitoring performance being an internal document of the entity to set out the procedure and conditions of taking the measures focused on preventing and counteracting the utilisation of the entity for the legalisation (laundering) of the proceeds of crime and financing of terrorist activities.

3.2. The internal financial monitoring performance rules shall be developed by the entity taking

into account the requirements of the legislation of Ukraine governing the issues related to preventing and counteracting the legalisation (laundering) of the proceeds of crime and financing of terrorist activities, including this Procedure.

The internal financial monitoring performance rules shall be approved by the chief executive officer of the entity on the basis of a proposal of the responsible officer, and must cover all areas of professional activities of the entity.

3.3. To provide for the compliance with requirements of the legislation of Ukraine on preventing the legalisation of the proceeds of crime and financing of terrorist activities, the entities must develop and implement the financial monitoring implementation programmes to be approved by the chief executive officer. The said programmes must indicate, inter alia:

the features of financial transactions subject to the financial monitoring specified by the legislation of Ukraine, other features of such transactions, which are independently identified and updated by the entity on an ongoing basis in line with specifics and business areas taking into account the documents developed by the Commission and the State Financial Monitoring Department of Ukraine. A tentative list is provided as Annex 1;

the issues of the identification and review of their clients;

the measures related to training and qualification development of employees.

The financial monitoring implementation programme shall be a set of measures aimed at organising the performance of the financial monitoring. The period, for which the programme is compiled, shall be determined on the basis of actual needs of the entity.

3.4. The internal financial monitoring rules of the entity and financial monitoring implementation programmes shall be the restricted-access documents.

The procedure and regime of the access to the internal financial monitoring performance rules and the financial monitoring implementation programmes shall be separate documents to be developed by the responsible officer of the entity and concurred with the chief executive officer of the entity.

3.5. The internal financial monitoring performance rules must reflect the internal financial monitoring system of the entity, ensure the measures aimed at detecting the financial transactions subject to the financial monitoring or the financial transactions that can be related to financing of terrorist activities, provide for the notification of the State Financial Monitoring Department of Ukraine and law enforcement agencies of such transactions in accordance with the legislation, and specify the procedure of the storage of documents related thereto.

3.6. The following shall be the major principles of the development and implementation of the internal financial monitoring performance rules and financial monitoring implementation programmes:

the direct involvement of each employee of the entity within his competence into detecting the financial transactions, which can be related to legalising (laundering) the proceeds of crime, or financing the terrorist activity;

the impartiality in exercising the financial monitoring;

the confidentiality of the information provided to the State Financial Monitoring Department of Ukraine (including the fact of the provision of the details of the financial transaction), and other information on the financial monitoring issues;

the prevention of the involvement of employees of the entity into the legalisation (laundering) of the proceeds of crime.

3.7. The internal financial monitoring performance rules must contain:

a) a description of the internal organisation system of the financial monitoring;

b) the major principles of the activities of a separate structural unit of the entity for the financial monitoring performance (if any);

c) the rights and duties of the responsible officer of the entity, as well as other employees of the entity involved into the implementation of the financial monitoring;

d) the procedure of the preparation and submission of the information needed for making a decision about informing the State Financial Monitoring Department of Ukraine and law enforcement agencies in accordance with the legislation to the responsible officer;

e) the procedure of the detection and registration of financial transactions subject to the financial monitoring and financial transactions, which may be associated with, related to, or intended for financing the terrorist activity, acts of terror or terrorist organisations;

f) the procedure of decision making by the responsible officer on the provision of the information about financial transactions subject to the financial monitoring and financial transactions, which may be associated with, related to, or intended for financing the terrorist activity, acts of terror or terrorist organisations;

g) the entity identification procedure;

h) the procedure of the storage of the information on the financial monitoring issues, which must contain requirements related to ensuring the confidentiality the information on financial transactions subject to the financial monitoring and those, which may be associated with, related to, or intended for financing the terrorist activity, acts of terror or terrorist organisations.

4. Detection of Transactions Subject to the Financial Monitoring

4.1. Before, or not later than the next working day after, the performance of a financial transaction, the employee of the entity, who ensures the performance of the financial transaction or is responsible for the performance of the financial monitoring, shall determine the possibility of categorising the transaction as a transaction subject to the financial monitoring according to the legislation and, in case of the detection of such a financial transaction, register such the same on the same day. The said duties shall be specified by the entity in the relevant job descriptions.

4.2. In respect of a financial transaction, which is subject to the financial monitoring, the entity must ensure the following:

a) the registration of the said transaction according to the procedure specified by the Cabinet of Ministers of Ukraine;

b) the performance of measures aimed at ascertaining the nature and objective of the client's transaction, including the request for additional documents and data related to the transaction in question;

c) the performance of other measures in accordance with the legislation of Ukraine for the purposes of the proper compliance with requirements of laws of Ukraine on preventing and counteracting the legalisation of the proceeds of crime;

d) the provision of the information about the said financial transaction and the parties involved into performing the same to the State Financial Monitoring Department of Ukraine, if the relevant features are available.

4.3. The financial transactions subject to the financial monitoring shall be registered in a register of financial transactions that can be related to the legalisation (laundering) of proceeds of crime maintained in the Form prescribed by regulatory acts of the State Financial Monitoring Department of Ukraine.

If the register is maintained electronically, all new records or records modified during the working day shall be printed out every day.

The printouts shall be signed by the chief executive officer or the officer responsible for the financial monitoring.

Before the fifth day of each month, the printouts of the previous month shall be compiled on a chronological basis into brochures (which shall be stringed together, certified with signatures of the chief executive officer or the officer responsible for the financial monitoring, sealed and stored for 5 years).

The number of pages in the brochure, the dates of the first and last records shall be specified on

the first page of the brochure.

4.4. The form of the financial transactions register shall be prescribed by the State Financial Monitoring Department of Ukraine.

The modification of the data entered into the register of financial transactions, which can be related to legalising (laundering) the proceeds of crime, shall be disallowed. Should it be necessary to correct the data erroneously entered into the register in respect of a specific financial transaction, the record of annulment shall be entered into the field of the register containing the information about the said transaction, and the register shall be amended by adding a new record on the said transaction.

5. Provision of the Information on Financial Transactions subject to the Financial Monitoring

5.1. An entity must provide the State Financial Monitoring Department of Ukraine with the information subject to the obligatory financial monitoring not later than within three working days of the time of its registration.

The said information may be provided to the State Financial Monitoring Department of Ukraine by branches (separated units) directly.

5.2. The responsible officer of the entity shall independently make a decision in respect of informing the State Financial Monitoring Department of Ukraine about financial transactions, which are subject to the internal financial monitoring. The said decision shall be made by the responsible officer, if he has reasonable suspicion that the financial transactions can be related to the legalisation (laundering) of the proceeds of crime.

5.3. If the responsible officer of the entity makes a decision not to inform the State Financial Monitoring Department of Ukraine about a financial transaction subject to the internal financial monitoring, he shall draw up a statement to justify the said decision. The said statement must, for instance, contain the sequence number of the registration of the transaction in the register, the statement compilation date, and the signature of the responsible officer of the entity.

5.4. If the entity, which performs a financial transaction or supports the performance of a financial transaction, suspects or should have suspected that the said financial transaction is associated with, related to or intended for financing of terrorist activities, acts of terror or terrorist organisations, it must register the same on the date of detection of the said transaction and immediately (on the registration date) notify the State Financial Monitoring Department of Ukraine and law enforcement agencies specified by the legislation of such a financial transaction.

5.5. On request of the State Financial Monitoring Department of Ukraine, the entity shall provide the additional information on financial transaction that have become the object of the financial monitoring or are related to financing the terrorist activity, including the commercial secrets, within three working days of receipt of the inquiry.

5.6. The information shall be provided to the State Financial Monitoring Department of Ukraine in an electronic form via communication channels, on magnetic carriers or, on the consent of the State Financial Monitoring Department of Ukraine, on paper.

The information on a magnetic carrier or paper shall be sent to the State Financial Monitoring Department of Ukraine by mail as the correspondence with the delivery notice or with a courier, provided that measures are taken to prevent the unauthorised access to the information or documents during the delivery thereof.

5.7. The information to be provided shall be the information subject to the restricted access procedures. The information shall be protected according to the legislation in case of its provision to the State Financial Monitoring Department of Ukraine.

5.8. The responsible officer and other officers of the entity must ensure the confidentiality of the information provided to the State Financial Monitoring Department of Ukraine and other information related to the financial monitoring issues, as well as the fact of the provision thereof; they may not divulge such information to any parties within or outside the entity, including the parties, whose financial transactions have initiated the notice, except for cases specified by the legislation.

5.9. Employees of the entity must support the officers of the State Financial Monitoring Department of Ukraine and the Commission, in performing the analysis of financial transactions subject to the financial monitoring.

5.10. The information about the financial transaction subject to the financial monitoring shall be provided in the form prescribed by regulatory acts of the State Financial Monitoring Department of Ukraine.

6. Identification of Parties, Storage of Relevant Documents

6.1. The entity must identify the parties carrying out the financial transactions subject to the financial monitoring, opening accounts or in case of the grounds to believe that the personal identification information has to be clarified, in order to properly exercise its functions.

If a party acts as a representative of another party, or if the entity has doubts as to whether such a party acts on its own behalf or as to whether another party is the true beneficiary, the entity must also identify the parties, on whose behalf or instruction the financial transaction is being performed, or who are the beneficiaries.

The entities having the financial institution status under the Law of Ukraine "On Financial Services and State Regulation of Financial Service Markets" must identify the parties entering into financial service provision contracts and individuals, who own the legal-entity customer, exert direct or indirect influence thereon, and obtain economic benefits from activities of the said legal entity. If the legal entity is a company, the entity being the financial institution must identify the individuals, who have substantial interest in the said legal entity. The said entities shall be prohibited from entering into contractual relations with legal-entity or individual clients, in case of doubts as to whether the party acts on own behalf.

6.2. The party identification procedure must specify:

the procedure of the primary identification of the party;

the measures aimed at the identification of the party in case of the modification of the information needed for the performance of the identification or on expiry of the validity period of documents, on whose basis it has been carried out;

the procedure of taking measures aimed at the verification of the party identification information;

criteria for categorising parties, descriptions of types of parties characterised by the increased degree of the probability of their engaging into transactions, which can be related to legalising (laundering) the proceeds of crime or financing the terrorist activities (the general description, the country of origin, the business activity and reputation profile, the prior convictions, etc.). A tentative list of criteria is provided as Annex 2.

measures on the additional review of the party.

6.3. The parties shall be identified on the basis of the submitted original documents or properly certified document copies.

6.4. In order to identify a party, the employee of the entity shall ascertain the following:

a) in case of resident individuals:

the last name, the first name, the patronymic name; the date of birth, the series and number of the passport (or another identification document), the issue date and the issuing authority; the place of residence; the identification number according to the State Register of Individuals Being Payers of Taxes and Other Statutory Fees;

b) in case of resident legal entities:

the full and abbreviated names; the location, the documents confirming the state registration (including the constituting documents, the information about officials and their powers, etc.); the identification code according to the Universal State Register of Enterprises and Organisations of Ukraine; details of the bank where the account is held, and the bank account number;

c) in case of non-resident individuals:

the last name, the first name, the patronymic name (if any); the date of birth, the series and number of the passport (or another identification document), the issue date and the issuing authority; the citizenship; the place of residence or temporary stay;

d) in case of non-resident legal entities:

the full name; the location and details of the bank, with which an account is held; the number of the bank account; a copy of the legalised excerpt from the trade, banking or court register or the notarised registration certificate of the competent agency of the foreign state confirming the registration of the legal entity in question.

6.5. If the parties carrying out a financial transaction fall within the entity's criteria of the classification of the parties characterised by the increased degree of the probability of their engaging into transactions, which can be related to legalising (laundering) the proceeds of crime or financing the terrorist activities, then the increased attention shall be paid to:

the ascertainment of the beneficial owners;

the correctness of the execution of the constituting documents (taking into account all the registered changes);

the founders of the legal entity;

the structure of management bodies of the legal entity, and their powers;

the size of the registered and paid-in authorised fund;

the conformity of the financial transaction with the usual business of the legal entity;

the type of business;

the objective and grounds for the performance of transactions;

the assessment of the size and sources of existing and expected proceeds;

a description of sources of origin and methods of the transfer (contribution) of funds used in transactions;

the related parties.

6.6. It is recommended to compile questionnaires while performing the identification and review of the parties. The questionnaire shall be an internal document of the entity, and may contain the information about the parties specified in items 6.4 and 6.5 of this Procedure.

In case of the decision to use questionnaires, the entity may specify the categories of the parties, for whose identification the questionnaires are not used (the clients that engage into small-scale once-off transactions, etc.).

6.7. The identification of the party shall not be obligatory in case of the financial transaction performance by a party that has been identified earlier.

6.8. If the entity has doubts regarding the trueness or adequacy of the information obtained earlier on the identification of the client or if details listed in item 6.4 of this procedure have changed, or if the validity period of documents, on whose basis the identification was carried out, has expired, then the party in question shall be subject to the identification in accordance with the legislation in case of the performance of a financial transaction subject to the financial monitoring.

6.9. The entity must store the documents related to the identification of parties and the whole documentation related to the performance of a financial transaction for five years after its performance.

7. Training the Personnel of the Entity for the Purposes of Detection of Financial Transactions Subject to the Financial Monitoring

7.1. In order to ensure the appropriate level of the staff training in issues related to the financial

monitoring, the primary financial monitoring entity shall develop and implement a personnel training and qualification development programme in the field of taking the financial monitoring measures.

7.2. All the employees must be notified of the liability for violating the legislation aimed at preventing and counteracting the legalisation (laundering) of proceeds of crime, and the financing of terrorist activity.

7.3. All employees of the entity must familiarise themselves with the financial monitoring rules and implementation programmes, as well as take part in training and practical activities in respect of the financial monitoring performance.

7.4. Measures aimed at organising the training of officers depending on their duties shall be taken along the following lines:

the familiarisation of employees with the legislation of Ukraine, recommendations of FATF on preventing the legalisation (laundering) of the proceeds of crime;

the familiarisation of the employees with internal documents on the financial monitoring issues;

the practical workshops in respect of the compliance with the internal financial monitoring rules and financial monitoring implementation programmes.

7.5. The measures aimed at organising the qualification development of the entity's employees in the field of preventing the legalisation (laundering) of proceeds of crime shall be taken along the following lines:

the study of best practices in respect of the detection of customer transactions that can be related to the legalisation (laundering) of the proceeds of crime;

the familiarisation with means and techniques of the study of clients, and the verification of the information on their identification.

7.6. The training or qualification development of the employees of the entity in the field of preventing the legalisation (laundering) of proceeds of crime shall be conducted at least once a year.

8. Liability for the Lack of Compliance (Improper Compliance) with the Legislation on Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime

Entities guilty of having violated the legislation on preventing and combating the legalisation (laundering) of proceeds of crime shall be liable by law.

9. State Control over the Compliance of Entities with Requirements of this Procedure

The Commission shall exercise the state control and supervision over the compliance of entities with requirements of this Procedure.

O. MYSIURA, Acting Director of the Control and Legal Work Department

Annex 1 to the Procedure of the Financial Monitoring by Securities Market Members

TENTATIVE LIST OF FEATURES OF FINANCIAL TRANSACTIONS THAT CAN BE CLASSIFIED AS TRANSACTIONS SUBJECT TO THE INTERNAL FINANCIAL MONITORING (TO BE AMENDED BY THE ENTITY, IF NECESSARY)

1. Acquisition of the ownership of a block of securities, whose aggregate par value exceeds UAH 80,000 under donation or exchange contracts.

2. Performance of transactions with bills of exchange, including the endorsement to the bearer or the blank endorsement.

3. The sale/purchase of a block of securities without the involvement of a securities trader with the aggregate value that equals or exceeds UAH 80,000.

Annex 2 to the Procedure of the Financial Monitoring by
Securities Market Members

TENTATIVE LIST OF CRITERIA OF PARTIES CHARACTERISED BY THE INCREASED DEGREE OF THE PROBABILITY OF THEIR ENGAGING INTO TRANSACTIONS, WHICH CAN BE RELATED TO LEGALISING (LAUNDERING) THE PROCEEDS OF CRIME OR FINANCING THE TERRORIST ACTIVITIES (TO BE AMENDED BY THE ENTITY, IF NECESSARY)

1. If parties to the transaction are residents of countries, on which it is known from reliable sources that:

they are not in compliance with the generally accepted standards of combat against legalising (laundering) the proceeds of crime;

their legislation does not provide for the disclosure or provision of the information about financial transactions;

they are countries, where hostilities take place;

are offshore territories.

2. If the client is a political activist and, for instance, occupies a leading position in a political party.

3. A legal-entity client is a charitable public organisation (except for organisation operated under the aegis of the known international organisations).

4. The client is a joint stock company, which has issued bearer securities.

24. *SCSSM Resolution no. 344 for conducting inspections of the Professional Securities Market Participants, Collective Investment Institutes and Stock Exchanges Regarding Compliance with the Requirements of Effective Legislation on Prevention and Counteraction to Legalization (Laundering) of Illegally Acquired Proceeds and Financing of Terrorism (05.08.2003)*

APPROVED
Resolution of the Securities and Stock Market
State Commission
05.08.2003 # 344

RULES
for Conducting Inspections of the Professional Securities Market Participants, Collective Investment Institutes and Stock Exchanges Regarding Compliance with the Requirements of Effective Legislation on Prevention and Counteraction to Legalization (Laundering) of Illegally Acquired Proceeds and Financing of Terrorism

1. General Provisions

1.1. These Rules are developed according to the Laws of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Illegally Acquired Proceeds", "On State Regulation of the Securities Market in Ukraine", "On the National Depository System and Peculiarities of Electronic Circulation of Securities in Ukraine", "On Enterprises in Ukraine", "On Financial Services and State Regulation of Financial Services Market", Decree of the President of Ukraine # 861/2002 dated 25 September 2002 "On Additional

Measures to Improve Activities of the Securities and Stock Market State Commission", Resolution of the Cabinet of Ministers of Ukraine # 645 dated 26 April 2003 "On the Procedure for Defining Countries (Territories) Which Do Not Participate in International Cooperation in the Sphere of Prevention and Counteraction to Legalization (Laundering) of Illegally Acquired Proceeds and Financing of Terrorism", Resolution of the Cabinet of Ministers of Ukraine # 644 dated 26 April 2003 "On Approval of the Procedure for Registration of Financial Transactions by the Subjects of Initial Financial Monitoring", Order of the State Department of Financial Monitoring at the Ministry of Finance of Ukraine # 40 dated 24 April 2003 "On Approval of the Requirements to Organization of Financial Monitoring by the Subjects of Initial Financial Monitoring in the Sphere of Counteraction to Introduction in a Legal Circulation of Illegally Acquired Proceeds and Financing of Terrorism".

1.2. This document establishes a unified procedure for conducting inspections over compliance by the professional securities market participants, collective investment institutes (in part of their activities in the stock market) and stock exchanges (hereinafter – subject of initial financial monitoring) with the effective legislation on prevention and counteraction to legalization (laundering) of illegally acquired proceeds and financing of terrorism which are conducted by the Securities and Stock Market State Commission (its central office and regional offices) (hereinafter – the Commission) through conducting regular and ad hoc inspections.

2. Organization and Preparation for Inspections

2.1. Regular inspections of compliance by the subjects of initial financial monitoring with the requirements of effective legislation on prevention and counteraction to legalization (laundering) of illegally acquired proceeds and financing of terrorism shall be conducted by the Commission at least once a year.

2.2. Regular inspections shall be conducted in case of receipt by the Commission of a written statement (notice) on violation by the subjects of initial financial monitoring of the requirements of effective legislation on prevention and counteraction to legalization (laundering) of illegally acquired proceeds and financing of terrorism, as well as in case of receipt by the Commission of the decisions, orders, court resolutions, decisions of investigators on conducting inspections of the subjects of initial financial monitoring.

2.3. To conduct an inspection, the Commission shall appoint the head and members of the working group and issue an order for conducting an inspection in two copies (Appendix 1).

Inspections shall be conducted by the Commission's authorized persons according to the effective legislation.

Minimum number of the working group members shall be two persons.

2.4. Registration of issued written orders shall be conducted at the place of their issuance and be reflected in the registry book of orders to conduct inspections.

2.5. The orders to conduct inspections shall be issued for the periods of time that ensure timeliness and good quality of inspections, but for not longer than 30 working days.

2.6. In connection with peculiarities in activities of a subject of initial financial monitoring which is inspected and large volumes of work, the term of inspection may be prolonged for another fifteen working days by a person who issued an order for inspection, according to the substantiated written address of the head of the working group.

2.7. The Commission shall send a written notice on conducting of a regular inspection to the subject of initial financial monitoring at least ten calendar days prior to its beginning.

3. Rights, Duties and Liability of the Head and Members of the Working Group

3.1. During the inspection, the head and members of the working group shall have the right to:

- access freely, according to the business identification card, the subjects of initial financial monitoring;
- require for the inspection the necessary documents and other information in connection with exercising of their powers;
- withdraw for the period up to three days the documents confirming facts of violation of the requirements of the effective securities market legislation; and
- require explanations from the officials of the subject of initial financial monitoring, upon their consent.

3.2. During the inspection, the head and members of the working group shall be obliged to:

- deliver to the manager of the subject of initial financial monitoring or a person who replaces him a second copy of the order to conduct an inspection, and receive from this person a mark on this on the first copy of the order. In case of refusal of the representative of the subject of initial financial monitoring to make a mark on receipt of the first copy of the order, the head of the working group shall make a relevant entry that the representative of the subject of initial financial monitoring refused from signing, and shall certify it with his own signature;
- inform the manager of the subject of initial financial monitoring or a person who replaces him on the rights, duties and powers of the working group, reason and purpose of the inspection, rights, duties and liability of the subject of initial financial monitoring, establish the list of necessary documents and terms of their provision, coordinate other organizational issues on conducting inspection;
- in case of refusal of the manager of the subject of initial financial monitoring or a person who replaces him to provide documents or properly certifies copies of the documents (extracts from the documents) on a verbal request of the working group members, to prepare and submit to the manager of the subject of initial financial monitoring or a person who replaces him a written request with mentioning of the deadline for provision of the necessary information (Appendix 2), and in case of refusal in receipt of the written request – to submit it to the person charged with the duties of registration of incoming correspondence of the subject of initial financial monitoring, or send the request to address of the subject of initial financial monitoring by a registered letter, with notification on its delivery; and
- in case of denied access for the Commission's working group for conducting of the inspection, non-submission of the documents necessary for the inspection, or use of force to it, it is necessary to address the law enforcement bodies to take measures which will ensure conducting of the inspection coercively.

3.3. During the inspection, the head and members of the working group shall bear liability according to the effective legislation.

4. Rights, Duties and Liability of the Officials of Subjects of Initial Financial Monitoring

4.1. During the inspection, officials of the subjects of initial financial monitoring shall have the right to:

4.1.1. Receive from the head of the working group information on:
- the procedure for conducting inspection;
- the rights and duties of the head and members of the working group; and
- the rights and duties of the officials of the subject of initial financial monitoring.

4.1.2. Obtain from the working group the second copy of the order to conduct the inspection, and make a mark on the first copy of the order.

4.1.3. Provide written explanations to the head or members of the working group.

4.2. During the inspection, officials of the subject of initial financial monitoring shall be obliged to:

- confirm the powers of officials of the subject of initial financial monitoring with the relevant documents, according to the effective legislation;

- provide the working group with necessary conditions for conducting inspections (work place, possibility to use communication facilities and copying equipment);
- provide the working group in a timely manner with full and reliable information on activities of the subject of initial financial monitoring; and
- submit on request of the head of the working group copies of the necessary documents to include them in the act of inspection.

4.3. The subject of initial financial monitoring and its officials shall bear liability for non-fulfillment of their duties during the inspection, according to the effective legislation.

5. Procedure for Conducting Inspections and Formalizing Results

5.1. During the inspection, the working group shall study in detail, analyze and evaluate all the necessary documents related to activities of the subject of initial financial monitoring regarding compliance with the requirements of effective legislation on the issues of prevention and counteraction to legalization (laundering) of illegally acquired proceeds.

5.2. According to the results of inspection, the working group shall compile the report on inspection in two copies according to the established form (Appendix 3) which is signed by the manager and members of the working group not later than expiry date of the order to conduct an inspection. One copy of the report on inspection shall be issued against personal signature to the manager of the subject of initial financial monitoring or to a person who replaces him, another copy shall be kept at the Commission. Pages of the report shall be numbered.

5.3. Copy of the report on inspection kept by the controlling body shall necessarily have attached documents (copies of documents) according to the list (mentioned in the report on inspection).

5.4. Any amendments and additions to the report on inspection, after its signing by the members of the working group, shall be necessarily certified with signatures of the working group members.

5.5. In case of non-provision by the inspected subject of initial financial monitoring of the documents required for the inspection, irrespective of the reasons (loss, absence at work of the relevant official of the subject of initial financial monitoring, refusal to provide), a mark shall be made in the report on inspection that the relevant documents were not provided, with mentioning of the reasons.

5.6. In case of withdrawal according to the established procedure of documents confirming the facts of violations in the securities market, the protocol of documents withdrawal shall be attached to the report on inspection.

5.7. During compilation of the report on inspection, objectiveness and completeness shall be observed in describing the revealed facts and data.

5.8. If one of the working group members does not agree with contents of the report on inspection, he shall have the right to express in writing his separate opinion with substantiation, and attach it to the report on inspection.

5.9. In case of refusal of the officials of the subject of initial financial monitoring to sign and receive a copy of the report on inspection, the head of the working group shall make a relevant entry about this in the place for signature of the report on inspection, and the report on inspection, within five working days, shall be sent to the subject of initial financial monitoring by mail.

5.10. Comments to the report on inspection may be provided by the subject of initial financial monitoring within three working days after receipt of the report on inspection.

6. Procedure for Withdrawal of Documents During the Inspection and Work with Them

6.1. During the inspection, the manager of the subject of initial financial monitoring shall have the right to withdraw for the period up to three working days the documents confirming the facts of violations of the effective legislation on prevention and counteraction to legalization (laundering) of illegally acquired proceeds.

6.2. Withdrawal of documents shall be conducted pursuant to the requirements of the effective legislation of Ukraine.

6.3. Copy of the protocol on withdrawal of documents shall be provided to the representative of the subject of initial financial monitoring against personal signature on the protocol of withdrawal with mentioning of the date of provision.

6.4. In case of refusal of the subject of initial financial monitoring to sign a protocol on withdrawal of documents, the head of the working group shall make a relevant entry on this in the protocol on withdrawal.

6.5. Every correction, erasure, illegible inscription, unclear seal print in the withdrawn documents shall be reflected in the protocol on withdrawal.

6.6. The head of the working group shall bear responsibility for keeping and use for the right purpose of documents withdrawn during the inspection. It shall be prohibited to undertake any actions which may cause damage or changes in contents of the withdrawn document.

6.7. During work with the withdrawn documents, the head of the working group shall have the right to:

- make copies of withdrawn documents; and
- if necessary, to attract to work with withdrawn documents other employees of the controlling body and specialists of other institutions upon their consent.

6.8. Countdown of a three-day period for withdrawal of documents shall begin from the day following the day of withdrawal.

6.9. A relevant entry on return of withdrawn documents shall be made by the representative of the subject of initial financial monitoring on the protocol on withdrawal.

6.10. In case of refusal of the representative of inspected subjects of initial financial monitoring to accept on time the withdrawn documents, the head of the working group shall compile a report on refusal from acceptance of withdrawn documents, and the withdrawn documents shall be sent to the subject of initial financial monitoring by a registered letter.

6.11. If during return of the withdrawn document, damage or corrections not reflected in the protocol on withdrawal are revealed on it, the head of the working group and representative of the subject of initial financial monitoring from whom the document was withdrawn shall compile and sign the report on revealed damage or corrections on the returned documents, with mentioning of all revealed damages and corrections.

7. Taking Measures for Violation by a Subject of Initial Financial Monitoring and Its Officials of the Requirements of Effective Legislation on Prevention and Counteraction to Legalization (Laundering) of Illegally Acquired Proceeds

Taking measures for violation by a subject of initial financial monitoring and its officials of the requirements of effective legislation on prevention and counteraction to legalization (laundering) of illegally acquired proceeds shall be effectuated according to the effective Ukrainian legislation.

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R. Matviyenko

25. *SCSSM Resolution No. 361 on regulations for consideration of cases on violation of legislation requirements concerning prevention and counteraction against illegal profit legalization (laundering) and application of sanctions (13.08.2003)*

APPROVED
Resolution of the Securities and Stock Market State Commission
13.08.2003 # 361

Regulations for consideration of cases on violation of legislation requirements concerning prevention and counteraction against illegal profit legalization (laundering) and application of sanctions

Section 1. General provisions

1.1. Regulations for consideration of cases on violation of legislation requirements concerning prevention and counteraction against illegal profit legalization (laundering) and application of sanctions (hereinafter - Regulations) are developed in compliance with the Law of Ukraine «On Prevention and Counteraction against Illegal Profit Legalization (Laundering)», Laws of Ukraine «On State Regulation of the Securities Market of Ukraine», «On Securities and Stock Market», Ukrainian Code about administrative law violations, Regulations on Securities and Stock Market State Commission, approved by the Decree of the President of Ukraine dated 14.02.97 № 142 (wording of Decree of the President of Ukraine dated 25.09.02 №861) and other regulatory acts.
Regulations stipulate the procedures and term of consideration by Securities and Stock Market Commission (hereinafter - Commission) and its territorial bodies of cases on legal entities violations of legislation requirements concerning prevention and counteractions against illegal profit legalization (laundering). Regulations stipulate the procedures for imposing penalties on legal entities and procedures of drawing up report about administrative law violations and reports submission to the appropriate body, which is authorized to consider cases on administrative law violations.
1.2. Cases on law violations performed in the territory of Ukraine shall be considered in compliance with these Regulations.
1.3. The task of conducting of law violation cases is to timely and without any bias clarify the circumstances of every case, to resolve it in strict compliance with current legislation, to ensure execution of the pronounced decision, and also to reveal reasons and conditions which lead to law violations and to prevent law violations.
1.4. Commission and its territorial bodies within their powers shall be obliged to take all necessary measures to establish fact of law violation and fix it documentary and also to timely apply sanctions stipulated by legislation in every case when signs of law violations are revealed.
1.5. Corresponding department of Commission's territorial body shall be recognized in these Regulations as an authorized subdivision of the Commission's territorial body.
1.6. Corresponding subdivision of Commission shall be recognized in these Regulations as an authorized subdivision of the central apparatus of Commission.
1.7. Cases on law violations shall be considered only by authorized persons of Commission and its territorial bodies (hereinafter – authorized persons) within given powers, in compliance with assigned duties or written assignment.
1.8. During consideration of law violation cases, authorized persons shall be obliged to take all necessary measures stipulated by legislation for comprehensive, thorough and unbiased investigation of circumstances of the case.
1.9. In case of revealing violations of current legislation, consideration of which is beyond the powers of Commission or its territorial bodies, authorized person shall submit the materials of the case to state bodies, which have the power to resolve this case.

1.10. Law violation cases shall be considered by authorized person of Commission or its territorial body according to their powers, in whose dependent territory violation was revealed, or by authorized person, in whose dependent territory is staying a person against whom law violation case was initiated.
1.11. Within three working days after statement on law violation has been drawn up, person entitled to draw up statement on law violation can submit the law violation case for consideration to that territorial body in whose dependent territory is staying a person against whom law violation case was initiated. Authorized person of the territorial body to which law violation case was submitted shall be obliged to consider the case in compliance with current legislation.
1.12. In case law violation was performed by a separated subdivision of legal entity (subsidiary, representative office, etc.), law violation case concerning legal entity shall be considered in location of separate subdivision.
1.13. Consolidation of cases on legal entities' violation in one conduction and singling out case on legal entity violation in a separate conduction is allowed only if this facilitates comprehensive and unbiased judgement of the case.
Resolution is pronounced on consolidation of law violation cases and singling out a law violation case in a separate conduction by authorized person who considers law violation case.

Section 2. Authorized persons who consider cases on violation of legislation concerning prevention and counteraction against illegal profit legalization (laundering) and their powers

2.1. Law violation cases shall be considered by the following authorized persons within their powers according to assigned duties or written assignment:
Chairman of Commission;
members of Commission;
heads of Commission's territorial bodies.
2.2. In case of absence (business trip, vacation, illness, etc.) of Commission's member, case on law violation shall be considered by another Commission's member under the corresponding assignment.
2.3. Law violation case can be considered collectively by three members of Commission under proposition of Commission's member who is authorized to consider this case, on agreement with Chairman of Commission.
In this case, decision on the law violation case is taken by the majority of votes.
Rendered decision on law violation case shall be documented in the form of resolution signed by all participants of the case consideration.
2.4. Chairman of Commission shall have the right to demand case, which is conducted by one authorized person and hand it over to another authorized person for conduction or conduct it by himself.

Section 3. Conduction on cases on violation of legislation concerning prevention and counteraction against illegal profit legalization (laundering) regarding legal entities

3.1. Case can be initiated only if there is recent data, which indicates signs of law violation.
3.2. Authorized person of Commission shall consider law violation case and pronounce decision on the case in strict compliance with current legislation.
Decision on the case shall be legitimate and well grounded. Decision shall be based only on those proofs, which were investigated during case consideration.
Any actual data, obtained legitimately which evidence for presence or absence of violation is considered proofs of law violation.
3.3. Law violation case can be initiated and initiated case is subject to closing in case of absence of law violation event; in case there is no law violation in the action; if the law violation case is not subject to consideration by Commission or its territorial bodies; if there is effective resolution of authorized person, decision of Commission, decision of Business Court concerning the same fact; in case of liquidation or acknowledging bankrupt legal entity against which law violation case was initiated; in case of cancellation of the legislative act which stipulates liability for law violation; if due to amendments in legislation the performed action ceased to be considered a law violation; if there is law violation case initiated under this fact against a person who is hold liable.

3.4. Consideration of law violation case can be postponed because of necessity to obtain additional proofs or involve experts and (or) other persons; in other cases when consideration of the case cannot be performed within indicated period.
Authorized person renders resolution on postponing law violation case consideration. This resolution states reasons for postponing and date of next consideration.
3.5. In case of postponing case consideration, the term of law violation case consideration is not discontinued.
3.6. Conduction of law violation case shall be ceased if Commission or its territorial bodies or other state authorities consider another case, conclusions from which will have significance for the outcome of the consideration; if expert examination or additional verification is required.
3.7. In case consideration of law violation case is ceased, the term of case consideration is discontinued and renewed from the date of pronouncing resolution on renewal of the case conduction.
3.8. Conducting of case is renewed after clarifying circumstances because of which the case was ceased. Authorized person renders a resolution on this.
3.9. Resolution on postponing of case consideration, on stopping conducting of law violation case , on renewal of the case conduction shall be sent to all participants of the case consideration.

Section 4. Initiation of the case on violation of legislation concerning prevention and counteractions against illegal profit legalization (laundering) regarding legal entities.

4.1. Authorized person shall draw up statement on law violation performed by legal entity.
4.2. Law violation case shall be initiated from the date of drawing up statement on law violation.
4.3. Statement on law violation shall contain number, date of drawing up, position, family name, full name of person who drew up statement on law violation, (in case powers are given by power of attorney, statement on law violation shall contain requisite elements of power of attorney); full name of legal entity, location, State Registration Code, bank details, means of communication; description of circumstances and essence of violation; violated normative act; information about repeated law violations performed by entity about which statement on law violation is drawn up, other facts required for decision on law violation case.
4.4. One copy of statement on law violation shall be sent to legal entity regarding which the statement was drawn up.
4.5. Statement on law violation and relating documents shall be submitted to authorized person for law violation case consideration within 3 working days after statement on law violation has been drawn up.
4.6. Authorized person resolves issues stipulated in clause 5.1 of these Regulations, determines the date of law violation case consideration, renders resolution on this and sends this resolution to violator and interested persons.

Section 5. Preparation of the case concerning legal entity for consideration

5.1. During preparation of law violation case for consideration, authorized person of Commission resolves the following issues: whether case consideration is within his powers; whether additional materials are required, whether petitions of persons who participate in cases consideration shall be satisfied.
5.2. If necessary, authorized person can request additional, materials, conclusions or other evidence, essential for taking decision on the case.
5.3. Specialists, experts, third persons can be involved to consideration of law violation cases, their written conclusions and explanations concerning the case can be used

Section 6. Term of conducting law violation cases and term for considering law violation cases concerning legal entities

6.1. Term for conducting law violation cases initiated against legal entities shall be 30 calendar days from the date of case initiation.
Authorized person shall take decision on penalty imposing within 15 days after receipt of statement on law violation and relating documents.
6.2. Term of conducting of law violation case against legal entity can be extended under written justified petition of authorized person of Chairman of Commission for the term not exceeding 30 calendar days.

6.3. Chairman of Commission shall render resolution on prolongation of law violation case conduction.
6.4. Resolution on conducting law violation case shall be sent to authorized person of the Commission and interested persons. In case petition is rejected a written notification about rejection shall be sent to authorized person within three working days.
6.5. Authorized person can consider law violation case immediately after drawing up statement on law violation in the presence of violator or (and) his representative or under his written petition.

Section 7. Consideration of cases on violation of legislation concerning prevention and counteraction against illegal profit legalization (laundering)

7.1. Law violation case concerning legal entity shall be considered in the presence of chief executive and/or representative of legal entity, which is brought to liability.
Powers of representative of legal entity, which is brought to liability shall be certified with power of attorney.
In case of absence of chief executive or representative or representative of legal entity, case can be considered only if there is information that legal entity was timely notified about place and time of the case consideration and if no petition for postponing case consideration was received from legal entity.
7.2. In case authorized person concludes that presence of chief executive or representative of legal entity is necessary during hearing of the case or if petition for delaying of case consideration was received, authorized person of Commission shall render resolution on postponing case consideration or takes decision to consider the case if reasons for postponing are not valid. Person who submitted petition shall be notified in written about taken decision.
7.3. Chief executive or representative of legal entity shall have the right to be heard, to provide explanations, to submit petitions, to dispute decision of authorized person regarding the case.
7.4. Chief executive or representative of legal entity concerning which law violation case is considered, except rights stipulated in clause 7.3, shall have the right to express himself in native language and use the help of interpreter, in case he doesn't speak the language in which case is conducted.
7.5. Case hearing begins with introduction of authorized person who considers the given case.
Authorized person who considers the case announces what case is subject to consideration, who is brought to liability; verifies powers of persons who participate in the case consideration, through requesting necessary documents; performs hears persons who participate in the case consideration; investigate proofs, considers petitions, takes decision on the case.
7.6. Official of subdivision of Commission's central apparatus (official of authorized subdivision of Commission's territorial body) and officials of other subdivisions of Commission's central apparatus (Commission's territorial body) can participate in considering law violation case.
7.7. Authorized person during hearing of law violation case concerning legal entity shall be obliged to verify whether law was violated; whether legal entity is guilty of law violation; whether legal entity is subject to liability; whether there are mitigating or aggravating circumstances and what are they; whether there was property damage. Also authorized person shall verify other relevant circumstances for correct judgement of the case.

Section 8. Resolution on case on violation of legislation concerning prevention and counteraction against illegal profit legalization (laundering) regarding legal entity

8.1. After consideration of law violation case, authorized person of Commission shall take decision on the case.
Authorized person's decision shall be documented in the form of resolution.
8.2. Resolution shall consist of the following sections: introductory, descriptive, reasoning and operative sections.
Introductory section shall indicate: number of resolution; date and place of case hearing; position, full name of a Commission's authorized person, who rendered resolution; document which certifies its powers; information about entity concerning which the case is considered (full name of legal entity, its location, State Registration Code, bank details).
Descriptive section shall contain description of circumstances determined during case consideration, and reference to violated normative act.

Reasoning section shall indicate reference to evidence law violation and guilt of legal entity, mitigating or aggravating circumstances or facts, which prove absence of violation.
Operative section shall indicate taken decision under the case with reference to corresponding legislative act which stipulates liability for the given law violation.
Resolution on the case shall contain instructions about procedures for its appeal and shall be signed by authorized person, who considered the case.
8.3. Resolution on the law violation case shall come into effect immediately after its announcing.
8.4. Authorized person takes one of the listed below decisions on law violation case:
1) apply sanctions for law violation;
2) close the case.
8.5. Decision on law violation case shall be announced immediately after law violation case has been considered.
Resolution should be handed to person regarding whom it was rendered (about this a corresponding notice is written on the filed copy of resolution), or resolution should be sent by mail within three working days.
8.6. Resolution on law violation case can be contested at Business Court according to the procedures and term stipulated by current legislation.
8.7. All additional materials provided during consideration shall be filed to case.
8.8. Copy of resolution on law violation case considered in Commission's location, shall be submitted to authorized subdivision of Commission's central apparatus together with all materials about the case within five working days for keeping, registration and control over execution of decision on applying sanctions.
Copy of resolution on law violation case considered in territorial body's location shall be submitted to authorized subdivision of Commission's central apparatus within five working days for registration. Head of territorial body shall control execution of decision on sanctions applied by territorial body of Commission.

Section 9. Conduction of administrative law violation cases

9.1. Administrative liability for law violation, determined by Article 166-9 of Ukrainian Code of administrative law violations shall arise in case these administrative law violations do not lead to criminal liability under the law
9.2. Conduction of administrative law violation case cannot be initiated and initiated case is subject to closing under the following circumstances:
1) absence of event and administrative law violation;
2) at the moment of administrative law violation a person was younger than 16 years old;
3) person who performed unlawful action or negligence has immunity from jurisdiction;
4) person performed actions in case of absolute necessity or necessary defence;
5) issuing amnesty act if it eliminates administrative punishment;
6) abolishing of act which stipulates administrative liability;
7) expiring of term stipulated in Article 38 of this Code during of administrative law violation case consideration;
8) presence of resolution rendered by authorized body (official) on administrative punishment or effective resolution on closing administrative law violation case under the same fact concerning person who bears administrative responsibility and also if criminal case was opened under the same fact;
9) death of person against whom case was initiated.
9.3. Authorized person shall draw up report on administrative law violation (hereinafter report) in case it was revealed law violations performed by official concerning the following:
violation of requirements on identification of a person, who performs financial operation;
violation of procedures for registration of financial operations subject to primary financial monitoring issues;
non-providing or untimely providing or providing of invalid data about such financial operations to authorized executive body on financial monitoring;
non-compliance with requirements on keeping documents concerning identification of persons who perform financial operations and documentation on financial operations performed by these persons;
disclosure of information, which is submitted to, authorized executive body on financial monitoring or fact of submission of such information.

9.4. Report shall be drawn up in one copy. Content of Report shall comply with requirements of Article 256 of Ukrainian Code of administrative law violations. Report can be drawn up only in the presence of person who violated the law. Report shall be signed by authorized person and by person who violated administrative law. In case person who performed administrative law violation refuses to sign report, this fact shall be noted in report. Person who performed administrative law violation shall have the right to explain and comment on report's content. These comments and explanations shall be noted in report. This person can also explain reasons for refusal to sign the report.
During drawing up of report violator shall be explained his rights and liabilities, stipulated in Article 268 of Ukrainian Code of Administrative Law Violations, this fact shall be noted in report.
9.5. Report together with person's explanations and documents relating to case shall be submitted to local court.

Section 10. Sanction applied to legal entity

10.1. Penalty in the amount up to 1000 non-taxable minimal income – for non-compliance (poor compliance) to the Law of Ukraine «On Prevention and counteraction against illegal profit legalization (laundering)».

Section 11. Execution of resolutions on law violation sanctions

11.1. Penalty shall be paid by violator not later than 15 days from the date of his receipt of resolution.
11.2. Penalties shall be paid by means of bank transfer from operating account to specially opened budget accounts.
11.3. Within 5 working days notice of penalty payment and document which confirms penalty payment shall be submitted to authorized subdivision of Commission's central apparatus (of Commission's corresponding territorial body)
11.4. In case violator fails to pay penalty within the period stipulated in clause 11.1 of these Regulations, Commission and its territorial bodies shall apply to court in compliance with procedures stipulated by legislation.

26. *NBU Resolution No. 267 On Approval of the Banking Secrets Keeping, Protection, Utilisation and Disclosure Rules (14.07.2006)*

Resolution #267 of 14.07.2006 On Approval of the Banking Secrets Keeping, Protection, Utilisation and Disclosure Rules

N 267, 14.07.2006, Постанова, Національний банк України

BOARD OF THE NATIONAL BANK OF UKRAINE

RESOLUTION

#267
of July 14, 2006

Registered with the Ministry of Justice of Ukraine on August 3,2006 under #935/12809

ON APPROVAL OF THE BANKING SECRETS KEEPING, PROTECTION, UTILISATION AND DISCLOSURE RULES

(Changed and amended according to Resolution of the National Bank of Ukraine #428 of November 9, 2006)

In accordance with requirements of Chapter 10, Articles 64 and 71 of the Law of Ukraine "On Banks and Banking", Articles 7, 56 and 57 of the Law of Ukraine "On National Bank of Ukraine", Article 12 of Decree of the Cabinet of Ministers of Ukraine #15-93 of 19 February 1993 "On Foreign Exchange Regulation and Control System", provisions of Laws of Ukraine "On Information", "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime", "On Organisational and Legal Fundamentals of Combating Organised Crime", the Criminal Procedural Code of Ukraine, the Civil Procedural Code of Ukraine and in order to regulate the keeping, the protection, the utilisation and the disclosure of banking secrets, the Board of the National Bank of Ukraine RESOLVES herewith as follows:

1. The attached Banking Secrets Keeping, Protection, Utilisation and Disclosure Rules shall be approved.

2. The Legal Department (V.V. Pasichnyk) shall communicate the contents hereof to territorial directorates of the National Bank of Ukraine and banks for the purposes of the application hereof after the state registration with the Ministry of Justice of Ukraine.

3. The control over the implementation hereof shall be laid upon V.L. Krotiuk, Deputy Governor, the Legal Department (V.V. Pasichnyk), and heads of territorial directorates of the National Bank of Ukraine.

4. The Resolution shall become effective in 10 days after the state registration with the Ministry of Justice of Ukraine.

V.S. STELMAKH, Governor

APPROVED with Resolution of the Board of the National Bank of Ukraine #267of July 14, 2006
Registered with the Ministry of Justice of Ukraine on August 3, 2006 under #935/12809.

BANKING SECRETS KEEPING, PROTECTION, UTILISATION AND DISCLOSURE RULES

1. General Provisions

1.1. These Rules have been developed in accordance with the Civil Code of Ukraine, Chapter 10, Articles 64 and 71 of the Law of Ukraine "On Banks and Banking", Articles 7, 56 and 57 of the Law of Ukraine "On National Bank of Ukraine", Article 12 of Decree of the Cabinet of Ministers of Ukraine #15-93 of 19 February 1993 "On Foreign Exchange Regulation and Control System", provisions of Laws of Ukraine "On Information", "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime", "On Organisational and Legal Fundamentals of Combating Organised Crime", the Criminal Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, and define the requirements for the protection, the keeping, the utilisation and the disclosure of the information that contains banking secrets.

1.2. Banks must provide for keeping and protecting the information that contains banking secrets in order to prevent the illegal divulgation thereof resulting in the pecuniary or non-pecuniary damage to depositors, creditors and other customers of banks.

1.3. While being hired, bank officers shall sign undertakings to keep banking secrets.

1.4. In concurrence with customers, banks shall be obliged to include the banking secret reservations and the provisions on the liability for the illegal divulgation or utilisation thereof in contracts concluded between the bank and the client.

1.5. In order to prevent the unauthorised access to the information that contains banking secrets, the entities having access to such information must institute a special procedure of the registration, the utilisation, the storage of, and the access to, the documents that contain banking secrets in their own document management instructions taking into account the specific features of their business.

Legal entities and individuals, as well as officers who have obtained the information that contains banking secrets during the performance of their functions and/or the provision of bank services directly or indirectly may not divulge the said information and may not utilise the same to their own benefit or to the

benefit of third parties, except as provided for by the legislation of Ukraine.

(Pargraph 2 of Item 1.5 of Chapter 1 changed and amended according to Resolution of the National Bank of Ukraine #428 of November 9, 2006)

1.6. Banks and managers thereof guilty of violating these Rules shall be liable under Article 73 of the Law of Ukraine "On Banks and Banking" (hereinafter referred to as the "Banking Law").

1.7. The illegal collection for the purposes of the utilisation or the utilisation of the data constituting banking secret, and/or the divulgation of banking secrets shall result in the liability by law.

2. Keeping, Protection and Utilisation of the Information Constituting Banking Secrets

2.1. In order to ensure that the banking secrets be kept and protected, the banks must institute a special procedure of the management of documents with banking secrets in their internal policies, for instance, by specifying: the procedure of the registration of outgoing documents, the management of documents containing banking secrets, the sending and the storage of documents containing banking secrets, and the specifics of dealing with electronic documents containing banking secrets.

While instituting the special banking secret document management procedure, banks must take account of requirements set forth herein.

2.2. While processing the outgoing documents, the document originator shall determine the need for classifying the document as "Banking Secret".

The need for this classification of a document shall be determined by the originator taking into account the requirements of Article 1076 of the Civil Code of Ukraine and Article 60 of the Banking Law.

The "Banking Secret" classification shall be indicated in the top right corner of the first sheet of the document.

The "Banking Secret" classification shall not be indicated on documents given by banks to customers who own the information containing banking secrets.

2.3. Outgoing documents that contain banking secrets shall be registered in a special banking secret document registration log separately from the registration of other outgoing documents.

Outgoing documents shall be registered on the date of their being signed.

2.4. While working with documents classified as "Banking Secret", bank officers must make sure that such documents be stored in reliably locked safes or vaults not accessible by third parties.

2.5. While dispatching (handing over) the information containing banking secrets, banks must ensure its guaranteed delivery and confidentiality.

It shall be prohibited to send documents classified as "Banking Secret" using the facsimile facilities or other communication channels that do not ensure the information security.

2.6. While dealing with documents containing banking secrets on electronic data carriers, banks must make sure that the following requirements be met:

a) the indication of the "Banking Secret" classification shall not be added to the information and data in the electronic form that have a specific format and are processed with automated systems, nor to listings of the software modules. The indication of the "Banking Secret" classification shall be mandatory on text messages that are created, processed, transmitted and stored in the electronic form;

b) automated systems that process the information containing banking secrets must be created by banks in a manner restricting the access of users to the extent required for the performance of their service duties.

Automated information processing systems must have a built-in information security system that cannot be turned off or circumvented.

Automated processing systems for the information containing banking secrets that operate in the real-time (online) mode must have the architecture not granting the direct access to the confidential data

stored in the database to users so that the latter can only access the said data via an application server that performs the strict authentication of inquiries.

Automated systems must register all access attempts and other critical events in the system in an electronic log protected against the modification;

c) the information containing banking secrets in a defined format shall be received and processed in the electronic form by the process workstations of automated systems in accordance with the process charts of the information flow directly on the relevant workstations using the information security systems built into these process workstations;

d) the information containing banking secrets shall be transmitted by e-mail or online only in the protected (encrypted) form with the control of integrity and the mandatory confirmation of the receipt thereof with the digital signature of the recipient using the appropriate protection facilities;

d) the documents classified as "Banking Secret" shall be printed out in process workstations in accordance with the process charts of the operation of the relevant workstations of the bank. The print-outs shall be classified as "Banking Secrets" and recorded in accordance with requirements for keeping the record of paper documents.

In case of sending data on an electronic data carrier, a cover letter shall be provided in writing classified as "Banking Secret" and providing the data on the contents of the data carrier.

It shall be prohibited to obtain the information from process workstation databases using non-authorised methods.

Software modules shall be transmitted and recorded on electronic data carriers with the mandatory cover letter classified as "Banking Secret".

Listings of the software for the protection of the information containing banking secrets must be kept by the bank on protected servers or electronic data carriers.

Electronic archives shall be generated in accordance with the document processing flowcharts and requirements of regulations of the National Bank of Ukraine. Archives shall be stored on servers or external carriers in the protected form subject to ensuring the control over the integrity of the information while dealing with archive documents.

3. Procedure and Extent of the Disclosure of the Information Containing Banking Secrets by Banks

3.1. The written request and/or permit of the customer for the disclosure of the information containing banking secrets and owned by the customer in question shall be drawn up in a free format.

The written request (permit) of an individual customer of the bank must be signed by the individual in question. His signature must be authenticated with the signature of the chief executive officer of the bank or an officer authorised thereby, and the seal of the bank, or notarised.

A written request (permit) of a legal entity customer of a bank must be signed by the chief executive officer thereof or the officer authorised thereby, and sealed with the seal of the legal entity.

The request and/or permit of the client may be included into the banking service contract concluded between the customer and the bank. The contract may also specify the grounds for, and the extent of, the disclosure of the information being the customer's banking secret by the bank.

The bank shall disclose the information in the extent specified in the written request or permit submitted by the owner of the information being the banking secret or on the owner's permission.

3.2. Banks must abide by written requests of general courts and their decisions (rulings) on the disclosure of the information containing banking secrets in accordance with the procedure prescribed by the legislation of Ukraine.

The bank shall disclose the information in the extent specified in the requirement or the decision (ruling) of the court in response to the written requirement of the court for the disclosure of the information constituting banking secrets or on the basis of the decision (ruling) of the court on the disclosure of the information constituting banking secrets.

3.3. A request of a proper state authority for the information containing banking secrets must meet the requirements of part two of Article 62 of the Banking Law.

Banks must provide the information containing banking secrets also in the case, if the properly executed request of the competent state authority is supported with a list of names of specific legal entities and/or last, first and patronymic names of sole traders, with numbers of their accounts.

On written request of state authorities listed in Article 62 of the Banking Law, the bank shall disclose the information containing banking secrets in the extent defined by the Banking Law for the state authority in question.

A bank shall deny the disclosure of the information containing banking secrets, if the request of the competent state authority does not meet the requirements of part two of Article 62 of the Banking Law in the form or the substance.

In case of receipt of a written request for the information containing banking secrets, the bank must disclose the said information or issue a motivated refusal to provide the said information within 10 working days of receipt of the request, unless the legislation of Ukraine specifies other deadlines.

If the preparation of the information lasts beyond the deadline for the provision thereof, the bank must notify thereof the officer or the competent state authority that has requested the information in writing, and indicate the time for the provision of the information containing banking secrets.

The information containing banking secrets shall be provided by banks to addresses of the authorised state authorities in writing or in the electronic form, if the legislation of Ukraine so provides.

3.4. An application in a free form shall be submitted to the bank for the purposes of the obtainment of the statements of accounts (deposits) in case of the death of the owners thereof to state notarial offices and foreign consular institutions in the cases of the inheritance of accounts (deposits) of the deceased account (deposit) holders.

The statement shall be drawn up by the bank in a free form and must contain the information about the availability of the account, and its balance.

3.5. A bank shall be prohibited from disclosing information about customers of another bank, even if they are specified in documents, contracts and transactions of the customer, unless stated otherwise in the permit of the said client of the other bank, or the request, decision (ruling) of the court.

(Paragraph 1 of Item 3.5 of Chapter 3 changed and amended according to Resolution of the National Bank of Ukraine #428 of November 9, 2006)

While providing the information about transactions on accounts of a specific legal entity or sole trader over the specific time frame, the bank shall provide the information about the movement of funds on the customer's account without the indication of the transaction counterparties.

3.6. The bank shall have the right to provide general information constituting banking secrets (the information in respect of the debt of a customer to the bank, the essence of its business and its financial standing) to other banks in the required extent subject to ruling out the unauthorised divulgation thereof.

3.7. In case of the receipt by a bank of a request of another bank for the information needed for the identification thereby of its customer, the ascertainment of the essence and the objective of the performance of a financial transaction (financial transactions) by the customer, or the validation of the information provided by the customer, the recipient bank must provide the relevant information to the requesting bank free of charge within 10 working days of receipt of the request.

3.8. Requirements of items 3.3 and 3.5 of this chapter shall not apply to cases of the provision of the information about financial transactions to the specifically authorised financial monitoring executive agency (hereinafter referred to as the "Authorised Agency") in cases covered by law.

3.9. A bank shall have the right to provide information to private individuals and organisations to ensure the performance by them of their functions or the provision of services to the bank under contracts concluded between such individuals (organisations) and the bank, provided that the functions and/or services covered by contracts are related to the core business of the bank exercised on the basis of the

banking licence and the written permits obtained by the bank.

(Chapter 3 has been amended by adding Item 3.9 according to Resolution of the National Bank of Ukraine #428 of November 9, 2006)

4. Procedure of Disclosure of the Information Containing Banking Secrets During the Search or Seizure

4.1. The seizure of documents containing the information constituting banking secrets shall take place only on the basis of a motivated resolution of the judge and in accordance with the procedure and requirements of Chapter 16 of the Criminal Procedural Code of Ukraine.

The bank may not refuse to present or hand over documents, or copies thereof, or other objects requested by the investigator during the seizure and indicated in the decision (ruling) of the court.

The bank must produce copies of documents being seized to be authenticated with the signature of an officer of the bank. These copies of documents shall be kept in the bank instead of the seized originals.

A representative of the bank shall be given the second copy of the seizure protocol.

4.2. The issue and the visual inspection of documents containing the information constituting banking secrets in case of the search shall be carried out in conformity with requirements of the Banking Law that ensure the protection of banking secrets.

5. Specific Features of the Disclosure of the Information Containing Banking Secrets to the National Bank of Ukraine

5.1. For the purposes of the performance of its functions, the National Bank of Ukraine shall have the right to obtain the information containing banking secrets and the explanations in relation to the obtained information and the performed transactions from banks free of charge.

Banks must provide the National Bank of Ukraine with the information containing banking secrets in the form of:

- documents and copies of documents carrying the relevant information (contracts, constituting documents, account statements, etc.) both during inspections, and on written requests in the course of the off-site supervision;

- explanations of transactions carried out by the bank and specific issues of the business of the bank;

- reporting;

etc.

5.2. A request of the National Bank of Ukraine for the information containing banking secrets and the explanations of transactions carried out by the bank and specific issues of the business of the bank in the course of the off-site supervision shall be sent to the bank in the form of a letter by mail, for instance, the electronic mail. The said request may be signed by the Governor or the Deputy Governor of the National Bank of Ukraine or a department director of the head office of the National Bank of Ukraine, or a head of a territorial directorate of the National Bank of Ukraine, or individuals acting in their capacities.

5.3. Banks must provide inspectors of the National Bank of Ukraine and other individuals authorised by them with the free access to all documents and information containing banking secrets in the course of the inspection of banks, including the free and full access to the documents kept electronically in the format and the mode of keeping the same (dealing with them).

6. Specific Features of the Disclosure of the Information Containing Banking Secrets to the Authorised Agency

6.1. Banks must notify the Authorised Agency of: transactions subject to the mandatory financial monitoring (Article 5 of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime");

transactions of a customer in case of the motivated suspicion of their being performed for the purposes of the legalisation (laundering) of proceeds of crime (part six of Article 8 of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime");

transactions, in whose respect the bank has or should have suspected that they are related to, associated with or intended for the financing of terrorist activities (part seven of Article 8 of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime");

individuals who perform a financial transaction subject to the financial monitoring and the nature thereof in case of the decision to refuse to perform the said transaction (part two of Article 7 of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime");

transactions of a customer, in whose respect the bank has the motivated suspicion of having provided false information related to the identification of the customer (part five of Article 64 of the Banking Law);

the closure of the account of a customer on the basis of a decision of the authorised state authority to reverse the state registration of the legal entity customer or the reversal of the state registration of an individual sole trader (part nine of Article 64 of the Banking Law);

the suspension of a financial transaction if an individual entered into the list of individuals involved into the exercise of terrorist activities is a counterparty or a beneficiary of the transaction (part one of Article 121 of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime").

6.2. On the basis of paragraph five of part one of Article 5 of the Law of Ukraine "On Preventing and Combating the Legalisation (Laundering) of Proceeds of Crime" and item 5 of part one of Article 62 of the Banking Law, banks must provide additional information related to the financial transactions subjected to the financial monitoring on request of the Authorised Agency.

In case of the receipt of a request of the Authorised Agency for the information required to perform the request of the relevant agency of the foreign state, the bank must provide the Authorised Agency with the said information within 10 working days.

6.3. Banks shall provide the Authorised Agency with the information in accordance with the procedure prescribed by regulations of the National Bank of Ukraine.

V.V. PASICHNYK, Director of the Legal Department

27. *Joint Order On Approval of the Instruction on the Procedure of the Implementation of European Conventions on the Criminal Process (No. 34/5/22/130/512/326/73 of 29 June 1999)*

MINISTRY OF JUSTICE OF UKRAINE

PROSECUTOR GENERAL OFFICE OF UKRAINE

SECURITY SERVICE OF UKRAINE

MINISTRY OF INTERNAL AFFAIRS OF UKRAINE

SUPREME COURT OF UKRAINE

STATE TAX ADMINISTRATION OF UKRAINE

STATE PENITENTIARY DEPARTMENT OF UKRAINE

ORDER

No. 34/5/22/130/512/326/73 of 29 June 1999 *Registered with the Ministry of Justice of Ukraine*
City of Kyiv *on 7 July 1999 under No. 446/3739*

ON APPROVAL OF THE INSTRUCTION ON THE PROCEDURE OF THE IMPLEMENTATION OF EUROPEAN CONVENTIONS ON THE CRIMINAL PROCESS

In order to create a universal mechanism of the implementation of European Conventions on the Criminal Process in Ukraine, and in accordance with Instruction of the Cabinet of Ministers of Ukraine No. 17000/47 of 07 September 1998, we ORDER herewith as follows:

1. The attached Instruction on the Procedure of the Implementation of European Conventions on the Criminal Process shall be approved.

2. The control over the implementation hereof shall be laid on:

O.M. Paseniuk, Deputy Minister of Justice of Ukraine;

S.M. Vynokurov, Deputy Prosecutor General of Ukraine;

V.I. Prystayko, Deputy Head of the Security Service of Ukraine;

O.F. Shtanko, Deputy Minister of Internal Affairs of Ukraine;

V.T. Maliarenko, Deputy Head of the Supreme Court of Ukraine;

S.M. Piskun, Deputy Head of the Tax Militia, Head of the Investigation Directorate of the Tax Militia of the State Tax Administration of Ukraine;

O.B. Ptashynsky, First Deputy Director of the State Penitentiary Department of Ukraine.

S.R. STANIK, Minister of Justice of Ukraine

M.O. POTEBENKO, Prosecutor General of Ukraine

L.V. DERKACH, Head of the Security Service of Ukraine

Yu.F. KRAVCHENKO, Minister of Internal Affairs of Ukraine

V.F. BOYKO, Head of the Supreme Court of Ukraine (subject to the consent)

M.Ya. AZAROV, Head of the State Tax Administration of Ukraine

I.V. SHTANKO, Head of the State Penitentiary Department of Ukraine

Approved with
Order of the Ministry of Justice of Ukraine,
the Prosecutor General Office of Ukraine,
the Security Service of Ukraine,
the Ministry of Internal Affairs of Ukraine,
the Supreme Court of Ukraine,
the State Tax Administration of Ukraine,
the State Penitentiary Department of Ukraine
No. 34/5/22/130/512/326/73 of 29 June 1999

Registered with
the Ministry of Justice of Ukraine
on 7 July 1999 under No. 446/3739

INSTRUCTION ON THE PROCEDURE OF THE IMPLEMENTATION OF EUROPEAN CONVENTIONS ON THE CRIMINAL PROCESS

Section 1. General Provisions

1.1. This Instruction shall specify the procedure of the implementation of European conventions on the criminal process on the territory of Ukraine.

1.2. The following European conventions on the criminal process came into effect in Ukraine:

- the 1957 European Convention on Extradition (995_033); the 1975 Additional Protocol to the European Convention on Extradition (995_034); the 1978 Second Additional Protocol to the European Convention on Extradition (995_035)

The ratification law was adopted on 16 January 1998 (43/98-VR); the effective date is 9 June 1998

- the 1959 European Convention on Mutual Assistance in Criminal Matters (995_036); the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (995_037)

The ratification law was adopted on 16 January 1998 (44/98-VR); the effective date is 9 June 1998

- the 1964 European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (994_007)

The accession law was adopted on 22 September 1995 (336/95-VR); the effective date is 29 December 1995

- the 1972 European Convention on the Transfer of Proceedings in Criminal Matters (994_008)

The accession law was adopted on 22 September 1995 (339/95-VR); the effective date is 29 December 1995

- the 1983 Convention on the Transfer of Sentenced Persons

The accession law was adopted on 22 September 1995 (337/95-VR); the effective date is 1 January 1996

- the 1990 Convention on laundering, search, seizure and confiscation of proceeds from crime (995_029)

The ratification law was adopted on 17 December 1997 (738/97-VR); the effective date is 1 May 1998

1.3. The European Convention on Extradition in respect of the applicable countries shall supersede provisions of any international treaties that govern the extradition of offenders between any two or many Contracting Parties.

1.3.1. The Contracting Parties may enter into bilateral or multilateral international treaties solely to supplement the provisions of the Convention or to support the application of the principles contained therein.

1.3.2. All other conventions listed in item 1.2 of Section 1 of this Instruction, to which Ukraine is currently a party, do not affect rights and obligations arising from other international bilateral and multilateral treaties binding upon their respective parties and containing provisions of such conventions.

1.4. The Ministry of Justice of Ukraine (in respect of court decisions) and the Prosecutor General Office of Ukraine (in respect of procedural acts in the course of the investigation of criminal cases) shall be the central authorities of Ukraine competent to solve and review issues of the performance of the 1990 Convention on laundering, search, seizure and confiscation of proceeds from crime (995_029).

1.5. The Ministry of Justice of Ukraine shall be the agency of Ukraine, via which requests are to be sent and received in pursuance of the 1957 European Convention on Extradition (995_033); the 1975 Additional Protocol to the European Convention on Extradition (995_034); the 1978 Second Additional Protocol to the European Convention on Extradition (995_035), the 1959 European Convention on Mutual Assistance in Criminal Matters (995_036); the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (995_037), the 1964 European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (994_007), the 1972 European Convention on the Transfer of Proceedings in Criminal Matters (994_008), and the 1983 Convention on the Transfer of Sentenced Persons.

1.6. The Ministry of Justice of Ukraine (in respect of cases being examined by courts) and the Prosecutor General Office of Ukraine (in respect of procedural acts in the course of the investigation of criminal cases) shall be the central authorities of Ukraine competent to solve and consider issues related to the performance of conventions listed in item 1.5 of Section 1 hereof.

Section 2. Mechanism of the Performance of the 1957 European Convention on Extradition (995_033)

2.1. In case of receipt of the notice of stay in a foreign state of an individual to be extradited to law enforcement agencies of Ukraine, the agency investigating the case shall prepare a substantiated request in accordance with requirements of Article 12 of the Convention and immediately (but not later than 10 days of receipt of the notice) send the same via its central body or, if the criminal case is investigated by the public prosecution agencies, via an oblast prosecution office (or an equivalent prosecution office) to the Prosecutor General Office of Ukraine.

2.2. The Prosecutor General Office of Ukraine shall send the request to the Ministry of Justice of Ukraine after the review and the verification of materials in case of the availability of grounds envisaged by law for the requests.

2.3. If the criminal case in respect of the searched individual is being reviewed by court or if it is necessary to enforce the court sentence in respect of such an individual, the extradition request shall be sent to the Ministry of Justice of Ukraine via the appropriate justice directorate.

2.4. After the review and the verification of materials and in case of the proper execution thereof, the availability of grounds and the lack of obstacles envisaged by the Convention, the Ministry of Justice of Ukraine shall prepare and as soon as possible send a request to the relevant agency of the foreign state for the extradition of the individual to Ukraine for the criminal liability or the enforcement of the court sentence.

2.5. In case of receipt of the consent to the extradition of the searched individual and the notice of his detention (arrest) from the relevant agency of the foreign state, the Prosecutor General Office of Ukraine (if the criminal case in respect of the individual to be extradited is at the pre-trial investigation stage) or the Ministry of Justice of Ukraine (if the criminal case in respect of the individual to be extradited is at the court trial stage or if it is necessary to enforce a court sentence in respect of such an individual) shall send the Ministry of Internal Affairs of Ukraine and the State Penitentiary Department of Ukraine an instruction to organise the acceptance of the individual in question and take him into custody, if necessary. The instruction shall also specify the address for the transfer of the arrested, and the agency in charge of the case in respect of the individual in question.

2.6. The Ministry of Internal Affairs of Ukraine shall organise the acceptance of the individual in question on the border of a neighbouring state in checkpoints on the State Border of Ukraine in accordance with the procedure prescribed by the Instruction on the Procedure of the Acceptance and Transfer of Individuals Taken into Custody on the Border of Ukraine and Abroad approved with joint order of the Ministry of Internal Affairs of Ukraine and the State Border Protection Committee of Ukraine No. 474/845 of 17 November 1998 and registered with the Ministry of Justice of Ukraine on 14 January 1999 under No. 16/3309. After the reception, the individual in question shall be transferred to an institution of the State Penitentiary Department of Ukraine in accordance with the established procedure, whereof the State Penitentiary Department of Ukraine and the Ministry of Internal Affairs of Ukraine shall notify the Prosecutor General Office of Ukraine or the Ministry of Justice of Ukraine respectively with the indication of the place and the date of the reception of the individual in the notice.

2.7. After the termination of proceedings under the case in respect of the extradited individual by the agency, which was in charge of the criminal case, a properly authenticated copy of the resolution or the sentence shall be properly sent to the Ministry of Justice of Ukraine and the State Penitentiary Department of Ukraine for the subsequent notification of the relevant agency of the foreign state.

2.8. The request for the extradition of the individual received by the Ministry of Justice of Ukraine from the relevant agency of a foreign state shall be reviewed by the Ministry of Justice of Ukraine.

2.9. Lacking circumstances that do not prevent the issue of the extradition of an individual from Ukraine from being solved in accordance with the current legislation of Ukraine and the provisions of the Convention, the request for the extradition shall be sent from the Ministry of Justice of Ukraine to the Prosecutor General Office of Ukraine for it to make decision on the case merits.

2.9.1. Lacking circumstances that prevent the extradition of the individual in question in accordance with the current legislation of Ukraine and provisions of the Convention, an appropriate instruction shall be sent to oblast prosecutors (or prosecutors with the equivalent status). Materials of the performed instruction shall be sent to the Prosecutor General Office of Ukraine using the same channel.

2.10. The Prosecutor General Office of Ukraine shall notify the Ministry of Justice of Ukraine in case of the satisfaction of the request for the extradition of the individual, and send the instruction for taking the individual in question into custody to the Ministry of Internal Affairs of Ukraine and the State Penitentiary Department of Ukraine, and for organising the transfer of the said individual to law enforcement agencies of the foreign state.

2.11. The Ministry of Justice of Ukraine shall notify the relevant agency of the foreign state of its consent to the extradition of the individual from Ukraine.

2.12. The Ministry of Internal Affairs of Ukraine together with the State Penitentiary Department of Ukraine shall organise the transfer of the individual in question in accordance with the procedure prescribed by the Instruction on the Procedure of the Acceptance and Transfer of Individuals Taken into Custody on the Border of Ukraine and Abroad approved with joint order of the Ministry of Internal Affairs of Ukraine and the State Border Protection Committee of Ukraine No. 474/845 of 17 November 1998 and registered with the Ministry of Justice of Ukraine on 14 January 1999 under No. 16/3309. After effecting the transfer of the individual in question, the Ministry of Internal Affairs of Ukraine and the State Penitentiary Department of Ukraine shall notify the Prosecutor General Office of Ukraine or the Ministry of Justice of Ukraine respectively of the transfer and its date.

2.13. In case of obstacles for the extradition of the individual, the relevant agency of the foreign state shall be notified thereof with a motivated presentation of the grounds therefor.

2.14. The time for the review of extradition requests should not exceed 45 days.

Section 3. Mechanism of the Implementation of the European Convention on Mutual Assistance in Criminal Matters (995_036)

3.1. The agency investigating the case shall prepare a substantiated request for the performance of procedural actions on the territory of the foreign state in accordance with requirements of Article 14 of the Convention send the request to the Prosecutor General Office of Ukraine via its central body or, if the criminal case is investigated by the public prosecution agencies, via an oblast prosecution office (or an equivalent prosecution office).

3.2. The Prosecutor General Office of Ukraine shall send the requests to the Ministry of Justice of Ukraine after the review and the verification of materials in case of the availability of grounds envisaged by law for the requests.

3.3. In case of the need for the enforcement of a court decision on the territory of a foreign state, the request shall be sent to the Ministry of Justice of Ukraine via the appropriate justice directorate.

3.4. After the review and the verification of materials, the Ministry of Justice of Ukraine shall prepare a request for the performance of procedural actions or the performance of the court instruction, provided that the contents and the form of the request and the relevant annexes are in line with provisions of the Convention, and send the same to the appropriate agency of the foreign state as soon as possible.

3.5. The request for procedural actions or the performance of the court instruction received from the appropriate agency of the foreign state shall be reviewed by the Ministry of Justice of Ukraine.

3.6. Lacking the grounds that prevent the legal assistance from being provided under the current legislation of Ukraine and provisions of international treaties, the request for the performance of procedural acts shall be sent to the Prosecutor General Office of Ukraine, which must hand it over to the competent institution for the organisation of the performance thereof in accordance with requirements of the law.

3.6.1. The request for the performance of the court instruction shall be sent to the relevant justice directorate in accordance with the competence requirements of the law; the justice directorate shall organise its performance.

3.7. The gathered materials authenticated with the national-emblem seal of the requested agency shall be sent to the Ministry of Justice of Ukraine for the subsequent transfer to the relevant agency of the foreign state.

3.7.1. If necessary, the Ministry of Justice of Ukraine shall require the requested agency to send additional materials or to have them executed properly, etc.

3.8. In case of the impossibility of the performance of the request, the relevant agency of the foreign state shall be notified thereof with a motivated presentation of the grounds therefor.

3.9. In accordance with item 2 of Article 15 of the Convention, the request of the relevant agency of the relevant agency of the foreign state can be sent in exceptional cases directly to the competent agency of Ukraine, which organises the performance thereof with a notice to the Ministry of Justice of Ukraine.

3.9.1. In such cases, the collected materials shall be sent to the relevant agency of the foreign state in conformity with requirements of item 3.7 of Section 3 of this Instruction.

3.10. The time for the performance of legal assistance requests shall not exceed 30 days.

Section 4. Mechanism of Performance of the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (994_007)

4.1. After the submission of the petition to the Ministry of Justice of Ukraine for the enforcement of a sentence of a foreign state on the territory of Ukraine by means of the supervision of conditionally sentenced or conditionally released offenders with the main residence in Ukraine, the Ministry of Justice of Ukraine shall send a package of documents to the Supreme Court of Ukraine for the review of the issue of the enforcement of a sentence of a foreign court on the territory of Ukraine after the review and the verification of materials in case of their proper execution and the lack of circumstances preventing the legal assistance from being provided under the current legislation of Ukraine and provisions of international treaties; the Supreme Court of Ukraine shall, in its turn, send documents to the relevant court in the place of the stay of the individual in question.

4.2. The package of documents for the review of the issue of the enforcement of the sentence of a foreign court on the territory of Ukraine must be translated into the Ukrainian language and authenticated in accordance with the procedure prescribed by the sentencing state, and must contain:

- a copy of the sentence and the text of the law of a foreign state underlying the sentence;

- a document on the length of the served portion of the sentence, including the information about any pre-trial incarceration;

- a document on the release from the punishment and any other circumstances related to the enforcement of the sentence;

- if necessary, the health and conduct certificate for the sentenced individual, his treatment in the state of the sentence, and any recommendations on the further treatment of him in Ukraine.

4.3. After the issue of the decision on the recognition of a sentence of a foreign state by the relevant court and its being brought into conformity with the legislation of Ukraine, a copy of the court ruling shall be sent to the Ministry of Justice of Ukraine and the Ministry of Internal Affairs of Ukraine.

4.4. The Ministry of Internal Affairs of Ukraine shall enforce the sentence of the foreign state on the territory of Ukraine by means of the supervision of conditionally sentenced or conditionally released individuals with the normal residence in Ukraine in accordance with the procedure prescribed by the legislation of Ukraine, whereof it shall inform the Ministry of Justice of Ukraine.

4.5. The Ministry of Justice of Ukraine shall notify the relevant agency of the foreign state of its decision made on the petition, and send it the properly authenticated copy of the court ruling. In case of the refusal to perform the petition, the reasons for the said decision shall be specified.

4.6. The Ministry of Internal Affairs of Ukraine, which enforces the court sentence on the territory of Ukraine by means of the supervision of conditionally sentenced or conditionally released individuals in accordance with the procedure prescribed by the legislation of Ukraine, shall prepare a substantiated

petition for the enforcement of the sentence of Ukraine on the territory of a foreign state by means of the supervision of the conditionally sentenced or conditionally released individuals with the normal residence on the territory of the foreign state in accordance with requirements of Article 26 of the Convention in case of the emergence of circumstances subject to this Convention, and send the said request together with appropriate documents to the Ministry of Justice of Ukraine.

4.7. The Ministry of Justice of Ukraine shall send the same to the relevant agency of the foreign state after the review and the verification of materials in case of the proper execution thereof.

4.8. Upon receipt of the notice of the consent to enforce the sentence of Ukraine on the territory of a foreign state by means of the supervision of conditionally sentenced or conditionally released individuals with the regular residence on the territory of the foreign state from the relevant agency of the foreign state, the Ministry of Justice of Ukraine shall notify of the said decision the Ministry of Internal Affairs of Ukraine or the relevant court that has issued the sentence.

Section 5. Mechanism of the Implementation of the European Convention on the Transfer of Proceedings in Criminal Matters (994_008)

5.1. The agency investigating the case shall prepare a substantiated request for the transfer of proceedings in a criminal matter in accordance with requirements of Articles 8 and 15 of the Convention and send the request to the Prosecutor General Office of Ukraine via its central body or, if the criminal case is investigated by the public prosecution agencies, via an oblast prosecution office (or an equivalent prosecution office).

5.2. The Prosecutor General Office of Ukraine shall send the request to the Ministry of Justice of Ukraine after the verification of the sufficiency of the evidence of the corpus delicti in actions of the suspects (defendants) and the performance in full of all investigation actions that can be conducted on the territory of Ukraine.

5.3. If the criminal case is being reviewed by court, the petition for the transfer of proceedings in the criminal matter shall be sent to the Ministry of Justice of Ukraine via the relevant justice directorate.

5.4. After the review and the verification of materials and in case of the proper execution thereof, the availability of grounds and the lack of obstacles envisaged by the Convention, the Ministry of Justice of Ukraine shall prepare and as soon as possible send a request to the relevant agency of the foreign state for the transfer of the criminal prosecution of the individual for an offence committed on the territory of Ukraine.

5.5. A petition for the transfer of the criminal prosecution of the individual for an offence committed on the territory of a foreign state received by the Ministry of Justice of Ukraine from the relevant agency of the foreign state shall be reviewed by the Ministry of Justice of Ukraine.

5.5.1. In case of the lack of circumstances that prevent the request from being performed under the current legislation of Ukraine and provisions of international treaties, the materials of the criminal case for the investigation shall be sent to the Prosecutor General Office of Ukraine; the latter shall send them via the central body of the competent institution in line with the competence to the appropriate investigation unit in the place of residence or detention of the individual. The competence shall be determined in accordance with provisions of the applicable criminal procedural legislation.

5.5.2. The criminal case materials shall be sent for the court review via the appropriate justice directorate in line with the competence to the court in the place of residence or detention of the individual.

5.5.3. In case of the impossibility of the performance of the request, the relevant agency of the foreign state shall be notified thereof with a motivated presentation of the grounds therefor.

5.6. In case of the closure of the proceedings or the individual's being sentenced, a properly authenticated copy of the resolution or the sentence shall be sent to the Ministry of Justice of Ukraine for the subsequent notification of the relevant agency of the foreign state.

Section 6. Mechanism of the Performance of the Convention on the Transfer of Sentenced Persons

6.1. After the petition is submitted to the Ministry of Justice of Ukraine for the transfer of a person, who was sentenced by the court of Ukraine for the imprisonment, for the purposes of the further service of the sentence in the state of his citizenship, the Ministry of Justice of Ukraine shall send the State Penitentiary Department of Ukraine a letter with a request for the provision of documents in accordance with a list provided in the Convention for the resolution of the issue on its merits.

6.2. The State Penitentiary Department of Ukraine shall collect the required documents and send them to the Ministry of Justice of Ukraine within one month.

6.3. After the review and the verification of materials and in case of the proper execution thereof, the Ministry of Justice of Ukraine shall make a decision on the to transfer the person, who was sentenced by the court of Ukraine for the imprisonment, for the purposes of the further service of the sentence in the state of his citizenship, whereof it shall notify the relevant agency of the foreign state and the party that has raised the issue of the transfer of the sentenced person. In case of the decision to deny the transfer of the sentenced person for the service of the sentence, the proper grounds for the said decision shall be specified.

6.4. Upon receipt of a notice from the relevant agency of a foreign state of the consent to accept the person for the further service of the sentence, the Ministry of Justice of Ukraine shall send an instruction to organise the transfer of the said person to the State Penitentiary Department of Ukraine and the Ministry of Internal Affairs of Ukraine.

6.5. The State Penitentiary Department of Ukraine together with the Ministry of Internal Affairs of Ukraine shall transfer the individual in question in accordance with the procedure prescribed by the Instruction on the Procedure of the Acceptance and Transfer of Individuals Taken into Custody on the Border of Ukraine and Abroad approved with joint order of the Ministry of Internal Affairs of Ukraine and the State Border Protection Committee of Ukraine No. 474/845 of 17 November 1998 and registered with the Ministry of Justice of Ukraine on 14 January 1999 under No. 16/3309.

6.6. Upon the transfer of the person, the State Penitentiary Department of Ukraine shall notify the Ministry of Justice of Ukraine of the date of the transfer of the sentenced person.

6.7. After the submission of a petition to the Ministry of Justice of Ukraine for the acceptance of a citizen of Ukraine sentenced by a foreign court for the imprisonment for the further service of the sentence in Ukraine, the Ministry of Justice of Ukraine shall send the relevant agency of a foreign state a letter with a request for documents, of which a list is contained in the Convention, for the resolution of the issue on its merits.

6.8. Upon receipt of all the necessary documents, the Ministry of Justice of Ukraine shall consider the materials within one month and make a decision on the acceptance of the citizen of Ukraine, who was sentenced by a foreign court for the imprisonment, for the purposes of the further service of the sentence on the territory of Ukraine, whereof it shall notify the relevant agency of the foreign state and the person which raised the issue of the transfer of the sentenced person. In case of the denial of the petition, the proper grounds for the said decision shall be specified.

6.9. In case of the satisfaction of the request, the Ministry of Justice of Ukraine shall send an instruction to organise the acceptance of the individual in question to the State Penitentiary Department of Ukraine and the Ministry of Internal Affairs of Ukraine.

6.10. The State Penitentiary Department of Ukraine together with the Ministry of Internal Affairs of Ukraine shall organise the acceptance the individual in question in accordance with the procedure

prescribed by the Instruction on the Procedure of the Acceptance and Transfer of Individuals Taken into Custody on the Border of Ukraine and Abroad approved with joint order of the Ministry of Internal Affairs of Ukraine and the State Border Protection Committee of Ukraine No. 474/845 of 17 November 1998 and registered with the Ministry of Justice of Ukraine on 14 January 1999 under No. 16/3309.

6.11. Upon the acceptance of the person in question, the State Penitentiary Department of Ukraine shall notify the Ministry of Justice of Ukraine of the date of the transfer of the sentenced person.

6.12. On receipt of the information about the acceptance of such a person from the State Penitentiary Department of Ukraine and the Ministry of Internal Affairs of Ukraine, the Ministry of Justice of Ukraine shall send a package of documents to the Supreme Court of Ukraine for the review of the issue of the performance of a sentence of a foreign court on the territory of Ukraine; the Supreme Court of Ukraine shall send documents to the relevant court in the place of the imprisonment of the individual in question.

6.13. The package of documents for the review of the issue of the enforcement of the sentence of a foreign court on the territory of Ukraine must be translated into the Ukrainian language and authenticated in accordance with the procedure prescribed by the sentencing state, and must contain:

- a copy of the sentence and the text of the law of a foreign state underlying the sentence;

- a document on the length of the served portion of the sentence, including the information about any pre-trial incarceration, the release from the imprisonment and any circumstances of the sentence enforcement;

- a statement by the sentenced person and, in the case envisaged by the international treaty, a statement by representatives of the sentenced individual of the consent for the transfer for the sentence service in Ukraine;

- if necessary, the health and conduct certificate for the sentenced individual, his treatment in the state of the sentence, and any recommendations on the further treatment of him in Ukraine.

6.14. After the issue of the decision on the recognition of a sentence of a foreign state by the relevant court and its being brought into conformity with the legislation of Ukraine, a copy of the court ruling shall be sent to the Ministry of Justice of Ukraine and the State Penitentiary Department of Ukraine.

6.15. The Ministry of Justice of Ukraine shall send the information about the decision it made to the relevant agency of the foreign state.

Section 7. Mechanism of the Performance of the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime (995_029)

7.1. The agency investigating the case shall prepare a substantiated request for the performance of procedural actions on the territory of the foreign state in accordance with requirements of Article 27 of the Convention send the request to the Prosecutor General Office of Ukraine via its central body or, if the criminal case is investigated by the public prosecution agencies, via an oblast prosecution office (or an equivalent prosecution office).

7.1.1. In case of the need for the enforcement of a decision made by a court of Ukraine on the territory of a foreign state, the request shall be sent to the Ministry of Justice of Ukraine via the appropriate justice directorate.

7.2. After the review and the verification of materials, and in case of the proper execution thereof, the Prosecutor General Office of Ukraine or the Ministry of Justice of Ukraine respectively shall prepare a request for the performance of procedural actions or the enforcement of the court decision, and send the same to the appropriate agency of the foreign state as soon as possible.

7.3. A request for the performance of procedural actions or the enforcement of a court decision received from a competent agency of the foreign state shall be reviewed by the Prosecutor General Office of Ukraine or the Ministry of Justice of Ukraine respectively.

7.3.1. Lacking the grounds that prevent the legal assistance from being provided under the current legislation of Ukraine and provisions of international treaties, the request for the performance of procedural acts shall be sent to the competent institution, which must organise the performance thereof in accordance with requirements of the law.

7.3.2. The request for the enforcement of the court decision shall be sent to the relevant justice directorate in accordance with the competence requirements of the law; the justice directorate shall organise its performance.

7.4. The gathered materials authenticated with the national-emblem seal of the requested agency shall be sent to the Prosecutor General Office of Ukraine or the Ministry of Justice of Ukraine for the subsequent transfer to the relevant agency of the foreign state.

7.4.1. In case of the impossibility of the performance of the request, the relevant agency of the foreign state shall be notified thereof with a motivated presentation of the grounds therefor.

7.5. The time for the performance of a request for the performance of procedural acts / the enforcement of a court decision must not exceed 30 days.

Section 8. Final Provisions

8.1. Provisions of this Instruction shall be binding upon agencies with the competence over the issues regulated with provisions of European conventions on proceedings in criminal matters referred to in item 1.2 of Section 1 hereof in the course of the enforcement and the application of the said provisions on the territory of Ukraine.

8.2. The procedure set out in the Instruction may be modified in case of changes in provisions of laws of Ukraine on the accession to, or the ratification of, the said conventions.

(Amendments have been introduced in accordance with the additional information from Ofitsiyny Visnyk Ukrayiny, issue 33, 1999)

28. *General Prosecutor's Office Resolution No. 8 - Instruction on the procedure of preparation, transfer, and performance of requests for legal assistance in criminal matters by the prosecutor's offices of Ukraine (26.12.2005)*

APPROVED
by the Prosecutor General of Ukraine
Resolution No. 8gn dd. 26 December 2005

INSTRUCTION
on the procedure of preparation, transfer, and performance of requests for legal assistance in criminal matters by the prosecutor's offices of Ukraine

1. General provisions

1.1. International cooperation of the prosecutor's offices of Ukraine in the area of legal assistance in criminal matters shall be provided based on the international agreements of Ukraine, the laws of Ukraine and the normative acts of the General Prosecutor's Office of Ukraine. Rendering of mutual legal assistance is also possible in the absence of contractual relations, unless this goes into conflict with Ukrainian legislation in force.

1.2. Requests and documents annexed to them shall be made on blank sheets of paper in the Ukrainian language always adding a duly certified translation in the language specified by the Agreement and shall be certified with the signature of the competent official and the official stamp of the agency, which issued such documents.

3.3. If and when required, investigators (prosecutors) receive consultation and advisory assistance on the matters of international cooperation from senior deputies of oblast prosecutors for international and legal assignments (specially designated employees of administrative units of the regional level) and from the international law department of the General Prosecutor's Office of Ukraine.

2. Form and manner of preparation of requests for legal assistance by the prosecutor's offices of Ukraine

In the event of necessity in international legal assistance in an investigation of criminal matter, the investigator (prosecutor) shall:

2.1. Verify availability of contractual relations between Ukraine and the nation in question.

2.2. Subject to availability of the relevant agreement, the request shall be made in compliance with its requirements. If treaty relations are unavailable, via diplomatic institutions of Ukraine abroad to verify possibility of request for legal assistance and the terms and conditions thereof.

2.3. A request shall contain:

- the name of authority, which investigates the case;
- a reference to agreement in force on provision of legal assistance (in the absence of contractual relations, the necessity to render assistance on a reciprocal basis shall be justified);
- description of events, which are the subject of investigation, their legal classification with reproduction of the relevant articles of the Criminal Code of Ukraine;
- family name, first name, patronymic and the procedural status of the persons specified in the request, information on their place of location.

In cases when this is specified by the relevant agreement or on request of the competent body of the nation, who shall render the assistance, the request may also contain other data.

2.4. Procedural decisions (resolutions on search, seizure, distress, detention and arrest of an individual, referring the cases by investigative jurisdiction or the like) shall be annexed to the relevant application on performance of procedural action, extradition of the offender or transfer of criminal prosecution.

2.5. Careful inspection shall be given to sufficiency of evidence, which demonstrate availability of the components of crime in the acts of suspects (accused persons), in preparation of petitions on transfer of criminal prosecution of foreign nationals or stateless persons.

2.6. To avoid petitions on transfer of criminal prosecution to foreign law enforcement authorities until completion of all operations of investigation, which may be performed in the territory of Ukraine.

2.7. When referring a criminal matter (materials of pre-investigative inspection) abroad their copies shall be stored in the authority, which performed the investigation (inspection).

2.8. In preparation and sending of international investigative assignments to the address of the competent authorities of the foreign countries:

2.8.1. To provide thorough examination of criminal matters, to give special attention to availability of reasons for the request, compliance of the assignments' and the required annexes' content and form with the provisions of international agreements, the requirements laid down in the criminal procedural law of

Ukraine and the related Instruction.

2.8.2. To specify the law based on which the requested procedural actions shall be performed. In the event of necessity to perform operations of investigation in compliance with the requirements laid down in the criminal procedural law of Ukraine to annex excerpts from the relevant articles of the Criminal Procedure Code of Ukraine, which govern the form and manner of their implementation.

2.8.3. To check availability of lawful grounds and procedural decisions on search, distress and other procedural actions, limiting rights and freedoms of citizens and affecting the interests of legal entities.

2.8.4. To specify in international investigative assignments the complete information on relation between the investigation in the matter and necessity to perform specific procedural actions in a foreign country's territory, to specify sufficient for identification personal data of individuals or particulars of legal entities and their banking accounts.

3. Procedure for performance of requests for legal assistance by the prosecutor's offices of Ukraine

3.1. On receipt of requests for legal assistance from abroad, the following circumstances shall be specified:

- compliance with the form and manner of the request transfer to Ukraine;

- compliance with the requirements laid down in the international agreement with respect to the content and the forms of the request;

- possibility of the request performance in compliance with the requirements laid down in Ukrainian legislation in force.

3.2. In the absence of circumstances, which prevent rendering of legal assistance taking into consideration Ukrainian legislation in force and the provisions of international agreements, with engagement of the relevant investigation (inquiry) agencies, the requested procedural actions, the performance of request for transfer of criminal prosecution or check for availability of possible barriers to extradition shall be organized.

Any and all service documents obtained from performance of requests for legal assistance shall be certified with the signature of the competent official and the official stamp of the agency, which issued such documents and shall be transferred abroad in the form and manner specified by the international agreement.

3.3. To organize performance of requests for procedural actions received from the General Prosecutor's Office of Ukraine or directly from authorities of foreign countries, in compliance with the requirements laid down in the Criminal Procedure Code of Ukraine and subject to 10 day term for completion of operations of investigation upon the receipt date of the request to the party responsible for performance and completion of the request within one month.

If it is necessary to perform a large number of operations of investigation and receive considerable amount of documents, the materials of partially performed request shall be sent immediately upon their receipt. The request initiator and the General Prosecutor's Office of Ukraine shall be informed on the reasons for impossibility of full or partial performance of the requested operations of investigation. Disciplinary measures shall be taken in respect of employees, who perform requests inadequate or untimely.

4. Powers of the General Prosecutor's Office of Ukraine, oblast prosecutor's office (prosecutor's office equated thereto) in the area of mutual legal assistance in criminal matters

4.1. General Prosecutor's Office of Ukraine, oblast prosecutor's office (prosecutor's office equated thereto) within the scope of the powers conferred international agreements and domestic legislation:

- to examine requests received from pre-trial investigation agencies of Ukraine and foreign countries with respect to compliance of their content with the requirements laid down in international agreements and Ukrainian legislation in force;

- to make decisions with respect to possibility of their performance, whereupon receipt (rendering) of the required legal assistance shall be organized;

- to return documents for revision in the event of failure to comply with the existing procedure for preparation of requests for legal assistance.

4.2. Requests for legal assistance, except when international agreements of Ukraine provide for possibility of their sending (receiving) directly by the oblast prosecutor's office (prosecutor's office equated thereto), shall be sent abroad (are received from abroad) via the General Prosecutor's Office of Ukraine.

In the absence of international agreement with the relevant state the request shall be sent by the General Prosecutor's Office of Ukraine to the Ministry of Foreign Affairs of Ukraine for its further sending through the diplomatic channels.

4.3. Requests for legal assistance shall be sent abroad with the signature of the head of international law department of the General Prosecutor's Office of Ukraine, chief officers of the relevant oblast prosecutor's office (prosecutor's office equated thereto) unless otherwise specified by international agreements of Ukraine.

International Law Department of the General Prosecutor's Office of Ukraine

29. *List of bilateral treaties on legal assistance*

Name of treaty	Signing date	Ratification date	Enactment date
Agreement on legal assistance in civil and criminal matters between Ukraine and People's Republic of China	31.10.1992	05.02.1993	19.01.1994
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and the Republic of Poland	24.05.1993	04.02.1994	14.08.1994
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and the Republic of Lithuania	07.07.1993	17.12.1993	20.11.1994
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and the Republic of Moldova	13.12.1993	10.11.1994	24.05.1995
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and the Republic of Estonia	15.02.1995	22.11.1995	17.05.1996
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and the Republic of Georgia	09.01.1995	22.11.1995	05.12.1996
Agreement on legal assistance and legal relationship in civil, family and criminal matters between Ukraine and the Republic of Latvia	23.05.1995	01.11.1996	01.08.2002
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and Mongolia	27.06.1995	01.11.1996	01.08.2002

Agreement on legal assistance in criminal matters between Ukraine and Canada	23.09.1996	17.12.1997	01.03.1999
Agreement on the arrest and seizure of the proceeds and instruments from crime, except illicit drug traffic, between the Government of Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland	18.04.1996	01.11.1996	01.04.1997
Agreement on mutual assistance in the fight against illicit drug traffic, between the Government of Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland	18.04.1996	01.11.1996	01.04.1997
Agreement between Ukraine and the Republic of Azerbaijan on extradition of convicted to imprisonment persons to serve the time	19.02.1998	19.03.1999	20.06.1999
Agreement on legal assistance in criminal matters between Ukraine and the USA	22.07.1998	10.02.2000	27.02.1001
Agreement on extradition between Ukraine and People's Republic of China	10.12.1998	21.10.1999	13.07.2000
Agreement between Ukraine and the Republic of Kazakhstan on extradition of convicted to imprisonment persons to serve the time	17.09.1999	18.05.2000	22.06.2000
Agreement on legal assistance and legal relationship in civil and criminal matters between Ukraine and Social Republic of Vietnam	06.04.2000	02.11.2000	18.08.2002
Agreement between Ukraine and the Republic of Armenia on extradition of convicted to imprisonment persons to serve the time	01.03.2001	15.11.2001	01.09.2002
Agreement between Ukraine and Peoples Republic of China on extradition of convicted to imprisonment persons to serve the time	21.07.2001	07.03.2002	12.10.2002
Agreement on mutual legal assistance in criminal matters between Ukraine and Federative Republic of Brazil	16.01.2002	06.03.2003	24.10.2006
Agreement on extradition of offenders between Ukraine and the Republic of India	03.10.2002	06.03.2003	18.01.2007
Agreement on mutual legal assistance in criminal matters between Ukraine and Federative Republic of Brazil	03.10.2002	06.03.2003	12.09.2003

Agreement on mutual legal assistance in criminal matters between Ukraine and Hong Kong, Special Administrative District of People's Republic of China	02.04.2003	20.11.2003	19.01.2004
Agreement on mutual legal assistance in civil and criminal matters between Ukraine and Democratic People's Republic of Korea	13.10.2003	04.06.2004	17.12.2004
Agreement on extradition of offenders between Ukraine and Federative Republic of Brazil	21.10.2003	01.07.2004	27.08.2006
Agreement on extradition of convicted persons between Ukraine and the Republic of Tajikistan	02.04.2004	22.09.2005	06.04.2008
Agreement on extradition of convicted persons between Ukraine and Islamic Republic of Iran	11.05.2004	06.07.2005	11.01.2008
Agreement on mutual legal assistance and legal relationship in civil and criminal matters between Ukraine and Islamic Republic of Iran	11.05.2004	07.09.2005	31.08.2008
Agreement on mutual legal assistance in criminal matters between Ukraine and the Arab Republic of Egypt	10.10.2004	22.06.2005	19.01.2006
Agreement on extradition of convicted persons between Ukraine and the Arab Republic of Egypt	10.10.2004	22.06.2005	19.01.2006
Agreement on extradition of convicted to imprisonment persons to serve the time between Ukraine and Democratic People's Republic of Korea	12.11.2004	22.06.2005	22.12.2006
Agreement on extradition of convicted to imprisonment persons to serve the time between Ukraine and Turkmenistan	23.03.2005	05.10.2005	23.06.2006

ANNEX IV – List of key laws, regulations and other materials provided to the evaluation team

1. *Index documents received before the on-site visit*

AML/CFT LEGISLATION

1. Law of Ukraine on Prevention And Counteraction To Legalization (Laundering) of the Proceeds From Crime (With Amendments Introduced by the Laws of Ukraine Dated 24 December 2002, Dated 6 February 2003, Dated 18 May 2004, Dated 1 December 2005)
2. Law of Ukraine on Fight against Terrorism (20 March 2003) – article 24

President of Ukraine

3. Decree of the President of Ukraine on Measures Aimed At Development of the System For Counteraction To Legalization Laundering) of Proceeds From Crime And Terrorism Financing (22 July 2003)
4. Decree of the President of Ukraine on the State Committee For Financial Monitoring of Ukraine (No. 1144 28 September 2004)
5. Decree of the President of Ukraine on the Statute of the State Committee For Financial Monitoring of Ukraine (24 December 2004)

Cabinet of Ministers

6. Resolution of the Cabinet of Ministers of Ukraine No. 644 on Approval of the Procedure For Directive of the Cabinet of Ministers of Ukraine on the List of offshore Areas (24 February 2003)
7. Resolution of the Cabinet of Ministers of Ukraine on Approval the Procedure of Registration of the Financial Operations Subject To Compulsory Financial Monitoring By the State Department For Financial Monitoring (26 April 2003)
8. Order N 419-R of the Cabinet of Ministers of Ukraine on the List of Countries (Territories), Which Do Not Take Part In International Cooperation In the Field of Prevention And Counteraction of Legalization (Laundering) of Proceeds From Crime, And Terrorism Financing (17 July 2003)
9. Resolution No. 1565 of the Cabinet of Ministers of Ukraine, on Establishing of Interagency Working Group Regarding Research of Methods And Tendencies In Laundering of Proceeds From Crime (2 October 2003)
10. Resolution No 1896 of the Cabinet of the Ministers of Ukraine On the Single State Informational System in the Sphere of Prevention and Counteraction to Legalisation (Laundering) of the Proceeds from Crime and Financing of Terrorism (10 December 2003)
11. Resolution No. 1460 of the Cabinet of Ministers of Ukraine on Organizational Measures For Liquidation of the State Department For Financial Monitoring (28 October 2004)
12. Directive of the Cabinet of Ministers of Ukraine, on Establishment of the Training-Methodical Center For Re-Training And Professional Development of Experts on Financial Monitoring Issues In the Sphere of Combating Legalization (Laundering) of Criminal Proceeds, And Terrorist Financing (13 December 2004)
13. Resolution of the Cabinet of Ministers of Ukraine, Approval of the Concept For Development of the Prevention And Counteraction To Legalization (Laundering) of the Proceeds From Crime And Terrorist Financing System on 2005 – 2010 (3 August 2005)
14. Resolution of the Cabinet of Ministers of Ukraine and of the National Bank of Ukraine 2007 on Approval of the Action Plan on Prevention And Counteraction To Legalization (Laundering) of the Proceeds From Crime And Terrorist Financing For 2007

SCFM

15. SCFM Order No. 40 of the State Department For Financial Monitoring, Ministry of Finance of Ukraine on Approval of Requirements To Organization of Financial Monitoring By Entities of Initial Financial

Monitoring In Prevention And Counteraction To Introduction Into the Legal Turnover Proceeds From Crime And Terrorist Financing (24 April 2003) - excerpts

16. SCFM Order No. 46 on Approval of Requirements To Qualification of Employee of Entity of the Initial Financial Monitoring, Responsible For Conducting of the Financial Monitoring In Prevention And Counteraction To Introduction In the Legal Turnover Proceeds From Crime, And Terrorism Financing (12 May 2003)
17. Joint order of the SCFM and OPG on Approval of the Procedure of Granting By the State Department For Financial Monitoring of Generalized Materials Concerning Transactions Which Can Relate To Legalization (Laundering) of Proceeds Or Terrorism Financing To the Public Prosecutor's office of Ukraine And Receiving of Information on Course of Processing of Such Materials No. 98/40 (2003)
18. SCFM Order No. 145, Model List of Criteria For Referring Financial Transactions To Transaction That Could Be Subject To Internal Financial Monitoring (31 July 2006)
19. SCFM Order No. 259 on Approval of «Card For Registration of the Entity of Initial Financial Monitoring – Bank (Separated Subdivision) And Compliance officers» And Instruction Concerning Its Filing And Submission (196 December 2006)

National Bank of Ukraine

20. NBU Resolution No. 189 on Approving the Regulation on Implementing Financial Monitoring By Banks (14 May 2003)
21. NBU Resolution No. 108 on the Procedure of Imposing the Fines By the National Bank of Ukraine For Infringing By Banks the Requirements of Law of Ukraine on Prevention And Counteraction of Legalization (Laundering) of the Proceeds From Crime (17 March 2004)

SCSFMR

22. SCFSMR Resolution PK- 25/2003 on Establishment of Regulation on implementing of financial monitoring by financial institutions (Protocol № 7 of the Sitting of the Commission of 5 August 2003)
23. SCFSMR Resolution PK- 26/2003 on Establishment of Procedure For Conducting Inspections on issues of prevention and counteraction to legalization (laundering) of the proceeds from crime (Protocol № 7 of the Sitting of the Commission of 5 August 2003)

SCSSM

24. SCSSM Resolution No. 344 - Rules For Conducting Inspections of the Professional Securities Market Participants, Collective Investment Institutes And Stock Exchanges Regarding Compliance With the Requirements of Effective Legislation on Prevention And Counteraction To Legalization (Laundering) of Illegally Acquired Proceeds And Financing of Terrorism (5 August 2003)
25. SCSSM Decision No. 361 on Approval of the Rules For Consideration of Cases on Violation of Requirements of Legislation on Prevention And Counteraction To Legalization (Laundering) of the Proceeds From Crime, And Application of Sanctions (13 August 2003)
26. SCSSM Decision No. 538, Statute on Execution of Financial Monitoring By Participants of the Securities Market (4 October 2005) - Excerpt (Article 6. Identification of Persons, Keeping of Relevant Documentation)
27. SCSSM Decision No. 288, Procedure For Reporting Entities on Financial Transactions Suspension Within Securities Market (12 May 2006)

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28. Criminal Code of Ukraine (excerpts)
29. Criminal Procedure Code of Ukraine – articles 78, 81
30. Code of Ukraine on Administrative offences (December 7, 1984) – article 164
31. Civil Code of Ukraine (January 16, 2003) – articles 80, 81, 83, 87, 89, 93, 354, 505, 1059
32. Economic Code of Ukraine (January 16, 2003) – articles 56, 70, 111, 125, 126, 128
33. Customs Code of Ukraine (11 July 2002) – articles 22, 46

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34. Law of Ukraine on State Tax Service (4 December 1990) – articles 11, 20
35. Law of Ukraine on Militia (20 December 1990) – article 11
36. Law of Ukraine on the Public Prosecutor's office (5 November 1991)

37. Law of Ukraine on Operative And Investigative Activity (18 February 1992)
38. Law of Ukraine on the Judicial System of Ukraine (7 February 2002) – article 3
39. Law of Ukraine on Security Service of Ukraine (25 March 1992) – articles 2, 25
40. Law of Ukraine on Executive Proceedings (21 April 1999) - article 50
41. Law of Ukraine on State Border Service of Ukraine (3 April 2003) – article 20
42. Cabinet of Ministers Resolution No. 748, List of Information To Be Disclosed By Citizens To Transit Items Via Customs Border of Ukraine (15 July 1997)
43. Resolution No. 5 of the Plenum of Supreme Court of Ukraine on the Practice of Application By the Courts of Legislation Concerning Criminal Responsibility For Legalization (Laundering) of the Proceeds From Crime (2005) – excerpts
44. Order of the State Judicial Administration of Ukraine N 78/04 on Approval of Temporary Statistic Report Form # 1-L on Assize of Local Courts And Courts of Appeal of Criminal Cases Under Articles 209, 2091, 306 of the Criminal Code of Ukraine And Instruction For Its Fulfilment (8 June 2004)
45. State Customs Service of Ukraine, Order No. 639 on Approval of Procedure For Submission Requests of the State Customs Service of Ukraine To the Customs Services of Foreign States Or Information of Such Services (6 July 2005)

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46. Law of Ukraine on Ratification of the Convention on Money Laundering, Search, Arrest And Confiscation of Illegal Income (17 December 1997)
47. Law of Ukraine on Accession of Ukraine to International Convention on Suppression Terrorist of Bombing (29 November 2001).
48. Law of Ukraine on Ratification of the United Nations Convention Against Transnational Organized Crime And the Protocols thereto (the Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children And the Protocol Against Illegal Immigration on Dry Land, Sea And Air) (4 February 2004)
49. Law of on International Treaties of Ukraine (29 June 2004)
50. Decree of the President of Ukraine on Expert Group For Drafting International Treaties of Ukraine on Legal Relationship And Legal Assistance In Civil And Criminal Matters (24 April 2004)
51. Cabinet of Ministers Resolution No. 351 on Implementation of UNSCR on Taliban (11 April 2001)
52. Cabinet of Ministers Resolution No. 1800 on Implementation of UNSCR (28 September 2001)
53. Cabinet of Ministers Resolution No. 751 on Procedure For Composing List of Persons Related To Terrorist Activity (25 May 2006)
54. General Prosecutor's Office of Ukraine Order No. 8 on Organization of the Activity of Prosecuting Bodies of Ukraine In International Cooperation And Legal Assistance (26 December 2005)
55. SCFM Order No. 74, Procedure For Taking the Decision By the State Committee For Financial Monitoring of Ukraine on Further Financial Transaction Suspension If Its Participant Or Beneficiary Is A Person Included To the List of Persons Related To Terrorist Activity (19 April 2006)
56. SCFM Order No. 84, Procedure For Informing Entities of Initial Financial Monitoring on the List of Persons Related To Terrorist Activity (26 April 2006)

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57. Law of Ukraine on the National Bank of Ukraine (20 May, 1999) (As Amended As of December 1, 2005)
58. Law of Ukraine on Banks And Banking (7 December 2000, As Amended As At April 27, 2007)
59. Law of Ukraine on the Securities And Stock Exchange (18 June 1991) – article 13
60. Law of Ukraine on Insurance (7 March 1996)
61. Law of Ukraine on Financial Services and State Regulation of Financial Markets (12 July 2001) – article 35
62. Law on Licensing of Certain Activities (1 June 2000) – articles 6, 9, 11, 20
63. NBU Resolution No. 231 on the Procedure of Closing the Anonymous Foreign Exchange Accounts And Encoded Accounts of Physical Persons (Residents And Non-Residents) In Foreign Currency And National Currency of Ukraine (4 June 2003)
64. NBU Resolution No. 369 About Approval of Regulations on Application By the National Bank of Ukraine of Enforcement Measures For the Violation of Bank Legislation (28 August 2001)

65. NBU Resolution No. 233 on Composition of Properties (Requisites)And Structure of Files of Information Exchange Between Specially Authorized Executive Body on the Issues of Financial Monitoring And Banks (Branches) (4 June 2003) (Excerpts)
66. NBU Resolution No. 496 N 496 on Approval of the Regulation For Exercising of Money Transfers of Natural Persons In Ukraine And Abroad Under Current Currency Non-Trade Transactions And Its Pay-Out In Ukraine, And on Amendment of Certain Normative-Legal Acts (29 December 2007) (Excerpt - 2. Transfer of Foreign Currency Into Ukraine And Out of Ukraine on the Instructions And For the Benefit of Natural Persons)
67. NBU Resolution No. 148, Instruction on Transition of Cash And Banking Metals Though the Custom Border of Ukraine (27 May 2008) – Excerpt (1. General Provisions, 2. Import And Export of Cash Into And Out of Ukraine , 4. Transition of Banking Metals)
68. NBU Resolution No. 165 on Amendment of Certain Normative-Legal Acts of the National Bank of Ukraine on Conformance By the National Bank of Ukraine of Rules of Domestic And International Payment Systems (5 June 2008) Excerpts - Amendments To the Statute on the Procedure of Registration of Agreements on Membership Or Participation In International Payment Systems And Conformance of Rules of Remittance Systems Created By Resident Banks (Point 6.4 In Paragraph 4)
69. NBU Resolution No. 178 on Approval of the Statute on Electronic Money In Ukraine (25 June 2008)
70. SCSSM Decision No. 93, Statute on Certification of Persons Executing Professional Activity With Securities In Ukraine (29 July 1998)
71. SCSSM Decision No. 1000 on Approval of the Statute on the Procedure For Maintaining Registers of Owners of Nominal Securities (17 October 2006) – Excerpt (Section III. Requirements To the Register)
72. SCSSM Decision No. 999 on Approval of the Statute on Depositary Activity (17 October 2006) – Excerpt(Section XI. Requirements To Exercising And Combining Depositary Activity, Section XII. Control Over Execution of Depositary Activity)
73. SCSSM Decision No. 1449 on Approval of Rules (Conditions) For Exercising Trading In Securities Activity: Broker Activity, Dealer Activity, Underwriting, Administration of Securities (12 December 2006) – excerpt (Section XIV. Organization of Internal Registration)
74. SCSSM Decision No. 2272 on Approval of the Rules on Consideration of Cases on Violation of Legislative Requirements on Securities Market And Sanctions Application (11 December 2007)
75. SCFSMR Resolution No. 125, Regulations For Taking Enforcement Measures By the State Commission For Regulation of Ukraine's Financial Markets (November 13, 2003)
76. SCSFMR Directive No. 5555 Extract on Possibility of Execution of Financial Services on Crediting And Bailing By Legal Business Entities, Which According To Its Legal Status Are Not Financial Institutions
77. SCFSMR Order No. 41 on Approval of Regulation on the State Register of Financial Institutions (28 August 2003)
78. Ukrainian State Enterprise of Postal Service "Ukrposhta", Order № 211 on Adoption And Implementation of the Procedure For Sending Posting (12 May 2006) (Extract Item 3.6.4)

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79. Law of Ukraine on State Regulation of Mining, Production And Use of Precious Metals And Precious Stones And Control Over Operations With them, (November 18, 1997) – article 14
80. Resolution No. 1800 of the Cabinet of Ministers of Ukraine on Approval of the Procedure For Conducting Internal Financial Monitoring By Business Entities, Which Carry Out Economic Activity on Establishment And Maintenance of Casinos, Other Gambling Institutions, And Pawn-Shops - Article 12 only
81. Draft Law on State Regulation on conducting gambling - article 8
82. the Law of Ukraine on Advocacy (19 December 1992) – article 4

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83. Law of Ukraine on Economic Entities (September 19, 1991) - article 4
84. Law of Ukraine on State Registration of Legal And Natural Persons – Entrepreneurs (May 15, 2003) – articles 3, 4, 16, 17, 18, 20-22, 24, 26, 27.
85. Law of Ukraine on Political Parties In Ukraine (April 5, 2001) – articles 10, 11, 15, 16, 17, 18

86. Order No. 47 of State Committee of Ukraine on Regulatory Policy And Entrepreneurship, on Approval of Extract Form of Single State Register of Legal Persons And Natural Persons – Entrepreneurs And Procedure of Its Validation (13 April 2004)

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87. Constitution of Ukraine (28 June 1996) - articles 34 & 61
88. Law of Ukraine on Information – articles 2, 9, 10, 29, 30, 32, 33
89. Law of Ukraine on Civil Service (December 16, 1993) - articles 5, 10, 29
90. Law of Ukraine on State Secrecy (January 21, 1994) – articles 22, 23
91. Law of Ukraine on the State Service for Control and Audit of Ukraine , (January 26, 1993) - article 2
92. Law of Ukraine «on Protection of Economic Competition» (11 January 2001) (Excerpt)

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93. Law of Ukraine on the National Archive Fund and Archives
94. Law of Ukraine on Protection of Information in Automated Systems
95. Law of Ukraine on Accounting and Financial Reporting In Ukraine
96. Law of Ukraine on Securities and Stock Market
97. Law of Ukraine on State Regulation of Securities Market in Ukraine
98. Law of Ukraine on Organizational Legal Principles of Struggle Against Organised Crime
99. Law of Ukraine on Payment Systems and Funds Transfer in Ukraine (Date of Entry into Force: May 16, 2001)
100. Law of Ukraine on Chambers of Commerce And Industry In Ukraine
101. Law of Ukraine on Charity And Charitable Organisations
102. Law of Ukraine on Associations of Citizens
103. Law of Ukraine on Holding Companies In Ukraine
104. Law of Ukraine on the State Control Over International Transfers of Military and Dual-Use Commodities

2. *Index documents provided after the visit*

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1. Law No 249-IV on Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime 28 February 28, 2002. (correct version)
2. Draft Law of Ukraine on Introducing Amendments to some Legal Acts of Ukraine on Prevention to Legalisation of the Proceeds from crime or terrorist financing.

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3. Resolution No. 644 of the Cabinet of Ministers of Ukraine on the Procedure for registration of financial transactions by the entities of initial financial monitoring (26 April 2003).

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4. SCFM Order No. 40 of the State Department For Financial Monitoring, Ministry of Finance of Ukraine on Approval of Requirements To Organization of Financial Monitoring By Entities of Initial Financial Monitoring In Prevention And Counteraction To Introduction Into the Legal Turnover Proceeds From Crime And Terrorist Financing (24 April 2003)
5. SCFM Order No. 48 On approval of some forms of registration and submission of information, related to financial monitoring, and Instructions concerning their filling in (13 May 2003)
6. SCFM Order No. 65 On establishment of SCFM Expert Commission for Consideration of Case Referrals (additional materials) elaborated for Submission to Law-enforcement Agencies (4 March 2005)
7. SCFM Order No. 122 on Procedure of appropriation of identifier to the entities of initial financial monitoring for submitting of information to SCFM of Ukraine (5 May 2006)
8. SCFM Order No. 267 Modal Rules for Executing Internal Financial Monitoring by Insurance Institutions (22 December 2006)
9. SCFM Order No 217 of State Committee for Financial Monitoring of Ukraine -Modal Rules for executing Internal Financial Monitoring by Non-banking Institutions (31 October 2006)

10. SCFM Order No 248 on Modal Rules for Executing Internal Financial Monitoring By Bank Employees, (6 December 2006)
11. SCFM Order No 148 on Model Rules for executing Internal Financial Monitoring by Security Traders, (31 August 2007)
12. SCFM Order No. 114 on Model Rules for executing Internal Financial Monitoring by depositary (27 June 2007)
13. SCFM Order No. 37 on exemplary rules for conducting internal financial monitoring by gambling institutions (28 February 2007)
14. SCFM Order No. 232 on exemplary rules for conducting internal financial monitoring by pawnshops (25 December 2007)
15. SCFM Order No. 234 on modal rules for conducting internal financial monitoring by leasing provider (26 December 2007)
16. SCFM Order No 157 Methodical recommendations to the entities of initial financial monitoring Risks management as regards to laundering of proceeds from crime and terrorist financing (4 July 2008)
17. Statute on Regional subdivision of the State Committee for Financial Monitoring of Ukraine
18. Protocol No. 34 of the Expert Commission of the State Committee for Financial Monitoring of Ukraine on the Meeting for consideration of the case referrals that are prepared for submission to the law enforcement authorities (28 August 2008)
19. SCFM Reports on Typologies (2004-2007)

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20. NBU Resolution No. 189 on Implementing the Financial Monitoring by Banks (14 May 2003) (correct version)
21. NBU Resolution No. 231 - Methodical instructions on compliance audit of banks (or affiliates) in the sphere of preventing legalization of criminal proceeds (anti-money laundering) and composition of report upon results thereof (25 June 2005)
22. Letter No. 48-012/1372-11761 of the National Bank of Ukraine to Association of Ukrainian Banks, Credit and Banking Union, Banks, SCFM – Recommendations on Banking activity (6 November 2006)
23. Letter No. 48-012/29-192 of the National Bank of Ukraine to Banks, Ukrainian Credit and Banking Union, Association of Ukrainian Banks on recommendations on ML risks and preventive measures for banks providing services through the Internet network (10 January 2006)

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24. SCFSMR Resolution No 120 on the procedure for Imposing Penalties by the State Commission for Regulation of Ukraine's Financial Markets for Failure to Comply with or Undue Fulfilment of Provisions of the Law of Ukraine "On Preventing and Combating Criminal Proceeds Laundering (13 November 2003)

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25. Agenda 47th meeting of interagency working group on research of methods and trends in laundering of proceeds from crime, State Committee for Financial Monitoring of Ukraine, 29 February 2008
26. Agenda 48th meeting of interagency working group on research of methods and trends in laundering of proceeds from crime State Committee for Financial Monitoring of Ukraine, 31 March 2008
27. Interagency working group on research of methods and trends in laundering of proceeds from crime, Minutes No. 48 (31 March 2008)
28. Interagency working group on research of methods and trends in laundering of proceeds from crime, Minutes No. 47 (29 February 2008)

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29. Code of Administrative Offenses Code (extracts)
30. Criminal Procedure Code – article 78

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31. Law of Ukraine on Banks and Banking (as amended as at 27 April 2007)(correct version)
32. Law on Credit Unions (**dated December 20, 2001** # 2908-III) - Article 21 (5)
33. Law of Ukraine on Financial Services and State Regulation of Financial Markets (as amended as at 15 December 2005) (corrected version)

34. Law of Ukraine on State Regulation of Securities Market in Ukraine (correct version)
35. Law No. 2745-III on Insurance (04 October 4, 2001) – Article 40
36. Law No. 1775-III on Licensing Certain Business Activities (1 June 2000)

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37. NBU Resolution No. 158, Reference Guide on Qualification Characteristics of Professions of the National Bank of Ukraine Employees (22 April 1998).
38. NBU Resolution No. 283 on Approval of the Regulations on Export/Import of the National Currency of Ukraine, Foreign Currency, Bank Metals, Payment Documents, Other Bank Documents, and Payment Cards from/into the Customs Territory of Ukraine (12 July 2000)
39. NBU resolution No. 275 On the Approval of the Regulations on the Procedure of Issuing Banking Licenses, Written Permits, and Licenses to Perform Certain Operations to Banks (17 July 2001)
40. NBU Resolution No. 276 on Planning and Procedure of Carrying Out Inspections (17 July 2001)
41. NBU Resolution No. 305 on Rules of Issuing Individual Licenses and Special Permits to Move Ukrainian and Foreign Currency, Payment Documents (Order and Traveller's Checks), and Bank Metals Across the Customs Border of Ukraine to Resident Individuals and Legal Entities (with the Exception of Authorized Ukrainian Banks) and to Non-residents (31 July 2001).
42. NBU Resolution. No 563 on the Procedure of Levying Administrative Penalties (29 December 2001)
43. NBU Resolution No. 297, on the Procedure of Issuing Non-Banking Financial Institutions and the National Postal Service Operator General Licenses to Carry On Foreign Currency Operations (9 August 2002)
44. NBU Resolution No. 343, Rules for registration of banks' correspondent accounts by the National Bank of Ukraine (15 August, 2001)
45. NBU Resolution No. 375 on the procedure of establishment and state registration of banks and opening of their branches, representative offices and divisions (31 August 2001)
46. NBU Resolution No 384 of the Board of the National Bank of Ukraine on Approval of the Amendments to the Regulations on Application by the National Bank of Ukraine of the Sanctions for Violation of the Banking Legislation, Part VI, Chapter 14,(7 October 2002)
47. NBU Resolution No. 447 on the Procedure of Registration and Licensing of Domestic Non-Banking Payment Systems to Provide Money Transfer Services (14 October 2003)
48. NBU Resolution No 492 on procedure of opening, keeping, and closing of accounts in national and foreign currency (12 November 2003)
49. NBU Resolution No. 601 - List of documents generated in course of activities of the National Bank of Ukraine and Ukrainian banks, including required archiving periods (8 December 2004)
50. NBU Resolution No. 67 On Amendments to the Structure of the Central Office of the National Bank of Ukraine (4 March 2005)
51. NBU Resolution No. 403 On the Approval of Amendments to the Rules of Organization of Statistical Reports Filed with the National Bank of Ukraine (28 October 2005)
52. NBU Resolution No. 121 on the Approval of the Program of Development of the National System of Mass Electronic Payments for 2006 – 2008, (30 March 2006)
53. NBU Resolution No. 143 on Establishment of Subsidiary, Branch and Representative Office of Ukrainian Bank in the Territory of Other States (April 12, 2006)
54. NBU Resolution No. 254 on Organization of Banking Activities in Ukrainian Banks (18 June 2003, as amended pursuant to Resolutions No. 56 of 18 February 2004, No. 439 of 21 November 2005, No. 422 of 6 November 2006)
55. NBU Resolution No. 348 on Functioning of Domestic and International Payment Systems in Ukraine, (25 September 2007)
56. NBU Resolution No. 148 on Transfer of Cash and Bank Metals across the Customs Border of Ukraine, (27 May 2008)
57. NBU Resolution No. 119 - List of functions in the sphere of banking supervision, which are distributed between structural subdivisions of the National Bank of Ukraine (29.04.2008
58. NBU Resolution No. 119 On the measures aimed at strengthening of the banking supervision effectiveness and improvement of its structure (29 April 2008) – excerpt
59. NBU Resolution No. 148, the Instruction on Transfer of Cash and Bank Metals through Tax Border of Ukraine (27.05.2008)

60. NBU Resolution No 165 - Amendments to the Regulation on the Registration Procedure for membership agreements or agreements of participation in the international payment systems and on harmonization of rules of money transfer systems established by resident banks (5 June 2008)
61. NBU Resolution 118 on opening and maintenance of correspondent accounts of resident and nonresident banks in foreign currency and correspondent accounts of nonresident banks in hryvnias
62. Letter No. 48-012/589-8601 of the National Bank of Ukraine on Identification of the Legal Entity Customers (20 November 2003)

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63. SCSSM Decision No 538 On Approval of Procedure of the Financial Monitoring by Securities Market Members (04 October 2005)
64. SCSSM Order No. 383-DO on removal of securities legislation infringement (19 February 2008)
65. SCSSM Resolution No. 1-KPI on applying sanctions for law infringement (1 April 2008)
66. SCSSM Order No. 354-DO on removal of securities legislation infringement (2 April 2008)
67. SCSSM Resolution No. 994-DO on setting sanction for violation on the securities market (25 November 2008)

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68. SCFSMR Order No. 125 on Application of Measures of Influence by the State Commission for Regulation of Financial Services Markets in Ukraine, (13 November 2003)
69. SCFSMR Order No. 40, License Conditions for Carrying Out Insurance Activities, (28 August 2003).
70. SCFSMR Order No 55, order of training of workers and chiefs of divisions of the financial institutions responsible for realization of internal financial monitoring (16 September 2003)
71. SCFSMR Resolution No. 1590 On Approval of the Professional Requirements to CEOs and Chief Accountants of the Financial Institutions (13 July 2004)
72. SCFSMR Resolution No. 3981 on the Order of Providing Financial Services by Pawnshops (26 April 2005)
73. SCFSMR Regulation 146 On approval of License provisions for credit unions' operations on provision of financial services (16 May 2005)
74. SCFSMR Instruction No 5226 on Introduction of Changes into the Non-state Pension Fund Administration Business Licensing Conditions (29 December 2005)
75. SCFSMR Order No 4802, License Conditions of Conducting Activity related to Granting of Financial Loans at the Expense of Funds Borrowed by Credit Institutions (18 October 2005)
76. SCFSMR Order No 5523 on Approving the License Conditions for Money Transfer by Non-Banking Financial Institutions Markets of Ukraine (23 March 2006)
77. Amendments to NPF Administration Licensing Requirements 5226 Annex 1 to the Licensing Requirements for Administration of Non-State Pension Funds

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78. Order No 211 of the Ukrainian State Enterprise of Posts "Ukrposhta", On approval and coming into affect of the procedure on sending of postal items, (12 May 2006)

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79. Law of Ukraine on the public prosecution service
80. Law of Ukraine on the Security Service of Ukraine – articles 1-5, 19, 20, 22, 35
81. Law of Ukraine On Detective-Investigative Activity – articles 3, 4, 9
82. Law on Counterintelligence Activity – articles 3, 4, 11
83. Law No. 3341 - XII on the organizational and legal bases of combating organized crime (30 June 1993)
84. Cabinet of Ministers Resolution No. 985 on approval of procedure of disposal of the property confiscated by court decisions and handed over to agencies of the state enforcement service (11 July 2002)
85. Resolution No 5 of the Plenary Supreme Court of Ukraine on court practice of application of legislation on criminal responsibility for legalization (laundering) of proceeds from crime (15 April 2005)
86. Samples of court decisions
87. Court Directive (example) on the application of article 113 of the Customs Code
88. Agreement 1 between SCFM and State Customs (22 May 2003)

89. Protocol No. 1 to Agreement on cooperation between State Customs Service of Ukraine and State Department for Financial Monitoring as for the procedure of information transfer (13 August 2003)
90. GPO Resolution No. 8 on operations organisation of the prosecutor's offices of Ukraine in the area of international cooperation and legal assistance (26.12.2005)

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91. Law No. 3723-XII on Civil Service, (26 December 1993)
92. Law of Ukraine on Executive Proceedings – articles 24, 25, 33, 46, 55, 57, 58, 59, 12, 75
93. Resolution N 491/95 of the Verkhovna Rada of Ukraine on Correction of abuses in the usage of Citizens funds by business entities (22.12.1995).
94. Written replies to clarification questions from the evaluation teams
95. Statistics from all competent authorities