

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

MONEYVAL(2013)13ANN

Report on Fourth Assessment Visit - Annexes

Anti-Money Laundering and Combating the Financing of Terrorism

BULGARIA

19 September 2013

Bulgaria is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the mutual evaluation report on the 4th assessment visit of Bulgaria was adopted at its 42nd Plenary (Strasbourg, 16-20 September 2013)

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

- Association of Bulgarian Banks
- Bulgarian National Bank
- Bulgarian Post
- Commission for establishing property, acquired from criminal activity Customs Agency
- Financial Intelligence Directorate of the State Agency for National Security
- Financial Security Directorate of the State Agency for National Security
- Financial Supervision Commission
- Institute of Certified Accountants
- Ministry of Foreign Affairs
- Ministry of Interior
- Ministry of Justice
- National Revenue Agency
- Notary Chamber
- Prosecution: Supreme Prosecution of Cassation and National Investigation Service
- Registry Agency
- Representatives of Bulgarian credit institutions
- Representatives of casinos and the Gambling Association
- Representatives of auditors and external accountants
- Representatives of lawyers
- Representatives of notaries
- Representatives of real estate intermediaries
- State Commission on Gambling
- Supreme Bar Council
- Supreme Court of Cassation

ANNEX II – List of trainings attended by FID-SANS employees

2008

1. Exchange of experience with delegation of Jordan
2. Exchange of experience with Macedonia
3. FIU.Net training in Finland - 2 FIU employees
4. Participation in a seminar in Croatia for financial intelligence – 2 employees
5. Conference on practical implementation of the AML measures and investigation organized by the National Investigation Service and an NGO – 1 employee
6. One-year training of 1 employee of the FIU in regard to terrorism, National Defense University, USA

2009

1. Exchange of experience on AML/CTF supervision with Macedonia – 5 separate activities under a Spanish twinning project
2. FIU.Net training in the Hague, the Netherlands – 1 employee
3. Seminars of the British Embassy project – 7 employees trained
4. TAIEX Seminar Forfeiture of property acquired through criminal activity, Sofia, Bulgaria – 1 employee
5. Seminar of the credit institutions organized by an NGO with lectures by BNB – 3 employees
6. Training visit organized by the US Embassy to Sofia – 1 employee
7. Exchange of experience with a delegation of FIU Serbia
8. Participation in a seminar of the IMF for typologies, Siracusa, Italy – 1 employee
9. Seminar Strategy of the EU for financial investigation and analysis of financial crime in Brussels, Belgium – 1 employee
10. General training for civil servants, Sofia, Bulgaria – 1 employee
11. Seminar for the elaboration of a strategy of the EU for counteracting financial crime, Chisinau, Moldova
12. Working visit to Moscow, Russia – exchange of experience – 2 employees
13. Exchange of experience with FIU Canada, visit of experts to Sofia, Bulgaria
14. Seminar organized by the French Institute in Bulgaria Illegal Enrichment in Comparative Perspective – 1 employee
15. Exchange of experience with FIU Kosovo, visit of experts to Sofia, Bulgaria
16. OLAF seminar under the TAIEX program on Financial Investigation in relation to EU Funds
17. FIU.Net training in Malta – 2 employees
18. Training under a Project of the Supreme Prosecution of Cassation BG/2006/IB/JH/04/UE/TWL for strengthening the capacity of the prosecution in regard to serious crime.

2010

1. UNODC Presentations in regard to drugs trafficking, Sofia, Bulgaria
2. Training of the International Banking Institute (NGO), Sofia, Bulgaria – 2 employees
3. Exchange of experience with FIU and the Prosecution of the Russian Federation – 3 employees
4. Training in the framework of a twinning project of the FSC, Sofia, Bulgaria – 2 employees
5. Exchange of experience under the project Standardized Training for Financial Investigation, Academy of the Ministry of Interior – 3 employees
6. Seminar Protection of EU Financial Interests, IRZ Foundation, Sofia, Bulgaria – 1 employee
7. Exchange of experience with FIU Armenia – 4 employees
8. Exchange of experience in regional perspective, Kraguevac, Serbia – 2 employees
9. Exchange of experience with FIU Macedonia – 3 employees

10. Exchange of experience with FIU Romania – 9 employees
11. FIU.Net training, London, UK – 2 employees
12. Regional Conference on new trends and techniques for ML and FT, Bucurest, Romania
13. Training on the use of MAB system, Brussels, Belgium – 1 employee
14. Training for the management of the FIU by PLI Global/Pointman Leadership Institute, Sofia

2011

1. Training by OLAF on Fight against financial fraud, Italy – 1 employee
2. Exchange of experience in First Regional Conference on ML and TF, Baku, Azerbaijan
3. Exchange of experience with FIU Albania under a twinning project
4. Exchange of experience with FIU Macedonia
5. Regional seminar for South Eastern Europe on TF, Belgrade, Serbia – 1 employee
6. Training and exchange of experience under HEMOLIA project, Bran, Romania – 1 employee
7. Regional seminar under the ECOLEF Project for assessment of the effectiveness of the AML/CTF systems – 1 employee

2012

1. Training seminar for all employees of the FIU, Troyan, Bulgaria
2. FIU.Net training, Finland – 2 employees
3. Seminar organized by Prosecution Counteracting Money Laundering with representatives of NRA, Chief Directorate Combating Organized Crime and supervisory authorities, Bulgaria – 2 employees
4. Banking Law Seminar, Sofia – 3 employees
5. IMF seminar for risk assessment, Siracusa, Italy – 2 employees
6. Seminar on new FATF recommendations, Strasbourg, France – 1 employee
7. Training by the Diplomatic Institute of the Ministry of Foreign Affairs – 2 employees
8. Seminar on the work of the specialised prosecutor's offices and new trends in financial crime, organized by two NGOs and the Prosecution, Bulgaria – 2 employees.

ANNEX III Bulgarian Insurance Code

Section II

Insurance Secrecy

Safeguarding insurance secrecy

Article 93

(1) An insurer, members of the managing and control bodies, auditors, actuaries, as well as all other persons working for an insurer, including the persons with whom an insurer has concluded contracts under Article 60, shall be obligated to keep in secret any and all information of which they have become aware in relation to the performance of their functions. The persons under sentence one may not utilise the information acquired to their own personal benefit or in favour of another person, as well as for purposes other than the performance of their functions.

(2) The obligation under Paragraph 1 shall also apply to insurance and reinsurance intermediaries and their employees.

(3) Upon taking office, all employees and members of managing and control bodies of an insurer shall sign a Declaration on the Safeguard of Insurance Secrecy. The obligation under Sentence One shall also apply to the natural persons who represent legal persons - members of managing and control bodies of an insurer, a reinsurer and an insurance and reinsurance intermediary.

(4) Insurance agents and persons with whom an insurer has concluded contracts under Article 60 shall sign a Declaration under Paragraph 3 upon conclusion of a contract, regulating their relations with the insurer. The persons under sentence one shall be obligated to acquaint their employees with the obligations under Paragraph 1.

(5) The provision of Paragraph 1 shall also apply to cases where persons under Paragraphs 1-4 have discontinued their legal relationships with the insurer, in relation to which the obligation to safeguard insurance secrecy had arisen.

Disclosure of insurance secrecy

Article 94

Apart from disclosing information under Article 93, Paragraph 1 to the Commission, to the Deputy Chairperson and the authorised officials of the Commission's administration, the above information may only be disclosed:

1. By explicit written consent of the person to whom it refers;
2. Before the authorities of the Court, the Prosecution Office, the investigation authorities and the police authorities in accordance with the procedure provided for by law;
3. (Amended, SG No. 109/2007) Before the State Agency "National Security" in accordance with the terms and conditions and in accordance with the procedure provided for in the Measures Against Money Laundering Act;
4. Before the Guarantee Fund and the National Bureau of Bulgarian Motor Insurers in relation to their activities in accordance with the present Code;
5. For the purposes of setting up information systems for the prevention of insurance fraud.
6. (New, SG No. 105/2005) Before a director of a territorial directorate of the National Revenue Agency, where:
 - a) an act of a revenue authority has established that the inspected person has prevented carrying out an aspect inquiry or audit, or failed to maintain the requisite reporting documentation, as well as that the latter is incomplete or untrustworthy;

b) an act of a competent state authority has established the occurrence of an accident, which has resulted in the destruction of reporting documentation belonging to the inspected persons.

7. (New, SG No. 97/2007) To a reinsurer where this is necessary in relation to conclusion of a reinsurance contract.

ANNEX III Civil Procedure Code

Article 395 Petition to Grant Injunction

- (1) The petition for an injunction shall specify the precautionary measure and the cost of the action. A duplicate copy of the said petition shall not be served upon the opposing party.
- (2) The petition shall be adjudicated in camera on the day on which the said petition is submitted.
- (3) On the basis of the ruling whereby the petition is granted, the court shall issue an injunctive order. Where a bond has been set, the court shall issue an injunctive order after the said bond has been deposited.

ANNEX IV Criminal Code

Article 3

- (1) The Criminal code shall apply to all crimes committed on the territory of the Republic of Bulgaria.
- (2) The issue of liability of foreign citizens who enjoy immunity with respect to the penal jurisdiction of the Republic of Bulgaria shall be decided in compliance with the norms of international law adopted thereby.

Article 4

- (1) The Criminal code shall apply to the Bulgarian citizens also for crimes committed by them abroad.
- (2) (Amended, SG No. 75/2006) No citizen of the Republic of Bulgaria can be transferred to another state or an international court of justice for the purposes of prosecution, unless this has been provided for in an international agreement, which has been ratified, published and entered into force in respect to the Republic of Bulgaria.

Article 5

The Criminal code shall also apply to foreign citizens who have committed crimes of general nature abroad, whereby the interests of the Republic of Bulgaria or of Bulgarian citizens have been affected.

Article 6

- (1) The Criminal code shall also apply to foreign citizens who have committed abroad crimes against peace and humanity, whereby the interests of another state or foreign citizens have been affected.
- (2) The Criminal code shall also apply to other crimes committed by foreign citizens abroad, where this is stipulated in an international agreement, to which the Republic of Bulgaria is a party.

Article 17

- (1) Preparation shall be the getting ready of the means, the finding of accomplices and the creating of conditions in general for the perpetration of intended crime, before the commencement of its perpetration.
- (2) Preparation shall be punishable only in the cases provided for by the law.
- (3) The acting person shall not be punished where he has given up the perpetration of the crime of his own accord.

Article 18

- (1) An attempt shall be the commenced perpetration of intentional crime, whereas the act has not been completed or, although completed, the consequences dangerous to society provided by the law and desired by the perpetrator have not occurred.
- (2) For an attempt, the perpetrator shall be punished by the punishment provided for completed crime, with due consideration taken of the degree of implementation of the intent and the reasons because of which the crime remained unaccomplished.
- (3) For an attempt, the perpetrator shall not be punished where of his own accord:
 - a) he has given up the completion of the crime, or
 - b) he has averted the occurrence of criminal consequences.

Article 20

- (1) Accomplices in the perpetration of intentional crime shall be: perpetrators, abettors and accessories.
- (2) A perpetrator shall be a person who took part in the perpetration itself of the crime.
- (3) An abettor shall be a person who intentionally incited another to commit a crime.

(4) An accessory shall be a person who intentionally facilitated the perpetration of a crime through advice, explanations, promises to render assistance after the act, removal of obstacles, supply of means or in any other way.

Article 37

(1) Punishments shall be:

1) (new, SG No. 50/1995) life imprisonment;

1a) (renumbered from Item 1 - SG No. 50/1995) deprivation of liberty;

2) (new, SG No. 92/2002 - effective 1.01.2005, with respect to the punishment of probation - amended SG No. 26/2004, effective 1.01.2004) probation;

2a) (renumbered from Item 2 - SG No. 92/2002, repealed, SG No. 103/2004);

3) confiscation of existing property;

4) a fine;

5) (repealed, SG No. 92/2002);

6) deprivation of the right to hold a certain state or public office;

7) deprivation of the right to exercise a certain vocation or activity;

8) (repealed, SG No. 92/2002);

9) deprivation of the right to receive orders, honorary titles and distinctions;

10) deprivation of military rank;

11) public censure.

(2) (Amended, SG No. 153/1998) For the gravest crimes which endanger the foundations of the Republic, as well as for other particularly dangerous deliberate crimes, life imprisonment without substitution shall be provided as provisional and exceptional measure.

Article 44

(1) Confiscation shall be compulsory appropriation without compensation of property in favour of the state, of assets belonging to the convict or of part thereof, of specified pieces of property of the culprit, or of parts of such pieces of property.

(2) (Supplemented, SG No. 28/1982, repealed - No. 62/1997)

Article 53

(1) Notwithstanding the penal responsibility, confiscated in favour of the state shall be:

a) objects belonging to the convict, which were intended or have served for the perpetration of intentional crime;

b) objects belonging to the culprit, which were subject of intentional crime - in the cases expressly provided in the Special Part of this Code.

(2) (New, SG No. 28/1982) Confiscated in favour of the state shall also be:

a) articles that have been subject or means of the crime, the possession of which is forbidden, and

b) objects acquired through the crime, if they do not have to be returned or restored. Where the acquired objects are not available or have been disposed of, an equivalent amount shall be adjudged.

Article 93

(Amended, SG No. 28/1982, SG No. 10/1993, SG No. 50/1995,
SG No. 62/1997, SG No. 153/1998, SG No. 7/1999)

The words and expressions indicated below shall be construed for the purpose of this Code to mean the following:

1. "Official" shall be construed as any person assigned to carry out against remuneration or without pay, temporarily or permanently:

a) the duties of an office in a state institution, with the exception of persons who carry out activities relevant solely to material production;

b) (amended, SG No. 10/1993; supplemented SG No. 62/1997, SG No. 43/2005) management work and work related to safeguarding or managing property belonging to others in a state enterprise, co-operative, public organisation, another legal person or sole proprietor, as well as private notary and assistant-notary, private enforcement agent and assistant private enforcement agent.

2. (Amended, SG No. 92/2002) "Body of power" are the bodies of state power, the bodies of state government, the authorities of the judiciary, as well as the officials therein, who are entrusted to exercise ruling functions.

3. "Representative of the public" is a person appointed by a public organisation to exercise a specified function, on the basis of the law or another normative act.

4. (Supplemented SG No. 51/2000) "Public property" are the pieces of property of the state, the municipalities, the co-operatives, the public organisations and other legal persons, in which they participate.

5. "Official document" is a document issued in compliance with the established procedure and format by an official within the scope of his duties, or by a representative of the public within the range of functions entrusted to him.

6. "False document" is a document which has been given the appearance of representing specific written statement by another person, but not by the person who has actually made it.

7. (Supplemented, SG No. 50/1995, amended, SG No. 153/1998) "Grave crime" is any crime for which the law provides punishment by deprivation of liberty for more than five years, life imprisonment or life imprisonment without substitution.

8. "Particularly grave case" is that in which the crime perpetrated, in view of the harmful consequences that have occurred and of other aggravating circumstances, reveals extremely high degree of social danger of the act and the perpetrator.

9. "Minor case" is that in which the crime perpetrated, in view of the lack of or insignificance of the harmful consequences, or in view of other attenuating circumstances, constitutes a lower degree of social danger, as compared with ordinary crime cases of the respective kind.

10. "Next-of-kin" are the spouses, relatives in ascending or descending line (including adopted children and step children), brothers, sisters and their spouses, and collateral relatives up to the fourth degree.

11. "Time of war" is the time from the declaration of war or the actual commencement of military operations to the declaration for their termination.

12. (New, SG No. 28/1982) A crime is committed "by two or more persons" where in the perpetration itself at least two persons have taken part.

13. (New, SG No. 28/1982) International protection enjoy persons for whom such protection has been provided under international agreement, to which the Republic of Bulgaria is a party.

14. (New, SG No. 62/1997, amended SG No. 21/2000) "Taxes of large amount" shall be those exceeding BGN three thousand, and "taxes of particularly large amount" shall be those exceeding BGN twelve thousand.

15. (New, SG No. 7/1999) "A foreign official" shall be any person performing:

a) duties in a foreign country's office or agency;

b) functions assigned by a foreign country, inclusive of a foreign state-owned enterprise or organisation;

c) (supplemented, SG No. 92/2002) duties, assignments or tasks delegated by an international organisation, as well as holding office in an international parliamentary assembly or an international court of justice.

16. (New, SG No. 21/2000, repealed, SG No. 75/2006) .

17. (New, SG No. 21/2000; supplemented, SG No. 92/2002, repealed, SG No. 75/2006) .

18. (New, SG No. 21/2000; supplemented, SG No. 92/2002, repealed, SG No. 75/2006) .

19. (New, SG No. 21/2000, repealed, SG No. 75/2006) .

20. (New, SG No. 92/2002) An "organized criminal group" is the permanent structured association of three or more individuals intended for the agreed perpetration, inside the country or abroad, of crime punishable by deprivation of liberty of more than three years, through which a material benefit is sought. An association shall also be considered structured in the absence of any formal distribution of functions among its participants, duration of their involvement or any developed internal structure.

21. (New, SG No. 92/2002, amended, SG No. 38/2007) A "computerized system" is any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data.

22. (New, SG No. 92/2002, amended, SG No. 38/2007) "Computerized data" is any representation of facts, information or concepts in a form suitable for automatic processing, including computer programs.

23. (New, SG No. 92/2002) A "provider of computerized information services" is any individual or entity that provides opportunities for communication by means of a computer system or that processes or stores computer data with regard to the above communication service or its users.

24. (New, SG No. 92/2002, amended, SG No. 75/2006) An "instrument of payment" is a physical object, which allows, alone or in combination with any other means, the transfer of moneys or monetary values.

25. (New, SG No. 38/2007) "Computer network" is a group of interconnected computer systems or devices which allows the exchange of computer data.

26. (New, SG No. 38/2007) "Computer program" is a sequence of machine instructions which can make a computer system perform certain functions.

27. (New, SG No. 38/2007) "Computer virus" is a computer program which spreads itself automatically and against the will or without the knowledge of the persons using the computer systems and is intended for bringing computer systems or computer networks into an undesirable for the people using them state or for the occurrence of undesirable results.

28. (New, SG No. 38/2007) "Pornographic material" is an indecent, unacceptable or incompatible with the public moral material which depicts in an open manner a sexual conduct. Such a conduct shall be a conduct which expresses real or simulated sexual intercourse between persons from the same or the opposite sex, sodomy, masturbation, sexual sadism or masochism, or lascivious demonstration of the sexual organs of a person.

Article 108

(Supplemented, SG No. 41/1985, amended, SG No. 99/1989, SG No. 10/1993)

(1) (Amended, SG No. 38/2007) A person who preaches fascist or another anti-democratic ideology or forceful change of the social and state order as established by the Constitution of the Republic of Bulgaria, shall be punished by deprivation of liberty for up to three years or a fine of up to BGN five thousand.

(2) (Amended, SG No. 38/2007) A person who in any way defames the coat of arms, the flag or the anthem of the Republic of Bulgaria, shall be punished by deprivation of liberty for up to two years or by a fine of up to BGN three thousand.

Article 108a

(New, SG No. 92/2002)

(1) Anyone who, in view of causing disturbance or fear among the population or of threatening, or forcing a competent authority, a representative of a public institution or of a foreign state or international organization to perform or omit part of his/her duties, commits a crime under art. 115, 128, art. 142, par. 1, art. 216, par. 1, art. 326, art. 330, par. 1, art. 333, art. 334, par. 1, art. 337, par. 1, art. 339, par. 1, art. 340, paras. 1 and 2, art. 341a, paras. 1 - 3, art. 341b, par. 1, art. 344, art. 347, par. 1, art. 348, art. 349, paras. 1 and 3, art. 350, par. 1, art. 352, par. 1, art. 354, par. 1, art. 356f, par. 1, art. 356h, shall be punished for terrorism by deprivation of liberty from five to fifteen years, and where death has been caused - by deprivation of liberty of up to thirty years, to life imprisonment or to life imprisonment less substitution.

(2) Anyone who, regardless of the specific mode of operation, directly or indirectly collects or provides means for accomplishing acts under par. 1, in full knowledge or based on the assumption these would be utilized to the above purposes, shall be punished by deprivation of liberty of three to fifteen years and a fine of up to BGN thirty thousand (30,000).

(3) The object under par. 2 above, that has been the focus of crime, shall be expropriated to the benefit of the State, and where this object may not be found or has been disposed of, payment of the equivalent sum in cash shall be ruled.

Article 142

(New, SG No. 50/1995)

(1) (Amended and supplemented, SG No. 92/2002) A person who kidnaps another person in view of unlawfully depriving him/her of liberty shall be punished by deprivation of liberty from one to six years.

(2) The punishment shall be deprivation of liberty from three to ten years if:

1. the perpetrator has been armed;
2. the act has been committed by two or more persons;
3. (amended, SG No. 62/1997) the kidnapped person has been a pregnant woman or under 18 years of age;
4. the kidnapped person has been entitled to international protection;
5. the act has been perpetrated with regard to two or more persons.
6. (new, SG No. 62/1997) the act has been perpetrated by a person engaged in security business, by an employee of an organisation carrying out security and insurance activities, by a person who acts on order of such an organisation or presents himself as acting on such order, by a person on the staff of the Ministry of Interior or a person who presents himself as such;
7. (new, SG No. 62/1997, supplemented, SG No. 92/2002) the kidnapping has been carried out with a venal goal in mind or for the purpose of taking the person over the borders of this country;
8. (new, SG No. 62/1997, amended, SG No. 92/2002) the act has been perpetrated by a person who acts at the orders or in implementing a decision of an organization or a group under art. 321a or of an organized criminal group.

(3) If as the result of the act under paragraphs (1) and (2) considerable harmful consequences have occurred, the punishment shall be deprivation of liberty for three to twelve years.

(4) If the act has been repeated or the kidnapped person has been treated with particular cruelty, the punishment shall be deprivation of liberty for five to fifteen years.

Article 142a

(Previous Article 142, SG No. 50/1995)

- (1) (Amended, SG No. 62/1997) A person who unlawfully deprives another of liberty shall be punished by deprivation of liberty for up to two years.
- (2) (Amended, SG No. 62/1997) Where the act has been committed by an official or by a representative of the public, in violation of his duties or functions, or a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be deprivation of liberty for one to six years.
- (3) (New, SG No. 62/1997) Where the act under the preceding paragraphs has been committed in respect of a pregnant woman, a minor or an underage person, the punishment shall be deprivation of liberty for three to ten years.
- (4) (Renumbered from Paragraph 3, amended, SG No. 62/1997) Where the act under the preceding paragraphs has been committed in a manner painful or dangerous to the health of the victim, or where the deprivation of liberty has continued for more than 48 hours, the punishment shall be deprivation of liberty for three to ten years.
- (5) (New, SG No. 28/1982, repealed, SG No. 50/1995, renumbered from Paragraph 4, SG No. 62/1997) The punishment under the preceding paragraph shall be imposed also on a person who consciously admits to or holds a healthy person at a health establishment for mentally ill persons.
- (6) (New, SG No. 28/1982, repealed, SG No. 50/1995).

Article 143

(Amended, SG No. 50/1995)

- (1) (Previous Article 143, SG No. 62/1997) A person who compels another to do, to omit or to suffer something contrary to his will, using for that purpose force, threats or abuse of his authority, shall be punished by deprivation of liberty for up to six years.
- (2) (New, SG No. 62/1997) Where the act has been perpetrated by a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be deprivation of liberty for three to ten years.
- (3) (New, SG No. 62/1997, amended and supplemented, SG No. 103/2004, supplemented, SG No. 43/2005) Where in the cases under the preceding paragraph the act of coercion has been committed in respect of a judge, a prosecutor, an examining magistrate, a person on the staff of the Ministry of Interior, a public enforcement agent, a private enforcement agent and an assistant private enforcement agent, as well as on a Customs officer, a tax administration officer, an officer of the National Forestry Directorate, or an officer of the Ministry of Environment and Waters performing a control activity, in the course of or in the event of carrying out his duties or functions, the punishment shall be deprivation of liberty for two to eight years.

Article 143a

(New, SG No. 41/1985)

- (1) A person who holds someone hostage, whose release he makes dependent upon the fulfilment of a certain condition by the state, a state or public organisation, or by a third party, shall be punished by deprivation of liberty for one to eight years.
- (2) Where in the cases of the preceding paragraph the perpetrator threatens to cause the death or severe or medium bodily injury to the person held if the condition put by him fails to be fulfilled, the punishment shall be deprivation of liberty for two to ten years.
- (3) (New, SG No. 62/1997) Where the act under the preceding paragraphs has been committed by a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be:
 1. under paragraph (1) - deprivation of liberty for two to ten years;

2. under paragraph (2) - deprivation of liberty for five to twelve years.

Article 144

(1) (Amended, SG No. 28/1982, SG No. 10/1993, SG No. 62/1997) A person who threatens someone with a crime against his person or property or against the person or property of his next-of-kin, and where this threat could evoke justified fear of its implementation, shall be punished by deprivation of liberty for up to six months or by a fine from BGN one hundred to three hundred.

(2) (Amended and supplemented, SG No. 28/1982, amended, SG No. 10/1993, SG No. 62/1997) For threat towards an official or representative of the public during or in connection with carrying out their duties or functions, or to a person enjoying international protection, the punishment shall be deprivation of liberty for one year or a fine of up to BGN two hundred.

(3) (Supplemented, SG No. 62/1997, amended, SG No. 92/2002, effective 1.01.2005 in respect of the punishment of probation - amended, SG No. 26/2004, effective 1.01.2004) If the perpetrator has made a threat of murder or the act has been committed by a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be deprivation of liberty for up to three years or probation.

Article 251 (Repealed, SG No. 10/1993, new, SG No. 50/1995)

(1) A person who violates the provision of a law, a regulative act of the Council of Ministers, or of a promulgated act of the Bulgarian National Bank on the regime of transactions, import, export or other activities related to currency valuables or the obligations for declaration thereof, and where the value of the object of the crime is of particularly large amount, shall be punished by deprivation of liberty for up to six years or by a fine to the double amount of the object of the crime.

(2) The object of the crime shall be confiscated in favour of the state, and where it is missing or it has been appropriated, its equivalent value shall be adjudged.

Article 253 (Amended, SG No. 28/1982, repealed, SG No. 10/1993, new, SG No. 62/1997)

(1) (Amended, SG No. 85/1998, SG No. 26/2004, supplemented, SG No. 75/2006) The one who concludes a financial operation or property transaction or conceals the origin, location, movement or the actual rights in the property, which is known or assumed to be acquired through crime or another act that is dangerous for the public, shall be punished for money laundering by deprivation of liberty from one to six years and a fine of BGN three thousand to five thousand.

(2) (New, SG No. 26/2004, supplemented, SG No. 75/2006) The punishment under paragraph 1 shall also be imposed on the one who acquires, receives, holds, uses, transforms or assists, in any way whatsoever, the transformation of property, which is known or assumed, as of its receipt, to have been acquired through crime or another act that is dangerous for the public.

(3) (Renumbered from Paragraph 2, supplemented, SG No. 26/2004) The punishment shall be deprivation of liberty for one to eight years and a fine of BGN five thousand to twenty thousand, if the act under paras 1 and 2 has been committed:

1. (amended, SG No. 26/2004) by two or more individuals, who have reached preliminary agreement, or by an individual who acts on the orders of or executes a decision of an organised criminal group;

2. two or more times;

3. by an official within the sphere of his office;

4. (new, SG No. 26/2004) through opening or maintaining an account with a financial institution, under a false name or the name of an individual who has given consent to this effect.

(4) (New - SG, No. 21/2000, renumbered from Paragraph 3, supplemented, SG No. 26/2004, amended, SG No. 75/2006) The punishment shall be deprivation of liberty from three to twelve years and a fine from BGN 20,000 to BGN 200,000 where the act under Paragraphs (1) and (2) has been committed by the use of funds or property which the perpetrator knew or supposed to have been acquired through a serious crime of intent.

(5) (New, SG No. 85/1998, renumbered from Paragraph 3, SG No. 21/2000, renumbered from Paragraph 4, amended, SG No. 26/2004, amended, SG No. 75/2006) Where the funds or property are in extremely large amounts and the case is extremely grave, the punishment shall be deprivation of liberty for five to fifteen years and a fine of BGN 10,000 to BGN 30,000, and the court shall suspend the rights of the guilty person under Items 6 and 7 of Article 37 (1).

(6) (New, SG No. 85/1998, renumbered from Paragraph 4, SG No. 21/2000, renumbered from Paragraph 5, amended, SG No. 26/2004) The object of crime or the property into which it has been transformed shall be forfeited to the benefit of the state, and where absent or alienated, its equivalent shall be awarded.

(7) (New, SG No. 26/2004) Provisions of paras 1 through 6 shall also apply where the crime through which property has been acquired falls outside the criminal jurisdiction of the Republic of Bulgaria.

Article 253a (New, SG No. 26/2004)

(1) Preparations toward money laundering or any association to this goal shall be punishable by deprivation of liberty of up to two years or a fine from BGN five thousand to ten thousand.

(2) The same punishment shall also be imposed on the one who incites another to commit money laundering.

(3) Property destined for money laundering shall be forfeited to the benefit of the state and where absent or alienated, its equivalent shall be awarded.

(4) The member of an association under paragraph 1 who, before money laundering is completed, puts an end to participation therein and notifies the authorities thereof, shall not be punished.

Article 253b (New, SG No. 85/1998, renumbered from Article 253a, amended SG No. 26/2004)

Any official who violates or fails to comply with the provisions of the Measures Against Money Laundering Act shall be punished, in cases of significant impact, with deprivation of liberty for up to three year and a fine of BGN one thousand to three thousand, unless the deed does not constitute a more serious crime.

Article 321

(1) (Amended, SG No. 92/2002) A person who forms or leads an organized criminal group, shall be punished by deprivation of liberty for three to five years.

(2) (Amended, SG No. 92/2002) A person who takes part in such a group shall be punished by deprivation of liberty for one to six years.

(3) (New, SG No. 62/1997, amended SG No. 21/2000, SG No. 92/2002) Where the group is armed, or formed for the purposes of performing crimes under articles 243, 244, 253, 280, 337, 339, par. 1 - 4, 354a, par. 1 and 2, 354b, par. 1-4, and 354c, par. 1 or an official takes part in it, the punishment shall be:

1. under paragraph (1) - deprivation of liberty for five to fifteen years;

2. under paragraph (2) - deprivation of liberty for three to ten years.

(4) (New, SG No. 62/1997) A member of the group shall not be penalised, provided he gives himself up voluntarily to the authorities and discloses everything that may be of his knowledge about the group, before the commitment of a crime by such person or by the group.

(5) (New, SG No. 62/1997) A member of the group who gives himself voluntarily to the authorities and discloses everything of his knowledge about the group, thus facilitating the detection and proof of crimes committed by the group, shall be penalised pursuant to Article 55.

(6) (New, SG No. 92/2002) Anyone who agrees with one or more individuals to commit, in this country or abroad, crimes punishable by deprivation of liberty of more than three years and that pursue the aim of supplying a material benefit or the exertion of illegal influence over the operations

of a competent authority or the local government, shall be punished by deprivation of liberty of up to six years.

Article 321a (New, SG No. 62/1997)

(1) A person who participates in the leadership of an organisation or a group, which concludes transactions or makes benefit by use of force or by inspiring fear, shall be punished by deprivation of liberty for three to eight years.

(2) A person who participates in such an organisation or group shall be punished by deprivation of liberty for up to five years.

(3) The property acquired by such actions by the organisation, the group or the participants therein, shall be appropriated in favour of the state, provided the persons from whom such property has been acquired, or their heirs, are unknown.

(4) In the cases under the preceding paragraphs the provision of Article 321, paragraphs (4) and (5) shall apply.

Article 340

(1) (Amended, SG No. 95/1975) A person who damages rolling stock or railway lines, an aircraft, an automobile, an electric transport vehicle (trolley-bus, tramway and the like intended for mass transport) or equipment, or accessories for them, a tunnel, a bridge or supporting wall on the roads, or damages or allows a ship to be damaged, to get stranded, or to sink and thereby creates danger for the life of another, or for considerable endamage of another person's property, shall be punished by deprivation of liberty for five to fifteen years.

(2) (New SG, No. 95/1975) A person who destroys an aircraft in operation, or inflicts on it damages, which make it unfit for flight, shall be punished by deprivation of liberty for five to twenty years.

(3) (Renumbered from Paragraph (2), amended, SG No. 95/1975) If in the cases of the preceding paragraphs there has followed:

a) medium or grave bodily injury to one or more persons, the punishment shall be deprivation of liberty for eight to fifteen years;

b) (supplemented, SG No. 50/1995, amended, SG No. 153/1998) death of one or more persons, notwithstanding whether the consequences as per subparagraph "a" have set in, the punishment shall be deprivation of liberty for ten to twenty years, life imprisonment or life imprisonment without substitution.

Article 341 (Amended, SG No. 95/1975)

Where the act under Article 340, paragraphs (1) and (2) has been committed by negligence and from it have set in:

a) considerable property damages;

b) medium or grave bodily injury to one or more persons, regardless of whether the consequences under the preceding letter have set in;

c) death to one or more persons, notwithstanding whether the consequences under letters "a" and "b" have set in,

the punishment shall be: under letter "a" - deprivation of liberty for up to three years; under letter "b" - deprivation of liberty for up to six years; under letter "c" - deprivation of liberty for one to ten years

Article 341a (New SG, No. 95/1975)

(1) A person who places into an aircraft a device or substance which can destroy or damage it, making it unfit for flight, or creating danger for its safety in flight, unless subject to more severe punishment, shall be punished by deprivation of liberty for three to ten years.

(2) A person who endangers the safety of an aircraft in flight, by:

a) destroying or damaging an installation or equipment for controlling the flight;

b) communicating information or giving a signal, of which he knows that they are false, placing a false sign or removing and shifting to another place a sign intended to ensure the safety of flight traffic,

shall be punished by deprivation of liberty for three to fifteen years.

(3) A person who exerts violence against a person on board an aircraft in flight, if his act has been of such a nature as to endanger the safety of the aircraft and did not constitute a graver crime, shall be punished by deprivation of liberty for five to ten years.

(4) Where in the cases of the preceding paragraphs, medium or severe bodily injury has followed or the death of one or more persons, the punishments provided in Article 340, paragraph (3) shall be imposed, respectively.

(5) Where the act under paragraph (1) has been committed through negligence and the consequences under Article 341 have set in, the punishments in that article shall be imposed, respectively.

Article 341b (New, SG No. 95/1975)

(1) A person who unlawfully seizes an aircraft, on the ground or in flight, or establishes control over such an aircraft, shall be punished by deprivation of liberty for up to ten years.

(2) If the act under the preceding paragraph has been perpetrated by violence or threat, the punishment shall be deprivation of liberty for three to twelve years.

(3) If from the act under the preceding paragraphs there has followed:

a) considerable endamage of the aircraft;

b) medium or severe bodily injury to one or more persons, regardless of the fact whether or not the consequences under the preceding letter have set in;

c) death of one or more persons, regardless of the fact whether the consequences under letters "a" and "b" have set in,

the punishment shall be: under letters "a" and "b" - deprivation of liberty for five to fifteen years, and under letter "c" - deprivation of liberty for ten to twenty years or life imprisonment without substitution, and the court may also rule deprivation of rights as per Article 37 (1), sub-paragraphs 6 through 10.

Article 341c (New, SG No. 95/1975, repealed, SG No. 41/1985)

Article 342

(1) (Amended, SG No. 95/1975, SG No. 28/1982) A person who in driving railway rolling stock, aircraft, motor vehicle, vessel, combat or special machine, violates the traffic rules allowing infliction of bodily injury or death to another, shall be punished by deprivation of liberty for up to two years or by probation.

(2) (New, SG No. 28/1982) The same punishment shall be imposed also on a transport worker or employee who violates the rules for operation or the requirements for good quality of repair of the rolling stock, of the roads or the equipment, allowing the infliction of bodily injury or death to another.

(3) (Renumbered from Paragraph (2), amended, SG No. 28/1982) Where by the acts under the preceding paragraphs, death, bodily injury or considerable property damages to another have been caused intentionally, the punishment shall be:

a) for considerable property damages - deprivation of liberty for one to ten years;

b) for medium or severe bodily injury to one or more persons with or without property damages - three to twelve years;

c) (amended, SG No. 85/1998) for death of one or more persons, with or without the consequences under "a" and "b" above - deprivation of liberty for ten to twenty years, and in particularly grave cases - fifteen to twenty years or life imprisonment.

(4) (Renumbered from Paragraph (3); amended, SG No. 28/1982, SG No. 89/1986) In the cases under paragraph (3), "a" and "b" above, the court shall deprive the culprit of the rights under Article 37 (1), sub-paragraphs 6 and 7. In the cases under "c" above, the deprivation of these rights shall be forever.

Article 343 (Corrected, SG No. 29/1968, amended, SG No. 95/1975, SG No. 54/1978, SG No. 28/1982)

(1) Where by acts under the preceding article through negligence have been caused:

a) considerable property damages, the punishment shall be deprivation of liberty for up to one year or probation;

b) severe or medium bodily injury, regardless of the setting in of the consequences under letter "a", the punishment shall be deprivation of liberty for up to four years for severe bodily injury and up to three years or probation for medium bodily injury;

c) death, regardless of whether the consequences under letter "a" have set in, the punishment shall be deprivation of liberty for up to six years.

(2) (New, SG No. 92/2002, amended, SG No. 86/2005) For crimes under para 1, items "a" and "b" the criminal proceedings shall be terminated if the victim so requests.

(3) (Supplemented, SG No. 21/2000, renumbered from Paragraph 2, SG No. 92/2002, amended, SG No. 75/2006) If the act has been committed in the state of drunkenness or after drugs or analogues thereof have been used or if from it bodily injury or death to more than one person have set in, or where the perpetrator has escaped from the scene of the crime, the punishment shall be:

a) for severe or medium bodily injury - deprivation of liberty for up to five years and in particularly grave cases - up to eight years;

b) for death - deprivation of liberty for three to ten years and in particularly grave cases - deprivation of liberty for five to fifteen years.

(4) (Renumbered from Paragraph 3, SG No. 92/2002) The punishment under letter "b" of the preceding paragraph shall also be imposed where death to one or more persons and bodily injury to one or more persons have set in.

Article 343a (New, SG No. 28/1982)

(1) (Redesignated from Article 343a, SG No. 28/2002) If after the act under the preceding article the perpetrator has done everything within his capacity to render assistance to the aggrieved person or persons, the punishment shall be:

a) under paragraph (1), letter "b" - deprivation of liberty for up to three years for severe bodily injury and deprivation of liberty for up to two years or probation for medium bodily injury;

b) under paragraph (1), letter "c" - deprivation of liberty for up to four years;

c) under paragraph (2), letter "a", where medium or severe bodily injury to more than one person have been caused - deprivation of liberty for up to four years, and in particularly grave cases - for up to six years;

d) under paragraph (2), letter "b", where death to more than one person has set in - deprivation of liberty from two to ten years and in particularly grave cases - for three to twelve years.

(2) (New, SG No. 92/2002, amended, SG No. 86/2005) For crime under para 1, item "a" the criminal proceeding shall be terminated if the victim so requests.

Article 343b (New, SG No. 28/1982, amended, SG No. 50/1995)

(1) A person who drives a motor vehicle with alcohol concentration in his blood exceeding 1.2 per thousand, ascertained by the established procedure, shall be punished by deprivation of liberty for up to one year.

(2) A person who drives a motor vehicle with alcohol concentration in his blood exceeding 0.5 per thousand, ascertained by the established procedure, after he has been convicted for the act under paragraph (1) with a sentence that has come into force, shall be punished by deprivation of liberty for up to two years and a fine from BGN one hundred to three hundred.

(3) (New SG No. 21/2000) A person who drives a motor vehicle after he has used drugs or analogues thereof, shall be punished by deprivation of liberty for up to two years.

Article 343c (New, SG No. 50/1995)

(1) A person who drives a motor vehicle within the term for serving a punishment by deprivation of the right to drive a motor vehicle, after he has been punished administratively for the same act, shall be punished by deprivation of liberty for up to two years.

(2) The same punishment shall be imposed on a person who, within one year following his punishment by administrative procedure for driving a motor vehicle without the respective driving licence, commits such an act.

Article 343d (New, SG No. 50/1995)

In all cases under Articles 343, 343a, 343b and 343c, paragraph (1) the court shall also rule deprivation of the right under Article 37 (1), sub-paragraph 7, and may rule deprivation of the right under sub-paragraph 6.

Article 344

(1) (Amended, SG No. 95/1975) A person who removes or shifts to another place a sign or signal, intended for securing the safety of movement of railway traffic, water transport and electric transport, puts up a such false sign or gives a false signal and thereby exposes to danger the life or property of somebody, shall be punished by deprivation of liberty for up to five years.

(2) (Amended, SG No. 28/1982, SG No. 10/1993) For the act under paragraph (1) concerning signs for road transport, the punishment shall be deprivation of liberty for up to two years or a fine from BGN one hundred to three hundred.

Article 345 (Amended, SG No. 28/1982, SG No. 10/1993)

A person who uses registration plates, issued for another motor vehicle, or plates not issued by the respective authorities, shall be punished by deprivation of liberty for up to one year or by a fine from BGN one hundred to three hundred.

Article 345a (New, SG No. 21/2000)

(1) A person who in violation of the established procedure therefor rubs out or forges the number plate of a motor vehicle, shall be punished by deprivation of liberty for three to ten years and by a fine from BGN five thousand up to ten thousand.

(2) If the act under the preceding paragraph has been committed repeatedly, the punishment shall be deprivation of liberty for three to twelve years and a fine from BGN five thousand up to fifteen thousand

(3) The punishment shall be deprivation of liberty for up to three years or a fine of up to BGN three thousand, if identification numbers of parts of the outfits of a motor vehicle have been rubbed out or forged.

Article 346

(1) (Amended, SG No. 107/1996, SG No. 62/1997) A person who unlawfully takes away a motor vehicle of another from his possession without his consent, with the intention to use it, shall be punished by deprivation of liberty for one to eight years.

(2) (Amended, SG No. 89/1986, corrected, SG No 90/1986, amended, SG No. 107/1996, SG No. 62/1997) The punishment shall be deprivation of liberty for one to ten years, if:

1. endamage of the transport vehicle has ensued or it has been abandoned without control, or
2. the act has been committed in a state of drunkenness more than twice or repeatedly, or
3. the act has been committed under the conditions of Article 195, paragraph (1), subparagraphs 1 - 6;
4. (new, SG No. 26/2004) the act of taking away has been committed with a view of a pecuniary gain to be obtained upon return of the motor vehicle.

(3) (New, SG No. 26/2004) Punishment under paragraph 2 shall also be imposed on an individual offering assistance to return a vehicle, which has been taken away in return for obtaining a pecuniary gain.

(4) (New, SG No. 28/1982, amended SG No. 62/1997, renumbered from Paragraph 3, SG No. 26/2004) In the cases of the preceding paragraphs the court shall rule deprivation of the right to drive a motor vehicle.

(5) (Renumbered from Paragraph (3), SG, No. 28/1982; amended SG No. 62/1997, renumbered from Paragraph 4, SG No. 26/2004) Where for the purpose of taking away the motor vehicle or for retaining hold of it force has been used, or threat, the punishment shall be deprivation of liberty for three to twelve years and deprivation of the right to drive a motor vehicle, whereas the court shall also rule confiscation of not less than 1/2 of the property of the perpetrator.

(6) (New, SG No. 62/1997, renumbered from Paragraph 5, SG No. 26/2004) The punishment under the preceding Article shall also be imposed where the act has been committed by a person under Article 142, paragraph (2), subparagraphs 6 and 8, or on orders of an organisation or a group, or where there was an attempt to take the motor vehicle across the border of this country, or where the serial and registration numbers of the vehicle have been modified.

Article 346a (New, SG No 26/2004)

Where a motor vehicle, which has been taken away, is returned until completion of first-instance court trial proceedings, punishment shall be:

1. in cases under Article 346, paragraph 1 - deprivation of liberty of up to five years;
2. in cases under Article 346, paragraph 2, sub-paragraph 4, where return has been made prior to the obtainment of a pecuniary gain - deprivation of liberty of up to eight years.

Article 346b (New SG, No. 21/2000, renumbered from Article 346a, SG No. 26/2004)

A person who unlawfully penetrates into a motor vehicle of another without his consent, shall be punished by deprivation of liberty for up to three years or by a fine of up to BGN three thousand.

ANNEX V Criminal Procedure Code

Article 25 Suspension of criminal proceedings

Criminal proceedings shall be suspended, where:

- (1) After committing the criminal offence, the accused party has fallen into a state of short-term mental derangement, which excludes his/her capacity to be liable, or where he/she suffers from another severe ailment, which hinders proceedings to be conducted;
- (2) Trying the case in the absence of the trial defendant would impede discovering the objective truth;
- (3) the perpetrator is an individual enjoying immunity.

Article 72 Measures for securing fine, confiscation, and forfeiture of objects to the benefit of the state

- (1) Upon request of the prosecutor, the competent court of first instance, sitting in a panel of one, in camera, shall apply measures to secure the fine, confiscation, and forfeiture of objects to the benefit of the state, in pursuance of the procedure set forth in the Code of Civil Procedure.
- (2) In the course of court proceedings the court shall take the measures under Paragraph 1 upon request of the prosecutor.

Article 104 Evidence

Evidence in the criminal proceedings may be factual data related to the circumstances in the case, such that contribute to their elucidation and are ascertained by the procedure provided for by this Code.

Article 160 Grounds for and purpose of the search

- (1) Should there be sufficient reasons to assume that in certain premises or on certain persons objects, papers or computerized information systems containing computerized data may be found, which may be of significance to the case, searches shall be conducted for their discovery and seizure.
- (2) A search may also be conducted for the purpose of finding a person or a body.

Article 161 Bodies making decisions on searches and seizures

- (1) In pre-trial proceedings search and seizure shall be performed with a authorisation by a judge from the respective first instance court or a judge from the first-instance court in the area of which the action is taken, upon request of the prosecutor.
- (2) In cases of urgency, where this is the only possible way to collect and keep evidence, the bodies of pre-trial proceedings may perform physical examination without authorisation under paragraph 1, the record of the investigative action being submitted for approval by the supervising prosecutor to the judge forthwith, but not later than 24 hours thereafter.
- (3) In court proceedings a search and seizure shall be performed following a decision of the court which is trying the case.

Article 318 Right to appeal or protest

- (1) Proceedings before the intermediate appellate review instance shall be instituted by protest of the prosecutor or by appeal of the parties.
- (2) The prosecutor shall file a protest where he/she finds that the sentence is wrong. The prosecutor may not file a protest against the sentence where it has been issued in accordance with the requests he/she had made.

- (3) The defendant may appeal the sentence in all its sections. The defendant may also appeal it only with regard to the reasons and the grounds for acquittal.
- (4) The private complainant and the private prosecutor may appeal the sentence if their rights and legal interests have been infringed upon. They may not file appeal against the sentence where it has been issued in accordance with the requests they had made.
- (5) The civil claimant and the civil defendant may appeal the sentence only with regard to the civil claim, if their rights and legal interests have been infringed upon.
- (6) (6) Appeals may be filed also by the counsels.

Article 471 Grounds and contents of international legal assistance

- (1) International legal assistance in criminal matters shall be rendered to another state under the provisions of an international treaty executed to this effect, to which the Republic of Bulgaria is a party, or based on the principle of reciprocity. International legal assistance in criminal cases shall also be made available to international courts whose jurisdiction has been recognised by the Republic of Bulgaria.
- (2) International legal assistance shall comprise the following:
 1. Service of process;
 2. Acts of investigation;
 3. Collection of evidence;
 4. Provision of information;
 5. Other forms of legal assistance, where they have been provided for in an international agreement to which the Republic of Bulgaria is a party or have been imposed on the basis of reciprocity.

Article 472 Refusal of international legal assistance

International legal assistance may be refused if the implementation of the request could threaten the sovereignty, the national security, the public order and other interests, protected by law.

Article 473 Appearance of witnesses and experts before a foreign national court

- (1) Appearance of witnesses and experts before foreign national judicial bodies shall be allowed only if assurance is provided, that the individuals summonsed, regardless of their citizenship, shall not incur criminal liability for acts committed prior to summonsing. In the event they refuse to appear, no coercive measures may be taken in respect thereof.
- (2) The surrender of individuals remanded in custody to the purpose of being interrogated as witnesses or experts shall be only admitted under exceptional circumstances at the discretion of a panel of the respective district court, based on papers submitted by the other country, or an international court, provided the individual consents to being surrendered, and his/her stay in another state does not extend beyond the term of his/her remand in custody.

Article 474 Interrogation of individuals through a video or phone conference

- (1) The judicial body of another state may conduct the interrogation, through a video or phone conference, of an individual who appears as a witness or expert in the criminal proceedings and is in the Republic of Bulgaria, where so envisaged in an international agreement to which the Republic of Bulgaria is a party. An interrogation through a video conference involving the accused party or a suspect may only be conducted upon their consent and once the participating Bulgarian judicial authorities and the judicial authorities of the other state agree on the manner in which the video conference will be conducted. An interrogation through a video or phone conference may only be conducted where this does not stand in contradiction to fundamental principles of Bulgarian law.
- (2) The request for interrogation filed by a judicial body of the other state should indicate:

1. The reason why the appearance in person of the individual is undesirable or impossible;
 2. The name of the judicial body of the other state;
 3. The data of individuals who shall conduct the interrogation;
 4. The consent of the individual who shall be interrogated as a witness or expert through a phone conference;
 5. Consent of the accused party who will take part in an interrogation hearing through a video conference.
- (3) Bulgarian competent authorities in the field of criminal proceedings shall implement requests for interrogation through a video or phone conferences. A request for interrogation through a video or phone conference shall be implemented for the needs of pre-trial proceedings by the National Investigation Service. For the need of judicial proceedings, a request for interrogation through a phone conference shall be implemented by a court of equal standing at the place of residence of the individual, and for interrogation through a video conference - by the Appellate Court at the place of residence of the individual. The competent Bulgarian authority may require the requesting party to ensure technical facilities for interrogation.
- (4) The interrogation shall be directly conducted by the judicial authority of the requesting state or under its direction, in compliance with the legislation thereof.
- (5) Prior to the interrogation the competent Bulgarian authority shall ascertain the identity of the person who needs to be interrogated. Following the interrogation a record shall be drafted, which shall indicate:
1. The date and location thereof;
 2. The data of the interrogated individual and his or her consent, if it is required;
 3. The data of individuals who took part therein on the Bulgarian side;
 4. The implementation of other conditions accepted by the Bulgarian party.
- (6) An individual who is abroad may be interrogated by a competent Bulgarian authority or under its direction through a video or phone conference where the legislation of said other state so admits. The interrogation shall be conducted in compliance with Bulgarian legislation and the provisions of international agreements to which the Republic of Bulgaria is a party, wherein the above means of interrogation have been regulated.
- (7) The interrogation through a video or phone conference under para 6 shall be carried out in respect of pre-trial proceedings by the National Investigation Service, whereas in respect of trial proceedings - by the court.
- (8) The provisions of paras 1 - 5 shall apply mutatis mutandis to the interrogation of individuals under para 6.

Article 475 Procedure for submission of a request to another country or international court

- (1) A letter rogatory for international legal assistance shall contain data about: the body filing the letter; the subject and the reasoning of the letter; full name and citizenship of the individual to whom the letter refers; name and address of the individual on whom papers are to be served; and, where necessary - the indictment and a brief description of the relevant facts.
- (2) A letter rogatory for international legal assistance shall be forwarded to the Ministry of Justice, unless another procedure is provided by international treaty to which the Republic of Bulgaria is a party.

Article 476 Execution of request by another country or international court

- (1) Request for international legal assistance shall be executed pursuant to the procedure provided by Bulgaria law or pursuant to a procedure provided by an international agreement to which the Republic of Bulgaria is a part. A request may also be implemented pursuant to a procedure provided for in the law of the other country or the statute of the international court, should that be requested and if it is not contradictory to the Bulgarian law. The other country or international court shall be notified of the time and place of execution of the request, should that be requested.
- (2) Request for legal assistance and all other communications from the competent authorities of another state which are sent and received by fax or e-mail shall be admitted and implemented by the competent Bulgarian authorities pursuant to the same procedure as those sent by ordinary mail. The Bulgarian authorities shall be able to request the certification of authenticity of the materials sent, as well as to obtain originals by express mail.
- (3) The Supreme Prosecution Office of Cassation shall set up, together with other states, joint investigation teams, in which Bulgarian prosecutors and investigative bodies will take part. An agreement with the competent authorities of the participant states shall be entered in respect of the activities, duration and composition of a joint investigation team. The joint investigation team shall comply with provisions of international agreements, the stipulations of the above agreement and Bulgarian legislation while being on the territory of the Republic of Bulgaria.
- (4) The Supreme Prosecution Office of Cassation shall file requests with other states for investigation through an under-cover agent, controlled deliveries and cross-border observations and it shall rule on such requests by other states.
- (5) In presence of mutuality a foreign authority carrying out investigation through an agent under cover on the territory of the Republic of Bulgaria shall be able to collect evidence in accordance with its national legislation.
- (6) In urgent cases involving the crossing of the state border for the purposes of cross-border observations on the territory of the Republic of Bulgaria the Supreme Prosecution Office of Cassation shall be immediately notified. It shall make a decision to proceed with or terminate cross-border observations pursuant to the terms and conditions of the Special Intelligence Means Act .
- (7) The implementation of requests for controlled delivery or cross-border observations filed by other states shall be carried out by the competent investigation authority. It shall be able to request assistance from police, customs and other administrative bodies.

Article 478 Transfer of criminal proceedings from another state

- (1) A request for the transfer of criminal proceeding by another state shall be sent to:
 1. The Supreme Prosecution Office of Cassation - in respect of pre-trial proceedings;
 2. The Ministry of Justice - in respect of trial proceedings.
- (2) A request for the transfer of criminal proceedings by another state shall be admitted by the authority under para 1 where:
 1. The act in respect of which the request has been made constitutes a criminal offence under Bulgarian law;
 2. The offender is criminally responsible under Bulgarian law;
 3. The offender has his or her permanent residence on the territory of the Republic of Bulgaria;
 4. The offender is a national of the Republic of Bulgaria;
 5. The offence in respect of which a request has been made is not considered a political or politically associated, nor a military offence;

6. The request does not aim at prosecuting or punishing the person due to his or her race, religion, nationality, ethnic origin, sex, civil status or political affiliations;
 7. Criminal proceedings in the Republic of Bulgaria in respect of the same or another offence have been initiated against the offender;
 8. The transfer of proceedings is in the interest of discovering the truth and the most important pieces of evidence are located on the territory of the Republic of Bulgaria;
 9. The enforcement of the sentence, should one be issued, will improve the chances of the sentenced person for re-socialisation;
 10. The personal appearance of the offender may not be ensured in proceedings in the Republic of Bulgaria;
 11. The sentence, if one is issued, may be enforced in the Republic of Bulgaria;
 12. The request does not contradict international obligations of the Republic of Bulgaria;
 13. The request does not stand in contradiction to the fundamental principles of Bulgarian criminal and criminal procedural law.
- (3) Should the authority under para 1 honour the request, it shall forthwith refer it to the competent criminal proceedings authorities, in accordance with the provisions of this code.
 - (4) Any procedural action taken by a body of the requesting state in accordance with its national law shall enjoy in the Republic of Bulgaria the same evidentiary power as it would enjoy if it were taken by a Bulgarian authority.

ANNEX VI Currency Law

Customs Register

Article 10a

(New, SG No. 60/2003)

(1) (Amended, SG No. 54/2006, SG No. 96/2011) Customs authorities shall keep registers of export and import trade credits and of financial leasing between local and foreign persons, as well as of the cash carried across the border of the country, precious metals and gemstones and articles containing them and made of them declared under Article 11, 11a, 11b, 14, 14a and 14b.

(2) In cases of export and import trade credits and of financial leasing between local and foreign persons, a declaration shall be filed with the customs authorities in a format approved by the Minister of Finance.

(3) (Amended, SG No. 54/2006, SG No. 96/2011) When carrying cash, precious metals and gemstones and articles containing them or made of them across the border of the country, which are subject to declaration under Art. 11, 11a, 11b, 14, 14a and 14b, the persons shall submit to the customs authorities a declaration in a format approved by the Minister of Finance.

(4) (Repealed, new, SG No. 96/2011) The declarations shall be kept for a period of 5 years notwithstanding the carrier used. The time-limit shall start running as of the beginning of the year after the year, in which the respective declaration was accepted.

(5) (New, SG No. 96/2011) The information under this article shall be collected and processed in line with Article 17a of the Customs Act and the Protection of Personal Data Act.

Exchange of Information

Article 10b

(New, SG No. 96/2011)

(1) Customs authorities shall collect, process and exchange the information received under Article 10a.

(2) Customs bodies shall be responsible for mutual assistance and exchange of information with the European Commission, member states of the European Union, other states under international treaties in force to which the Republic of Bulgaria is party and with other state bodies in the framework of their competence, concerning:

1. violations of the currency legislation;
2. signs that the carried cash is related to money laundering and financing of terrorism within the meaning of the Measures against Money Laundering Act and the Measures against Financing of Terrorism Act.
3. signs that the carried cash is revenue from fraudulent or other illegal activities and which have a negative impact on the financial interests of the European Union.

(3) Exchange of information shall be carried out in line with the conditions, procedure and manner laid down in Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

Carrying Cash across the Border of the Country

Article 11

(Amended, SG No. 60/2003, SG No. 96/2011)

(1) Natural persons may carry unlimited quantities of cash across the border of the country.

(2) Transfer of cash through postal consignments shall be prohibited with the exception of declared value consignments.

(3) Transfer of cash through postal consignments by the BNB and the banks shall be carried out according to a procedure laid down in the regulation under Article 14d.

Carrying cash across the border of the country to or from a third country

Article 11a

(New, SG No. 96/2011)

(1) The carrying of cash in the amount of EUR 10 000 or more or their equivalent in Bulgarian lev or another currency for or to a third country must be declared before the customs authorities.

(2) When carrying cash in the amount of BGN 30 000 or more or their equivalent in another currency across the border of the country to a third country, the persons shall also submit a certificate issued by the competent territorial directorate of the National Revenue Agency concerning non-existence of liabilities or a document certifying that the person is not registered in the register of the National Revenue Agency

(3) When carrying across cash to a third country in the amount of BGN 30 000 or more or their equivalent in another currency, foreign natural persons shall declare before the customs authorities only the type and amount of the carried cash in cases where their value does not exceed the previously declared cash.

(4) In case of reasonable doubt or information concerning unlawful activities related to carrying of cash in an amount less than BGN 10 000 or its equivalent in Bulgarian lev or another currency, the customs authorities may exercise control over natural persons and require that the persons provide information related to these funds. The customs authorities shall enter the information in the register under Article 10a ex officio.

(5) The obligation to declare under paragraph 1 shall be considered non-performed in case of refusal to declare or of the declared information is untrue or incomplete.

Carrying cash across the border of the country to or from a member state of the European Union.

Article 11b

(New, SG No. 96/2011)

(1) Carrying of cash in the amount of EUR 10 000 or more or their equivalent in Bulgarian lev or another currency across the border of the country to or from a member state of the European Union, shall be declared upon a request of the customs authorities.

(2) Article 11a, paragraph 4 shall also apply in case of carrying of cash to or from a member state of the European Union.

(3) The obligation to declare upon a request under paragraph 1 shall be considered non-performed in case of refusal to declare or if the declared information is untrue or incomplete.

Powers of the Currency Control Authorities

Article 16

(1) (Amended, SG No. 60/2003, SG No. 96/2011) The customs authorities shall monitor the observance of the Act in case of carrying across the border of the country of cash and of precious metals and gems and items containing them and made of them.

(2) (Amended, SG No. 60/2003, SG No. 105/2004, SG No. 96/2011) The authorities of the National Revenue Agency shall audit the activities of currency exchange offices and the persons described in Article 13, paragraph 1 which are not banks and in carrying out audits shall be entitled to:

1. obtain unrestricted access to the offices of audited persons;
2. require documents, references and explanations in writing;
3. (Amended, SG No. 60/2003, SG No. 96/2011) check available amounts in levs and other currency, as well as quantities and quality of precious metals and gemstones and items made containing them or made of them;
4. carry out audits of clients of audited persons for the purposes of obtaining cross-reference;
5. use expert help;
6. (new, SG No. 60/2003, amended, SG No. 105/2005) impose measures to secure evidence following the procedure of the Tax and Social Insurance Procedure Code.

(3) (Amended, SG No. 60/2003) The authorities of the BNB shall:

1. (amended, SG No. 96/2011) monitor banks regarding their observance of the provisions of this Act and all relevant regulations on its implementation;
2. (repealed, SG No. 24/2009, effective 31.03.3009)
3. monitor the observance of the requirements contained in Article 6, 7, 8 and 10 and their implementation legislation;
4. (Supplemented, SG No. 60/2003) be able to verify information collected under Articles 7, 8 and 10.

(4) (Amended, SG No. 60/2003, repealed, SG No. 24/2009, effective 31.03.3009)

(5) (Amended, SG No. 60/2003, SG No. 59/2006, repealed, SG No. 24/2009, effective 31.03.3009)

(6) (Amended, SG No. 60/2003, SG No. 24/2009, effective 31.03.3009) Persons, who, under certain circumstances, can be assumed to be carrying out transactions in foreign currency in violation of Article 3, paragraph 1, shall submit upon request to auditors from the Ministry of Finance and the BNB any requested written explanations and documents and shall facilitate the completion of such audits on-site. In carrying out audits, auditing authorities of the Ministry of Finance and the Bulgarian National Bank shall enjoy the powers under paragraphs 2 and 3.

(7) (Repealed, SG No. 60/2003)

(8) (Amended, SG No. 60/2003, SG No. 96/2011) Post offices shall monitor the implementation of requirements under Article 11, paragraph 2, and Article 14, paragraph 2 and notify the customs authorities of any violations established by them.

(9) (Amended, SG No. 60/2003) State bodies and officials shall assist the authorities under Article 15 and under this Article in the exercise of their powers.

Penal Administrative Provisions

Article 18

(Amended, SG No. 60/2003)

(1) (Amended, SG No. 96/2011) Anyone who is found to have violated or permitted a violation under Article 11, paragraphs 2 and 3, Article 11a, paragraphs 1, 2 and 3, Article 14, paragraphs 2 and 3, Article 14a, paragraphs 1 and Article 16, paragraph 6, as well as any regulations on their implementation, shall be fined from BGN 1 000 to 3 000, unless the violation constitutes a criminal offence. If the offender is a legal person or a sole proprietor, a property sanction from BGN 2 000 to 6 000 shall be imposed.

(2) Any person found to effect currency exchange in violation of Article 3, paragraph 1 shall be fined from BGN 1 000 to 3 000 or penalized by a property sanction in the amount of BGN 5 000 to 15 000, if a legal person or a sole proprietor.

(3) Any person registered in the register referred to in Article 3, paragraph 3 found in violation in connection with his activity under this Act or the regulation referred to in Article 3 paragraph 5 shall be penalized by a property sanction from BGN 2 000 to 6 000.

(4) Any person referred to in Article 13, paragraph 1 found in violation in connection with his activity under Article 13 or an implementation regulation thereof shall be penalized by a fine from 1 000 to 3 000 levs, and where the offender is a legal person or a sole proprietor, property penalties shall be imposed in amounts from BGN 2 000 to 6 000.

(5) In case of a repeated violation under paragraphs 1 to 4, the offender shall be fined or imposed a property sanction double the amount of that originally imposed.

(6) In case of a violation under paragraphs 2, 3 or 4, notwithstanding any fine or property sanction imposed, as the case may be, the penalizing authority may deprive the offender from the right to exercise the respective activity for a period from one to six months, and in case of a repeated violation, for a period from two months to one year.

(7) In case of imposing an administrative penalty under paragraph 6 under a penal ordinance, the coercive administrative measure of impounding the sales outlet shall also be applied.

(8) The execution of the administrative penalty under paragraph 6 and of the coercive administrative measure under paragraph 7 shall be terminated by the authorities which has imposed them, at the request of the person against which the administrative penalty has been imposed and after such person has proved that the imposed property sanction or fine has been paid in full.

(9) Deprivation of the right to exercise the respective activity under paragraph 6, as well as the coercive administrative measure under paragraph 7 shall be subject to pre-emptive execution, unless otherwise ruled by the court.

(10) Findings reports of violations under paragraphs 1 through 6 shall be drawn up by officials authorized by the Minister of Finance, whereas penal ordinances shall be issued by the Minister of Finance or by officials authorized by the Minister.

Article 18a

(New, SG No. 96/2011)

(1) In case of failure to perform the obligation under Article 11b, paragraph 3 and Article 14b, paragraph 2 natural persons shall be punished by a fine in the amount of BGN 1000 to 3000. Legal entities or sole proprietors shall be punished by a property sanction in the amount of BGN 2000 to 6000.

(2) In case of a repeated violation under paragraph 1 the persons shall be punished by a fine or a property sanction in the double amount of the initially imposed sanction.

(3) The statements establishing the violations under paragraphs 1 and 2 shall be drawn up by the customs authorities. Penal decrees shall be issued by the director of the Customs Agency or by officers authorized by him.

Article 20

(New, SG No. 60/2003)

(1) (Previous Article 20, amended, SG No. 96/2011) The object of the violation in case of carrying across the border of the country of cash, precious metals and gemstones, as well as items containing them or made of them, shall be taken in favour of the state, including in cases where the offender cannot be identified.

(3) (New, SG No. 96/2011) Paragraph 1 shall not apply in case of violations under Article 18a.

ANNEX VII Customs Law

Section II

Functions and Responsibilities

Article 15

(1) The customs administration shall:

1. participate in the development the customs policy of the Republic of Bulgaria and shall implement it;
2. participate in the development and implementation of international agreements related to customs activity;
3. maintain international customs relations;
4. collect, process, analyse, file and provide information concerning customs activity and develop customs statistics. The terms and procedure for the performance of these activities shall be set forth in an ordinance issued by the Minister of Finance;
5. ensure training and retraining of customs officers;
6. (new, SG No. 37/2003) insure customs officers against accidents and with life insurance at the expense of its own budget.

(2) The customs authorities shall:

1. perform customs supervision and control on goods, vehicles and persons in the zones of the border checkpoints and throughout the state's customs territory;
2. calculate, collect or require security for duties levied on imports, exports or transit of goods;
3. enforce, within their competence, the tariff and trade policy measures of the Republic of Bulgaria;
4. protect, within their competence, the economic interests of the country;
5. (amended and supplemented SG No. 63/2000, amended, SG No. 37/2003, SG No. 82/2011, effective 1.01.2012) conduct customs intelligence for combating customs and currency violations;
6. organize and perform prevention and detection of the illegal traffic of drugs and precursors;
7. exercise foreign exchange control within the limits of their competence assigned by law;
8. issue decisions on the application of customs rules;
9. (new, SG No. 63/2000, repealed, SG No. 86/2005)
10. (new, SG No. 63/2000) perform activities related to establishing administrative violations and imposition of administrative sanctions;
11. (new, SG No. 63/2000, supplemented, SG No. 28/2008) participate in operative and investigative activities jointly with bodies of the Ministry of Interior, under the terms and procedures of the Ministry of Interior Act, and with bodies of the State Agency for National Security, under the terms and procedures of the State Agency for National Security Act;
12. (new, SG No. 37/2003) apply border control measures for protecting intellectual property rights;
13. (new, SG No. 82/2011, effective 1.01.2012) conduct investigations or separate actions related to crime investigation in the cases, under the conditions, and as per the procedures laid down in the Criminal Procedure Code.

(3) (New, SG No. 63/2000, amended, SG No. 28/2008, SG No. 82/2011, effective 1.01.2012) The terms and procedures of interaction between the customs authorities and the bodies of the Ministry of Interior and the State Agency for National Security for the prevention, detection, and investigation of

violations and crimes shall be laid down by joint instructions issued by the Minister of Finance together with the Minister of Interior and with the Chairperson of the Agency.

(4) (Previous (3), SG No. 63/2000) The customs authorities shall perform other activities as assigned by law.

Section III

Powers of the Customs Authorities

Article 16

(1) While performing their professional duties customs officers shall be entitled:

1. to conduct inspections related to customs supervision and control of goods, vehicles and persons in the zones of border checkpoints and throughout the customs territory of the country;
2. to undertake the necessary measures, allowed by law, for performing customs control;
3. to require the presentation or delivery of goods, documents, data or other information carriers related to customs supervision and control;
4. to require presentation of personal identification documents;
5. to require written or oral explanations;
6. to perform follow-up customs control of goods and documents related to importation, exportation and transit;
7. to collect sums: for customs duties for imported and exported goods; for unfulfilled liabilities and guarantees; for payment of the equivalent amount for goods confiscated in favour of the state when they are missing or expropriated and for any state receivables, collectable by the customs authorities;
8. to levy, according to the procedure established by the law, distraint and injunctions for securing due customs duties and other state receivables collectable by them;
9. to carry out individual searches of persons crossing the state border;
10. (amended, SG No. 63/2000, amended and supplemented, SG No. 45/2005) to conduct searches and seize goods that have been or should have been subject to customs supervision and control and related documentation in offices, official and other premises, as well as personal searches of the persons located therein, in compliance with the procedures of the Criminal Procedure Code;
11. (supplemented, SG No. 28/2008) to execute controlled deliveries jointly with the competent authorities of the Ministry of Interior and of the State Agency for National Security with the permission of the respective prosecution office.

(2) (Repealed, SG No. 63/2000).

(3) The customs officers shall be entitled to carry firearms and use them in cases of inevitable self-defence as a last resort;

(4) (New SG No. 76/2002) When exercising the powers under Paragraph 1, Item 1 specialised control bodies of the Customs Agency shall be entitled to stop vehicles inside the country under terms and procedures pursuant to Article 15, Paragraph 3;

(5) (New SG No. 76/2002, amended, SG No. 105/2005, SG No. 95/2009, SG No. 82/2011, effective 1.01.2012) On a written request of the Director of the Customs Agency and the heads of customs offices the authorities of the National Revenue Agency shall provide information on follow-up transactions related to the quantity, type, value and origin of goods subject to import-export operations, on sums subject to payment or reimbursement under the Value Added Tax Act and the Excise Duty and Tax Warehouses Act, as well as on violations established by the internal revenue bodies, perpetrated by persons engaging in import and export activities;

(6) (New SG No. 37/2000, amended, SG No. 105/2005) The procedure and modalities for electronic exchange of information between the customs administration and the National Revenue Agency shall be specified in a joint instruction of the director of the Customs Agency and the executive director of the National Revenue Agency.

(7) (New, SG No. 45/2005, amended, SG No. 82/2011, effective 1.01.2012) When conducting inspections in the course of follow-up control or customs investigation, when being hindered in doing so or when available information points to the withholding of facts and circumstances relevant to the case, the customs authorities may carry out searches and seizures under the procedure of the Criminal Procedure Code.

(8) (New, SG No. 45/2005) The provisions of the Criminal Procedure Code shall apply also to the powers and procedural actions of customs authorities under Paragraph 1, Item 10 when conducting inspections under Paragraph 7 as well as concerning the rights and obligations of the inspected persons in relation to the grounds of the search and the seizure, the authorities that are carrying them out and the attending persons, as well as in relation to the protection of the inspected persons.

Article 16a

(New, SG No. 82/2011, effective 1.01.2012) (1) When information is available about a person who has committed a criminal offence under Article 234, 242, 242a, 251, 255 or 256 of the Criminal Code, and there is a real danger that this person will run and hide or commit another offence, the customs authorities may arrest him/her.

(2) For each arrested person, the customs authority which restricted the person's right to freedom of movement shall issue an arrest warrant.

(3) No rights of arrested persons-other than the right to freedom of movement-may be restricted. The arrest period may not exceed 24 hours. Arrested persons shall be immediately freed after the reason for arrest has ceased to exist, but in any case no later than the 24-hour timeline.

(4) When an arrested person does not speak Bulgarian, he/she shall be promptly informed of the reasons for his/her arrest in a language the person understands.

(5) Anyone who is arrested shall have the right to legal counsel, from the time of their arrest.

(6) Arrested persons shall have the right to appeal the legality of the arrest before a court of law, as per the procedure of the Code of Administrative Procedure. The competent court shall rule on the appeal without delay.

(7) The competent customs authority shall immediately notify the party specified by the arrested person that an arrest has been made.

(8) The customs authorities may inspect the personal belongings of the arrested person and search him/her. Arrested persons may be searched only by officers of the same gender.

(9) When necessary, arrested persons are detained in facilities of the Ministry of Interior's units specially intended for this purpose. In order to do so, a written order shall be issued.

Article 16b

(New, SG No. 82/2011, effective 1.01.2012) (1) When arresting a person who is not complying or who is resisting arrest, the customs authorities, upon giving a warning, may use physical force and tools of their trade - handcuffs, if they cannot discharge their duties otherwise.

(2) When using physical force and tools of their trade, the customs authorities shall protect the life and health of the individuals that are subjected to such force.

(3) The use of physical force and tools of their trade shall be immediately discontinued once the purpose of such a measure is achieved.

(4) The conditions and procedures for applying the provisions for arrests to be made by customs authorities shall be set out in the instructions under Article 15(3).

ANNEX VIII Law on Forfeiture in Favour of the State of Unlawfully Acquired Assets

Promulgated, SG No. 38/18.05.2012, effective 19.11.2012

*Note: An update of the English text of this Act is being prepared

following the amendments in SG No. 82/26.10.2012

Text in Bulgarian: ЗАКОН за отнемане в полза на държавата на незаконно придобито имущество

Chapter One GENERAL DISPOSITIONS

Article 1. (1) This Act regulates the terms and procedure for forfeiture in favour of the state of unlawfully acquired assets.

(2) Any assets for the acquisition of which a legitimate source has not been identified shall be treated as assets referred to in Paragraph (1).

Article 2. The proceeding under this Act shall be conducted notwithstanding the criminal or administrative penalty proceeding against the person under examination and/or the persons closely linked therewith.

Article 3. (1) This Act shall have as an objective to protect the interests of society and to restore the sense of justice in citizens by preventing and limiting the possibilities for unlawful acquisition of assets and disposition thereof.

(2) To accomplish the objective referred to in Paragraph (1), restrictions may be imposed on ownership while respecting the right to defence of the persons affected and preventing a risk of injustice.

Article 4. The restrictions on ownership provided for in this Act shall be applied to the extent necessary to accomplish the objective of this Act.

Chapter Two AUTHORITIES IDENTIFYING UNLAWFULLY ACQUIRED ASSETS

Article 5. (1) The Commission for Forfeiture of Unlawfully Acquired Assets, hereinafter referred to as "the Commission", shall be an independent specialised standing State body.

(2) The Commission shall be a legal person with a head office in Sofia and shall be a first-level spending unit.

(3) The operation of the Commission shall be assisted by an administration.

(4) Territorial directorates, located in the geographical jurisdictions of the appellate courts, shall be local units of the Commission which shall be headed by directors and shall be assisted in the operation thereof by inspectors. Territorial bureaus with areas of operation designated in the Rules referred to in Article 20 herein may be established with the territorial directorates.

Article 6. (1) The Commission shall be a collective authority which shall consist of five members, including a Chairperson and a Deputy Chairperson.

(2) The Chairperson of the Commission shall be a person who has graduated in Law from a higher educational establishment and who has at least twelve years of relevant experience. The Deputy Chairperson and the members of the Commission shall be persons who have graduated in Law or in Economics from a higher educational establishment and who have at least five years of relevant experience.

(3) The Chairperson of the Commission shall be appointed by the Prime Minister. The Deputy Chairperson and two of the members shall be elected by the National Assembly, and one of the members shall be appointed by the President of the Republic.

(4) The National Assembly may not elect to the Commission more than one member nominated by one and the same parliamentary group.

(5) The term of office of the Commission shall be five years and shall commence as from the day of election or, respectively, appointment of the full complement thereof.

Article 7. (1) The nominations for a Deputy Chairperson and for members from the quota of the National Assembly shall be laid before the National Assembly not earlier than three months and not later than two months prior to the expiry of the term of office of the Commission and shall be published on the Internet site of the National Assembly.

(2) The competent committee of the National Assembly shall conduct a hearing of the nominated candidates who satisfy the requirements of this Act and shall lay before the National Assembly a report summarising the results of the said hearing.

(3) The National Assembly shall elect separately a Deputy Chairperson and two members of the Commission.

Article 8. (1) Eligibility for membership of the Commission shall be limited to legally capable Bulgarian citizens who:

1. have not been convicted of a premeditated indictable criminal offence, regardless of whether rehabilitated;

2. have not been released from criminal responsibility for a premeditated indictable criminal offence with imposition of an administrative sanction;

3. have not been disqualified from holding a particular public office or from practising a particular occupation or activity;

4. have been cleared for access to information classified as "Top Secret".

(2) No member of the Commission shall be entitled to hold office for two successive terms.

(3) A member of the Commission may not:

1. hold office in State or municipal bodies;

2. pursue commercial activity or be a partner, a managing director or a member of supervisory, management or control bodies of any commercial corporation, co-operative, State-owned enterprise or not-for-profit legal entity;

3. receive remuneration for pursuit of activities under contract or under a civil-service relationship with any State or public organisation, with any commercial corporation, co-operative or not-for-profit legal entity, natural person or sole trader, except for scientific research and teaching or for exercise of copyright;

4. practise a liberal profession or any other gainful occupation;

5. be a member of any political party or coalition, of any organisation pursuing political goals, engage in political activity or engage in any activities which affect the independence thereof.

(4) If an elected or appointed member of the Commission, as the case may be, is incompatible under Paragraph (3), the said member must take the necessary steps for elimination of the incompatibility within one month after the election or appointment, as the case may be.

Article 9. (1) The legal relationship with a member of the Commission shall be terminated prior to the expiry of the term of office of the said member by the relevant authority upon:

1. death;

2. tendering of a resignation;

3. objective inability to execute the duties thereof for a period exceeding six months;

4. conviction of a premeditated indictable criminal offence or release from criminal responsibility for a premeditated indictable criminal offence with imposition of an administrative sanction;

5. incompatibility under Article 8 (3) herein, unless the necessary steps for the elimination of the incompatibility within one month after the election or appointment, as the case may be;

6. serious breach or systematic dereliction of the official duties;

7. entry into effect of an act whereby a conflict of interest is ascertained under the Conflict of Interest Prevention and Ascertainment Act;

8. attainment of the age of 65 years;

9. withdrawal of the clearance for access to information classified as "Top Secret".

(2) Upon occurrence of any circumstances referred to in Paragraph (1), the electing or appointing authority, as the case may be, shall be notified for the conduct of a new election or appointment, as the case may be.

(3) Upon the release from office of a member of the Commission prior to the expiry of the term of office thereof, the electing or the appointing authority, as the case may be, shall elect or appoint, as the case may be, a new member within one month after any such release to serve the remainder of the term of office of the released member.

Article 10. (1) The Chairperson of the Commission shall receive a basic monthly remuneration to an amount equivalent to 85 per cent of the basic monthly remuneration of the Chairperson of the National Assembly.

(2) The Deputy Chairperson shall receive a basic monthly remuneration to an amount equivalent to 80 per cent of the remuneration of the Chairperson of the Commission.

(3) The rest of the members of the Commission shall receive a basic monthly remuneration to an amount equivalent to 75 per cent of the remuneration of the Chairperson of the Commission.

(4) The members of the Commission shall not be entitled to additional cash incentives.

Article 11. (1) The Commission shall adopt decisions on:

1. institution of a proceeding under this Act; any such proceeding shall include submission to the court of a motion for imposition of precautionary measures and of an action for forfeiture in favour of the state of unlawfully acquired assets;

2. termination of the examination under Article 27 herein or on extension of the time limit for the said examination;

3. refusal to institute a proceeding under this Act;

4. termination of the proceeding under this Act;

5. conclusion of a settlement under Article 79 herein;

6. appointment of the directors of territorial directorate and, upon nomination by the said directors, of the inspectors at the said directorates, as well as on a modification and termination of the employment relationships therewith;

7. exercise of other powers provided for in this Act.

(2) The decisions of the Commission shall be adopted by a majority of more than one-half of all members and shall have to be reasoned. The reasons shall state the facts, the evidence on the basis of which the facts have been established, as well as the legal conclusions drawn.

(3) The reasoned refusals of the Commission referred to in Item 3 of Paragraph (1) shall be published forthwith on the Internet site of the Commission in compliance with the requirements of the Personal Data Protection Act and of the Classified Information Protection Act.

(4) Minutes of proceedings shall be taken at the meetings of the Commission.

(5) The decisions shall be appealable according to the procedure established by the Administrative Procedure Code . An appellate review of a decision shall not stay the enforcement thereof.

Article 12. (1) The Chairperson of the Commission shall:

1. represent the Commission;

2. organise and direct the operation thereof;

3. schedule and preside over the meetings;

4. control and be responsible for the implementation of the budget;

5. issue penalty decrees on violations committed under this Act;

6. conclude, modify and terminate the employment relationships with the employees of the administration.

(2) The Deputy Chairperson of the Commission shall assist the Chairperson and shall deputise therefor in his or her absence.

Article 13. (1) The directors of territorial directorate and the inspectors thereat shall be authorities of the Commission.

(2) Eligibility for appointment as directors at the territorial directorates shall be limited to persons who have graduated in Law or in Economics from a higher educational establishment and have at least five years of relevant experience and who satisfy the requirements for occupation of the position under Article 8 (1) herein, as well as the requirements for incompatibility under Article 8 (3) herein after conduct of a competition.

(3) Eligibility for appointment as inspectors at the territorial directorates shall be limited to persons who have graduated in Law or in Economics from a higher educational establishment, who satisfy the requirements for incompatibility under Article 8 (3) herein.

Article 14. (1) The National Assembly shall exercise parliamentary oversight of the activity of the Commission.

(2) The members of the Commission shall be obligated to appear, upon invitation, at the National Assembly and to provide the information requested.

Article 15. (1) Annually, not later than the 31st day of March, the Commission shall present a report on the activity thereof at the National Assembly.

(2) The report shall furthermore be provided to the President of the Republic and to the Council of Ministers and shall be published on the Internet site of the Commission.

Article 16. (1) The information that has come to the knowledge of the members of the Commission, of the directors and of the inspectors at the territorial directorates, as well as of the employees in the administration, in the course of or in connection with the execution of the duties thereof shall constitute an official secret.

(2) Upon assumption of office, the persons referred to in Paragraph (1) shall sign a declaration pledging not to make public the information while holding office and after the release thereof.

(3) The members of the Commission, the directors of territorial directorate and the employees in the administration shall sign a declaration of private interests and a declaration of a private interest on a particular occasion.

Article 17. The members of the Commission and the directors at the territorial directorates shall not incur pecuniary liability for any detriment inflicted upon the exercise of the powers assigned thereto under this Act except where the detriment has ensued from a premeditated indictable criminal offence.

Article 18. The members of the Commission, the directors at the territorial directorates and the inspectors shall be provided with accident insurance and life assurance in the course of, or in connection with, the execution of the official duties thereof for the account of the executive budget.

Article 19. (1) The length of employment service of the members of the Commission and of the directors and the inspectors at the territorial directorates, as well as of the persons in the administration holding a position for which graduation in Law from a higher educational establishment and licensed competence to practise law are required, shall count as legal service record.

(2) The length of employment service of the persons referred to in Paragraph (1) holding a position for which graduation in Economics from a higher educational establishment is required, shall count as relevant experience in the public sector.

Article 20. (1) The organisation and operation of the Commission and of the administration thereof shall be regulated by Rules.

(2) The Rules shall be adopted by the Commission and shall be promulgated in the State Gazette.

Chapter Three

IDENTIFICATION OF UNLAWFULLY ACQUIRED ASSETS

Article 21. (1) The Commission shall institute a proceeding under this Act where a reasonable presumption can be raised that particular assets have been acquired unlawfully.

(2) A reasonable presumption shall be warranted by the establishment, after an examination, of a significant lack of correspondence in the assets of the person under examination.

Article 22. (1) The examination referred to in Article 21 (2) herein shall commence by an act of the director of the territorial directorate concerned where a person has been constituted as an accused of a criminal offence under:

1. Article 108a (1) to (3) and Article 109 (3) ;
2. Items 7 and 10 of Article 116 (1);
3. Article 142 ;
4. Articles 155 , 156 , Article 158a (2) and Article 159 (5) ;
5. Articles 159a to 159d ;
6. Article 196a ;
7. Article 199 ;
8. Articles 201 to 203 ;
9. Article 208 (3) , (4) and (5);
10. Article 209 (1) and (2), Articles 210 and 211 , Article 212 (3), (4) and (5) and Article 212a ;
11. Articles 213a and 214 ;
12. Items 1 and 3 of Article 215 (2);
13. Article 219 (3) and (4), Article 220 (2) and 225c (1) and (2);
14. Articles 227c (2) ;
15. Articles 233 (1) and (2), Article 234 (2) , Articles 234a, 234b and Article 235 (1) to (5) ;
16. Articles 242 to 242a ;

17. Articles 243 to 246 , Article 248a (5) and Articles 249 to 252 ;

18. Article 253, Article 253a (1) and (2), Articles 254b (2) and 255, Articles 255 to 256, Article 259 and Article 260 (1);

19. Article 280 ;

20. Articles 282 , 283 and 283a ;

21. Articles 301 to 305a , Articles 307c and 307d ;

22. Article 308 (2) and (3) and Article 310 (1) ;

23. Article 321 (1) to (3) and (6), Article 321a (1) and (2) and Article 327 (1) to (3);

24. Article 337 (1) to (4), Article 339 (2) and Item 4 of Article 346 (2), Article 346 (3) and (6) ;

25. Article 354a (1) to (4), Article 354b (4) to (6) and Article 354c (1) to (3) of the Penal Code.

(2) The examination shall furthermore commence where a person has not been constituted as an accused of a criminal offence covered under Paragraph (1) by reason of a refusal to institute a criminal proceeding or a termination of a criminal proceeding in progress because:

1. an amnesty has ensued;
2. the period of prescription, provided for in the law, has lapsed;
3. after commission of the offence the actor has lapsed in a sustained mental derangement which precludes sanity;
4. the actor has died;
5. in respect of the person, a transfer of a criminal proceeding to another State has been admitted.

(3) The examination shall furthermore commence where the criminal proceeding in connection with any criminal offence covered under Paragraph (1) has been suspended and the person cannot be constituted as an accused because:

1. after commission of the offence the said person has lapsed in a short-term mental derangement which precludes sanity or suffers from another grave disease;
2. the said person enjoys immunity;
3. the address of the said person is unknown and he or she cannot be found.

Article 23. An examination under Article 21 (2) herein shall furthermore commence where an act of a foreign court concerning any of the criminal offences covered under Article 22 (1) herein or an administrative violation referred to in Article 24 (1) herein has been recognised according to Bulgarian legislation.

Article 24. (1) The examination under Article 21 (2) herein shall commence by an act of the director of the territorial directorate concerned acting on the basis of a notification by the administrative sanctioning authority, where there is an enforceable written statement against a person in connection with an administrative violation of a nature to generate a benefit, provided the said

benefit is to an amount exceeding BGN 150,000 at the time of acquisition thereof and the said benefit cannot be forfeited according to another procedure.

(2) Any notification referred to in Paragraph (1) shall contain information on:

1. the person whereupon an administrative sanction has been imposed by an enforceable written statement;

2. the administrative violation;

3. the assets of the person, if data about the said assets are available.

(3) The State and municipal bodies or the officials who, in the line of duty, have become aware of the acquisition of a benefit from an administrative violation to a value exceeding BGN 150,000 at the time of acquisition thereof which cannot be forfeited according to another procedure, shall be obligated to notify forthwith the director of the territorial directorate concerned and to dispatch thereto the materials under the case file.

(4) Citizens, who have become aware of any circumstances referred to in Paragraph (3), may notify the Commission of the said circumstances.

Article 25. (1) In the cases covered under Article 22 herein, the examination shall commence acting on the basis of a notification by the prosecutor to the director of the territorial directorate concerned.

(2) Any notification referred to in Paragraph (1) shall contain information on:

1. the person in respect of whom the relevant ground under Article 22 herein applies;

2. the criminal offence of which the person has been constituted as an accused;

3. the assets of the person, if data about the said assets are available.

(3) The Ministry of Justice shall notify the Commission of each case of a criminal proceeding instituted in another State or of an enforceable sentence passed by a foreign court on a Bulgarian citizen for criminal offences equivalent to the offences covered under Article 22 (1) herein.

(4) The Supreme Cassation Prosecution Office and the Ministry of Justice shall notify the Commission upon transfer of a criminal proceeding.

Article 26. The examination before the Commission may not be instituted acting on an anonymous alert.

Article 27. (1) The examination under Article 21 (2) herein shall continue for up to one year.

(2) The Commission may extend the time limit referred to in Paragraph (1) on a single occasion by six months.

(3) The examination shall cover a period of fifteen years reckoned backwards from the date of commencement thereof.

(4) On the basis of the results of the examination, within one month after the completion thereof the director of the territorial directorate concerned shall prepare a reasoned report to the Commission with a conclusion on:

1. extension of the time limit for the examination;
2. termination of the examination;
3. institution of a proceeding under this Act.

Chapter Four

POWERS OF COMMISSION AUTHORITIES UPON CONDUCT OF EXAMINATION

Article 28. In respect of the period under examination, referred to in Article 27 (3) herein, the authorities referred to in Article 13 (1) herein shall collect information on:

1. the assets, the location thereof, the value and the legal grounds for the acquisition thereof;
2. the fair market value of the assets at the time of acquisition;
3. the fair market value thereof at the time of the examination;
4. transformation of the assets;
5. the revenue and costs of ordinary activities and the extraordinary revenue and costs of the legal person;
6. the customary and extraordinary income and maintenance expenses of the natural person and of the family members thereof;
7. the paid pecuniary obligations at public law to the State and the municipalities;
8. the transactions in the assets of the legal person;
9. the transactions in the assets of the person under examination and of the family members thereof;
10. the trips abroad of the person under examination and of the family members thereof, as well as of the persons who represent the legal person;
11. the injunctions and charges imposed on the assets, as well as the liabilities assumed;
12. any other circumstances relevant to clarifying the origin of the assets, the manner of acquisition and of transformation thereof.

Article 29. The Commission and the directors of territorial directorate may approach the court with a motion for lifting of bank secrecy, of the trade secret under Article 35 (1) of the Markets in Financial Instruments Act and disclosure of the information covered under Article 133 (2) of the Public Offering of Securities Act , where this is necessary for accomplishment of the objective of this Act.

Chapter Five

INTERACTION WITH OTHER STATE BODIES

Article 30. (1) For accomplishment of the objective of the Act, the authorities referred to in Article 13 (1) herein, the prosecuting magistracy, the Ministry of Interior, the authorities of the State Agency for National Security, the revenue authorities and the authorities of the National Customs Agency, each acting within the competence vested therein, shall carry out an examination of the sources of acquisition of the assets.

(2) The procedure and the timeframe for implementation of interaction shall be established by a joint instruction of the Commission, the Chairperson of the State Agency for National Security, the Minister of Interior, the Minister of Finance and the Prosecutor General.

Article 31. The prosecutors who are assigned to supervise pre-trial proceedings in connection with a criminal offence covered under Article 22 (1) herein shall forthwith notify the director of the territorial directorate concerned of:

1. the pre-trial proceedings instituted in connection with criminal offences covered under Article 22 (1) herein;

2. the warrants whereby institution of a criminal proceeding is refused or a criminal proceeding in progress is suspended or terminated, as well as the warrants whereby a suspended criminal proceeding in connection with a criminal offence covered under Article 21 (1) herein is resumed, on the grounds specified in Article 22 (2) and (3) herein;

3. the submission of an indictment to the court;

4. the precautionary measures imposed on the assets of the accused.

Article 32. The directors of territorial directorate may approach the competent revenue authorities with a request in writing to disclose entire tax and social-insurance information on the persons under examination.

Article 33. The directors of territorial directorate shall provide the authorities of the National Revenue Agency with information on the assets forfeited in favour of the state and on the location of the said assets.

Article 34. (1) Upon the execution of the powers vested therein under this Act, the authorities referred to in Article 13 (1) herein may request assistance and information from the State and municipal bodies, the merchants, the credit institutions, as well as from other legal persons, from natural persons, from notaries and enforcement agents.

(2) The authorities and the persons referred to in Paragraph (1) shall be obligated to provide the information within one month after being requested to do so with the exception of information which is provided according to a special procedure.

(3) Classified information shall be exchanged in accordance with the Classified Information Protection Act .

(4) Personal data shall be processed in accordance with the Personal Data Protection Act .

Article 35. The authorities referred to in Article 13 (1) herein shall draw up a memorandum on each step performed under this Act, unless the step performed has been attested by another document.

Article 36. Any persons, who in the course of or in connection with the execution of the official duties thereof have learnt information about an examination in progress, shall not be at liberty to make public the said information.

Chapter Six

PRECAUTIONARY MEASURES AND FORFEITURE IN FAVOUR OF THE STATE OF UNLAWFULLY ACQUIRED ASSETS

Section I

Precautionary Measures

Article 37. (1) The Commission shall adopt a decision on submission to the court of a motion for an injunction securing a future action for forfeiture of assets on the basis of a report by the director of the territorial directorate concerned where sufficient data have been collected by the examination raising a reasonable presumption that the said assets have been acquired unlawfully.

(2) The decision referred to in Paragraph (1) shall specify the charges and injunctions imposed on the assets theretofore.

(3) The Commission shall submit a motion for an injunction securing a future action for forfeiture of unlawfully acquired assets to the district court exercising jurisdiction over the permanent address of the [natural] person or over the registered office of the legal person, as the case may be. Where a corporeal immovable is incorporated into the assets, the motion shall be submitted to the district court exercising jurisdiction over the situs of the said corporeal immovable, and where several corporeal immovables are incorporated into the assets, the motion shall be submitted to the district court exercising jurisdiction over the situs of the immovable of the highest tax assessed value.

(4) The Commission may not move for the imposition of precautionary measures on the assets of a natural person which is not subject to coercive enforcement according to Article 444 of the Code of Civil Procedure or on any funds of a legal person and of a sole trader intended for payment of labour remunerations and social insurance contributions for the staff solely if charged on a separate analytical account.

(5) Where sufficient data are not available to raise a reasonable presumption that the assets have been acquired unlawfully, the Commission shall adopt a decision on a refusal to institute a proceeding under this Act and termination of the examination or shall adopt a decision on a return of the case file for the collection of additional data.

Article 38. (1) The court shall pronounce forthwith by a ruling granting or refusing the imposition of a precautionary measure.

(2) An injunction securing the action shall be granted:

1. where exercise of the rights arising from the judgment on forfeiture of the assets would be impossible or impeded without such injunction, and

2. if the motion is supported by sufficient evidence on the basis of which a reasonable presumption can be raised that the person owns or controls any unlawfully acquired assets.

(3) The ruling granting the imposition of a precautionary measure shall be subject to immediate enforcement.

(4) The ruling of the court securing the action by an injunction shall be appealable by means of an interlocutory appeal within seven days. The period shall begin to run, in respect of the petitioner, as from the date of service of the said ruling, and in respect of the respondent, as from the date of service of the communication of the precautionary measure imposed by the enforcement agent, by the Registry Service or by the court.

(5) Acting on a motion by the Commission, separate injunctive orders shall be issued on the basis of the ruling of the court for the movable things and for the corporeal immovables respecting the *ratione loci* competence of the enforcement agent.

Article 39. (1) The court may impose the precautionary measures covered under Article 397 (1)

of the Code of Civil Procedure .

(2) The precautionary measures shall extend to the interest, as well as to other civil fruits derived from the assets whereupon the said measures have been imposed.

(3) The court may grant several types of precautionary measures up to the amount of the cost of action.

(4) Acting on a motion by the Commission or by the director of the territorial directorate concerned, the court may order the sealing of premises, plant and means of transport where there is a risk of the assets kept therein being squandered, destroyed, concealed or disposed of.

Article 40. (1) After the ruling imposing precautionary measures becomes enforceable, acting on the basis of a reasoned petition by the interested party or on a motion by the Commission, the court may authorise the effecting of a payment or of other steps disposing of the assets whereupon an injunction has been imposed in the cases of urgent need.

(2) The court shall pronounce forthwith by a ruling which shall be appealable.

(3) The striking of the preventive attachment, the lifting of the garnishment, as well as the revocation of the other precautionary measures, shall be effected on the basis of the enforceable ruling of the court.

Article 41. (1) The precautionary measures shall be enforced acting by assignment from the Commission by the competent recording magistrate and by the enforcement agents respecting the *ratione loci* competence as defined in Article 427 (1) of the Civil Procedure Code .

(2) A preventive attachment shall be recorded and a garnishment shall be imposed forthwith.

(3) No stamp duty shall be collected on the steps for enforcement of the precautionary measures.

Article 42. (1) Imposition of preventive attachment on a corporeal immovable shall be effected at the request of the authorities referred to in Article 13 (1) herein by means of recording of the injunctive order on a direction by the competent recording magistrate.

(2) The recording magistrate shall dispatch a communication of the recording effected to the owner of the assets whereupon the preventive attachment has been imposed.

(3) A special pledge of a commercial undertaking wherein the corporeal immovable referred to in Paragraph (1) is incorporated, which has been recorded after the preventive attachment, shall be inopposable to the State.

Article 43. (1) Garnishment of a movable thing shall be imposed forthwith acting at the request of the authorities referred to in Article 13 (1) herein by means of dispatch of a communication by the enforcement agent to the respondent under the injunction.

(2) The garnishment shall be considered imposed as from the time of receipt of the garnishment communication.

(3) Acting at the request of the authorities referred to in Article 13 (1) herein, the enforcement agent shall take an inventory, shall conduct an appraisal and shall deliver the corporeal thing for safekeeping to the respondent under the injunction or to a third party or shall seize the thing and shall deliver the said thing for safekeeping to the authorities referred to in Article 13 (1) herein. A garnishment mark (sticker) may be affixed to the corporeal thing.

(4) Where the corporeal things are owned by a commercial corporation, the enforcement agent shall dispatch a communication on the garnishment imposed to the Special Pledges Registry as well.

Article 44. (1) Upon garnishment of a ship or another water-craft, the enforcement agent shall dispatch a communication to the Maritime Administration Executive Agency for recording of the garnishment in the relevant registers.

(2) Upon garnishment of a means of transport, a communication shall be dispatched to the authorities of the Ministry of Interior.

(3) Upon garnishment of a civil aircraft, the enforcement agent shall dispatch a communication to the Directorate General of Civil Aviation Administration for recording in the register of civil aircraft.

(4) Upon registration of agricultural or forestry machinery subject to registration according to the procedure established by the Agricultural and Forestry Machinery Registration and Control Act , the enforcement agent shall dispatch a communication to the Control and Technical Inspectorate with the Ministry of Agriculture and Food.

Article 45. (1) The garnishment under Article 44 herein shall be considered imposed as from the date of receipt of the garnishment communication by the authorities responsible for the relevant registers.

(2) A communication of the garnishment imposed shall be dispatched to the respondent under the injunction after the garnishment communication is served upon the official with the relevant register.

(3) Any alteration of the registration of the means and machinery specified in Article 44 herein shall be inadmissible before lifting of the garnishment.

(4) The enforcement agent may approach the authorities of the Ministry of Interior with a request for suspension from operation of a motor vehicle whereupon garnishment has been imposed for a period not exceeding three months.

Article 46. (1) Garnishment of receivables which the respondent under the injunction is owed by a natural or legal person shall be imposed by the enforcement agent by means of dispatch of a garnishment communication to the garnishee and to the bank wherewith the said garnishee holds accounts.

(2) The garnishment shall be considered imposed as from the date and hour of receipt of the garnishment communication by the garnishee or by the bank wherewith the said garnishee has opened bank accounts.

(3) A communication of the garnishment imposed shall be dispatched to the respondent under the injunction after the garnishment communication is served upon the garnishee.

(4) Where the garnished receivable is secured by a pledge, the pledgee shall be ordered to surrender the corporeal thing pledged to the enforcement agent who shall deliver the said thing for safekeeping to a person designated by the authority referred to in Article 13 (1) herein.

(5) Where the garnished receivable is secured by a mortgage, the garnishment shall be noted in the relevant book at the Registry Service.

(6) Where a writ of execution has been issued for the receivables referred to in Paragraph (1),

the enforcement agent shall seize the said writ from the person who holds it and shall deliver the said writ for safekeeping to the authority referred to in Article 13 (1) herein.

(7) The extinctive prescription for the receivable shall cease to run as from the time of receipt of the garnishment communication by the garnishee.

Article 47. (1) In the cases referred to in Article 46 (6) herein, the authorities referred to in Article 13 (1) herein shall have the right to move that the collection of the receivable be awarded to the Commission and that a separate enforcement case be instituted against the person who is the debtor under the writ of execution.

(2) The sums collected under the enforcement case shall be transferred by the enforcement agent to an account of the Commission.

Article 48. (1) Imposition of garnishment on funds in national or foreign currency shall be effected by means of taking an inventory, seizing and depositing the said funds on a special bank account of the Commission. In translating the exchange rate of the foreign currency, the exchange rate of the Bulgarian National Bank for the relevant currency as at the date of the inventory shall apply.

(2) Imposition of garnishment on all types of bank accounts of the respondent under the injunction in national or foreign currency shall be effected by means of dispatch of the garnishment communication to the bank.

(3) Garnishment may furthermore be imposed on all types of corporeal things deposited in safe-deposit vaults or boxes, as well as on sums provided for escrow management by the respondent under the injunction.

(4) The garnishment under Paragraphs (2) and (3) shall be considered imposed as from the time of receipt of the garnishment communication by the bank. A communication of the garnishment imposed shall be dispatched to the respondent under the injunction after receipt of the communication by the bank.

(5) The server shall record the hour and date of receipt. Where the communication has been dispatched by post, the competent official shall record the hour and date of receipt.

Article 49. (1) Imposition of garnishment on physical securities shall be effected by means of taking an inventory at the nominal value thereof and seizure of the said securities by the enforcement agent.

(2) Upon imposition of garnishment on physical registered shares or bonds, the enforcement agent shall notify the commercial corporation. The garnishment shall take effect in respect of the commercial corporation as from the receipt of the garnishment communication.

(3) The enforcement agent shall deliver the physical securities for safekeeping at a bank, the said delivery being attested by a memorandum.

Article 50. (1) Imposition of garnishment on dematerialised securities shall be effected by means of dispatch of a garnishment communication to the Central Depository, simultaneously notifying the commercial corporation.

(2) The garnishment shall have effect as from the time of service of the garnishment communication upon the Central Depository.

(3) The Central Depository shall forthwith notify the relevant regulated market of the garnishment imposed.

(4) Within three days after receipt of the garnishment communication, the Central Depository shall be obligated to provide the enforcement agent with information on the securities owned by the respondent under the injunction and on the other garnishments imposed under other claims.

(5) The enforcement agent shall notify the authorities referred to in Article 13 (1) herein of the information received under Paragraph (4).

Article 51. (1) Imposition of garnishment on government securities shall be effected by means of dispatch of a garnishment communication to the Central Depository or to the Bulgarian National Bank as a sub-depositary, and to foreign institutions whereat government securities accounts are registered.

(2) The garnishment shall be considered imposed as from the date of receipt of the garnishment communication by the person who keeps a register of the government securities.

(3) Within three days after receipt of the garnishment communication, the person who keeps a register of government securities shall be obligated to provide the enforcement agent with information on the securities owned by the respondent under the injunction and on the garnishments imposed under other claims.

(4) The enforcement agent shall notify the authorities referred to in Article 13 (1) herein of the information received under Paragraph (3).

Article 52. (1) Garnishment of securities shall extend to all property rights conferred by the security.

(2) Any disposition of the securities after receipt of the garnishment communication shall have no effect in respect of the State.

Article 53. (1) Garnishment of a participating interest in a commercial corporation shall be imposed by means of dispatch of a garnishment communication by the enforcement agent to the Registry Agency.

(2) The garnishment shall be recorded according to the procedure applicable to the recording of a pledge of a participating interest in a commercial corporation and shall be considered imposed as from the recording thereof in the Commercial Register. The Registry Agency shall notify the commercial corporation of the garnishment recorded.

Article 54. The transfer of the right of ownership, the creation and transfer of real rights and the creation of real charges in respect of a corporeal immovable under preventive attachment, as well as the disposition of garnished movable things, securities, participating interests and receivables, effected after the time as from which the preventive attachment or the garnishment are considered imposed, shall have no effect in respect of the State.

Article 55. (1) Upon commencement of coercive enforcement according to the procedure established by the Code of Civil Procedure, the Tax and Social-Insurance Procedure Code and by the Special Pledges Act against any assets and receivables whereupon precautionary measures have been imposed according to the procedure established by this Act, the enforcement authority shall forthwith notify the Commission and shall dispatch a duplicate copy of the act in pursuance of which the enforcement is carried out. The Commission may approach the court with a motion to revoke the precautionary measures and to replace the said measures by another equivalent injunction.

(2) Any assets and receivables, whereupon precautionary measures have been imposed or whereagainst coercive enforcement has commenced according to the procedure established by the Tax

and Social-Insurance Procedure Code prior to the imposition of the precautionary measures according to the procedure established by this Act, shall be realised by a public enforcement agent according to the procedure established by the Tax and Social-Insurance Procedure Code until the judgment on forfeiture of the assets in favour of the state becomes enforceable. Prior to the commencement of coercive enforcement according to the procedure established by the Tax and Social-Insurance Procedure Code, the public enforcement agent shall notify the Commission and shall dispatch a duplicate copy of the act in pursuance of which the enforcement is carried out. The Commission may approach the court with a motion to revoke the precautionary measures or to replace the said measures by another equivalent injunction.

Article 56. The provisions of the Code of Civil Procedure shall apply to any matters unregulated in this Section.

Section II

Steps after Imposition of Precautionary Measures

Article 57. (1) After imposition of the precautionary measures, the authorities referred to in Article 13 (1) herein shall invite the natural person under examination to present a written declaration on:

1. the corporeal immovables and motor vehicles, ships and aircraft, limited real rights to corporeal immovables, cash deposits, securities, works of art, movable archaeological property, participating interests in commercial corporations, receivables, patents, trademarks and industrial designs, as well as other assets owned by the said person and by the family members thereof;

2. a list of the bank accounts held by the said person and by the family members thereof in Bulgaria and abroad;

3. the sources of means and the grounds for acquisition of the assets and for maintenance of the family of the said person;

4. any transactions in corporeal immovables, movable things, participating interests and shares in commercial corporations, transfer of an undertaking or other commercial or legal transactions in assets of the person and of the family member thereof effected during the period under examination, as well as the sources of means for effecting the said transactions;

5. any obligations to third parties;

6. a balance of the cash at hand as at the initial date of the period under examination;

7. other circumstances related to the assets of the person under examination.

(2) Where the person under examination is deceased, the heirs and legatees thereof who have accepted the succession shall be invited to present the declaration referred to in Paragraph (1). Where the succession is not accepted, the authorities referred to in Article 13 (1) herein shall enter a motion under Article 51 of the Succession Act.

(3) The person shall present the declaration within fourteen days after receipt of the communication or, if the said person is abroad, within one month.

(4) The standard form of the declaration shall be endorsed by a decision of the Commission and shall be published in the State Gazette.

Article 58. The authorities referred to in Article 13 (1) herein shall furthermore invite the following to present a declaration:

1. the third parties referred to in Articles 64, 65 and 67 herein;
2. the persons who represent, manage or control a legal person referred to in Article 66 (1) herein.

Article 59. Conclusions adverse to the person under examination and to the family members thereof may not be drawn upon a refusal to present a declaration.

Article 60. (1) After imposition of the precautionary measures, the Commission shall afford the person under examination an opportunity to participate in the proceeding.

(2) The authorities referred to in Article 13 (1) herein shall notify the person under examination, shall provide the said person with all materials concerning the said person so as to familiarise himself or herself therewith, and shall allow the said person a period of one month to lodge objections and to present evidence.

(3) Legal persons shall be represented before the Commission by the persons who represent the said legal persons by law or according to the rules of organisation thereof. Where no rule for representation exists, the legal person shall be represented by two members of the management thereof.

(4) In the proceeding before the Commission, the person under examination may be represented by a lawyer or by another person according to the procedure established by the Code of Civil Procedure who holds a written authorisation.

(5) The explanations given by the person under examination and the declarations submitted under Articles 57 and 58 herein may not justify the initiation of criminal prosecution against the persons, nor may be used as evidence in support of a criminal charge.

Article 61. (1) After considering the objections of the person under examination and collecting the evidence specified thereby, the director of the territorial directorate concerned shall submit a reasoned report to the Commission within one month. The said report shall state:

1. the type and value of the assets acquired;
2. the existence or the non-existence of a significant lack of correspondence in the assets of the person under examination;
3. evidence that the third parties knew or presumed that the assets have been acquired unlawfully;
4. evidence of the existence or non-existence of any charges or of other injunctions imposed on the assets;
5. other evidence whereon the motion is based;
6. final conclusion.

(2) Within one month after submission of the report referred to in Paragraph (1), the Commission shall adopt a decision on:

1. termination of the proceeding under the case file, if the evidence collected does not establish or cannot raise a reasonable presumption that the assets have been acquired unlawfully;

2. bringing an action for forfeiture in favour of the state of unlawfully acquired assets.

Section III Forfeitable Assets

Article 62. Unlawfully acquired assets shall be forfeited in favour of the state according to the procedure established by this Act.

Article 63. (1) Where it is not possible to forfeit self-contained assets referred to in Article 62 herein, the money equivalent thereof, determined at a market price at the time of bringing the action for forfeiture, shall be forfeited.

(2) The assets referred to in Article 62 here shall include:

1. the personal assets of the person under examination;
2. the assets acquired jointly by the two spouses or by the de facto cohabitants;
3. the assets of the children who have not attained majority, and
4. the assets of the spouse of the person under examination, regardless of the regime of property relations chosen by the spouses;
5. the assets of the de facto cohabitant with the person under examination.

Article 64. Any transactions effected in unlawfully acquired assets shall be ineffective in respect of the State and the consideration given under any such transactions shall be forfeitable where the said transactions are:

1. gratuitous transactions with natural or legal persons;
2. onerous transactions with third parties, if the said parties knew or could have presumed that the assets have been acquired unlawfully or if the said parties acquired the assets for the purpose of concealing the unlawful origin thereof or the actual rights related thereto.

Article 65. Forfeitability shall furthermore apply to any unlawfully acquired assets which the person has transferred during the period under examination to a spouse, to a de facto cohabitant with the person, to a former spouse, to any lineal relatives up to any degree of consanguinity, to any collateral relatives up to the fourth degree of consanguinity, and to any affines up to the second degree of affinity.

Article 66. (1) Forfeitability shall apply to any assets which the person under examination has transferred or contributed as a cash asset or a non-cash asset to the capital of a legal person if the persons who manage or control the said legal person knew or, judging from the circumstances, could have presumed that the said assets have been acquired unlawfully.

(2) Forfeitability shall furthermore apply to any assets unlawfully acquired by a legal person which is controlled by the person under examination or by the persons closely linked therewith, whether independently or jointly.

(3) The assets shall furthermore be forfeited upon succession in title of the legal person.

Article 67. Forfeitability shall furthermore apply to any assets which have been acquired by a third party for the account of the person under examination in order to evade the forfeiture of the said assets or to conceal the origin of, or the actual rights to, the said assets.

Article 68. Until otherwise proven, any movable things and funds found on the person of the person under examination, in the dwelling thereof or on other premises, means of transport, strong boxes or safes, whether owned or rented thereby, shall also be considered movable things and funds belonging to the person under examination.

Article 69. (1) The unlawfully acquired assets shall be appraised according to the actual value thereof as at the time of acquisition or alienation thereof.

(2) If it is established that the price stated in the document attesting ownership is not the actually agreed price or that the document attesting ownership does not state a price, the assets shall be appraised as at the time of acquisition or alienation thereof as follows:

1. the corporeal immovables and the limited real rights thereto: at fair market value;
2. the foreign currency and the precious metals: at the central exchange rate of the Bulgarian National Bank;
3. the securities: at fair market value;
4. the means of transport: at fair market value;
5. the rest of the movable things and rights: at fair market value;
6. undertakings or participating interests in commercial corporations or co-operatives: at fair market value, and where such value cannot be determined, according to accounting data.

Article 70. In the cases where any unlawfully acquired assets have been transformed, in part or in whole, into other assets, forfeitability shall apply to the assets so transformed.

Article 71. Any unlawfully acquired assets shall furthermore be forfeited by heirs and legatees up to the portion received thereby.

Article 72. In case the assets are unavailable or have been alienated, the money equivalent thereof shall be forfeited.

Article 73. (1) The rights of the State under this Act shall be extinguished upon the lapse of a fifteen-year period of prescription.

(2) The prescription shall begin to run as from the date of acquisition of the assets.

Section IV **Proceeding before Court for Forfeiture in favour of the state of Unlawfully** **Acquired Assets**

Article 74. (1) The Commission shall bring an action for forfeiture in favour of the state of unlawfully acquired assets before the district court within whose geographical jurisdiction the permanent address of the person under examination is located within three months after imposition of the precautionary measures.

(2) Where the assets incorporate, inter alia, a corporeal immovable, the action shall be brought before the district court exercising jurisdiction over the situs of the immovable, and in the cases where the assets incorporate more than one corporeal immovable, the action shall be brought before the district court exercising jurisdiction over the situs of the immovable of the highest tax assessed value.

(3) The statement of action and the enforceable judgment shall be subject to recording in the Property Register of the Registry Agency.

(4) Acting ex officio or on a motion by the interested parties, the court shall revoke the precautionary measures imposed on the assets if the Commission fails to present evidence that it has brought the action within the statutory time limit.

Article 75. (1) An action for performance shall be brought against the person under examination and the persons referred to in Articles 64, 65, 66, 67 and 71 herein for forfeiture in favour of the state of unlawfully acquired assets.

(2) The Commission shall bring actions against third parties for establishment of the circumstance that the assets have been acquired unlawfully and for declaration of the ineffectiveness of legal transactions.

(3) Upon submission of the statement of action, the Commission shall not remit stamp duty.

Article 76. (1) The district court shall institute a case and shall publish in the State Gazette a notice stating: the number of the case; particulars of the motion entered; an inventory of the assets, indication as to the time limit within which the interested parties may present the claims thereof to the assets, as well as the date for which the first hearing is scheduled, which may not be earlier than three months after the publication of the notice.

(2) The person under examination and the persons referred to in Articles 64, 65, 66, 67 and 71 herein shall be constituted as respondents in the proceeding.

Article 77. (1) The court shall examine the case sitting in public session.

(2) The Commission shall be represented by the Chairperson or by an employee possessing licensed competence to practise law who has been authorised by the Chairperson.

(3) All evidence admissible under the Code of Civil Procedure shall be presented in the proceeding.

(4) In the proceeding before the court, the Commission shall present evidence of:

1. the type and value of the assets acquired during the period under examination;
2. the circumstances under Articles 22, 23 and 24 herein;
3. the existence of a significant lack of correspondence in the assets of the person under examination;
4. the circumstances that the third parties knew or could have presumed that the assets have been acquired unlawfully;
5. other circumstances relevant to clarifying the origin of the assets and the manner of acquisition thereof;
6. the existence of any charges and injunctions on the assets other than those imposed under this Act.

(5) Where proving by means of a written document is required, conclusions adverse to the respondent may not be made if it is proved that the document has been lost or destroyed not through the fault of the party.

Article 78. (1) After conclusion of the examination of the case, the court shall pronounce by judgment which shall be appealable according to the standard procedure.

(2) By the judgment, the court shall award stamp duty and the costs incurred depending on the outcome of the case.

Article 79. (1) In the proceeding under this Act, the parties may conclude a settlement whereby not less than 75 per cent of the assets or the money equivalent thereof would be forfeited.

(2) Any such settlement shall be approved by the court if it is not contrary to the law and to good morals.

(3) The settlement shall have the consequences of an enforceable judgment as from the day of approval thereof and shall be non-rescindable.

(4) The stamp duty on the proceeding shall be determined on the sum for which the settlement has been reached and shall be borne by the parties in equal shares.

(5) The costs of the proceeding shall be awarded against the parties as incurred.

Article 80. The provisions of the Code of Civil Procedure shall apply to any matters unregulated in this Section.

Chapter Seven
MANAGEMENT OF ASSETS WHEREUPON PRECAUTIONARY MEASURES HAVE
BEEN IMPOSED.
MANAGEMENT OF FORFEITED ASSETS

Section I
Management of Assets under Injunction

Article 81. (1) The assets whereupon an injunction has been imposed may be left for safekeeping with the person under examination or with the person who holds the assets at the time of imposition of the precautionary measures.

(2) On a motion by the Commission, the court shall appoint another person as a keeper of the assets and shall fix the remuneration thereof.

(3) The remuneration shall be remitted by the Commission.

(4) The keeper shall be selected in consideration of the person thereof, as well as in consideration of the nature of the corporeal thing and of the place where the said thing is located or will be stored.

(5) The corporeal thing shall be delivered for safekeeping against signed acknowledgment.

Article 82. (1) In addition to the obligations covered under Articles 469 to 471 of the Code of Civil Procedure, the person referred to in Article 81 herein shall furthermore be obligated to notify the Commission:

1. of any damage to the assets;
2. of any proceedings affecting the assets;

3. of any steps related to transfer or attachment of rights of third parties to the assets, presenting copies of the documents establishing the transfer or the creation of the rights;

4. of any steps related to a change in the identification of the immovable;

5. upon a risk of the assets being destroyed or damaged.

(2) The person referred to in Article 81 herein shall be obligated to afford the authorities referred to in Article 13 (1) herein access in order to check the condition of the assets.

(3) If the person under examination or the person who holds the assets at the time of imposition of the injunction fails to fulfil the obligations thereof, the Commission may approach the enforcement agent with a request to deliver the assets under injunction for safekeeping to another person.

(4) The costs incidental to the storage and maintenance of the assets under injunction shall be paid by the Commission.

Article 83. (1) Movable things of historical value shall be provided for safekeeping to the National Museum of History or to another museum.

(2) Movable things of scientific value shall be provided for safekeeping to the National Library, to the relevant institute of the Bulgarian Academy of Sciences, or to a university.

(3) Movable things of precious metals, precious stones and articles thereof shall be provided for safekeeping to the Bulgarian National Bank.

(4) Movable things of artistic, antiquarian or numismatic value shall be provided for safekeeping to the Ministry of Culture.

(5) Exotic animals and plants shall be provided to zoological gardens and other institutes.

(6) In the cases covered under Paragraphs (1) to (5), the costs incidental to the safekeeping and maintenance of the assets under injunction shall be paid by the Commission.

Article 84. (1) As an exception, the Commission may approach the court with a motion to authorise the sale of movable things which:

1. may be substantially diminished in value during the period of safekeeping and the preservation thereof requires disproportionate costs;

2. are perishable.

(2) The movable things referred to in Paragraph (1) shall be sold by the enforcement agent at an open-bidding auction which shall be conducted within seven days after receipt of the request or shall be left for sale by a merchant at a retail establishment, on a wholesale market or a commodity exchange designated by the Commission. The owner may enter the auction without restraint.

(3) The delivery of the corporeal thing shall be attested by a memorandum signed by the enforcement agent or by the merchant. The merchant shall receive a commission fee for the sale effected.

(4) Where no documents are available on sanitary control carried out, as well as where no data are available on origin, composition and expiry date, the sale shall be effected after authorisation by the Bulgarian Food Safety Agency and the authorities of the regional health inspectorates with the Ministry of Health.

(5) Animals belonging to the national genetic pool, plant-variety seeds and planting stock of a guaranteed origin shall be sold by the enforcement agent upon authorisation by the Minister of Agriculture and Food or by a person empowered thereby solely to other agricultural producers.

(6) The authorities referred to in Paragraphs (4) and (5) shall pronounce on the request within three days after the receipt thereof.

Article 85. The proceeds from the assets sold according to the procedure established by Article 84 herein shall be transferred by the enforcement agent to the special bank account of the Commission.

Article 86. (1) The Commission shall keep a register wherein the following shall be recorded:

1. the person whereagainst a proceeding has been instituted;
2. the assets whereupon an injunction has been imposed;
3. particulars of the owner and of the person who holds the assets at the time of imposition of the injunction, as well as of the keeper of the relevant assets;
4. other particulars which are necessary for identification of the assets whereupon an injunction has been imposed.

(2) The standard form of the register shall be endorsed by an order of the Chairperson of the Commission.

(3) Disposition of the immovables or burdening the said immovables by charges, or the assumption of any obligations whatsoever by the person under examination, which would lead to impediments to the satisfaction of the rights under the judgment on forfeiture in favour of the state of unlawfully acquired assets, shall have no effect in respect of the State.

(4) The Commission shall issue certificates on the existence of precautionary measures imposed under this Act within seven days after the receipt of a request from the court, the enforcement agents, the authorities of the National Revenue Agency and from other State bodies.

Section II

Management of Forfeited Assets

Article 87. (1) There shall be established an Interdepartmental Board for Management of Forfeited Assets, hereinafter referred to as "the Board".

(2) The Board shall be a collective authority which shall consist of deputy ministers designated by the Minister of Justice, the Minister of Finance, the Minister of Economy, Energy and Tourism, the Minister of Labour and Social Policy, and the Minister of Regional Development and Public Works.

(3) The Board shall be chaired by a Deputy Minister of Finance.

(4) The administration of the Ministry of Finance shall ensure the technical support for the operation of the Board.

Article 88. (1) On a monthly basis, the Commission shall notify the Board of the enforceable judgments on forfeiture in favour of the state of unlawfully acquired assets.

(2) The Commission shall forthwith submit the enforceable judgments for recording at the

competent registry services, in respect of the corporeal immovables, and to the competent structural units of the Ministry of Interior, in respect of the motor vehicles.

(3) The enforceable judgments on forfeiture, the writs of execution issued on the basis of the said judgments and all other documents required for the enforcement of the judgment on forfeiture shall be dispatched by the Commission to the Board within three days after the full set of documents comprising the case file has been procured.

(4) For the meetings of the Board, the Commission shall prepare a separate report on each particular case.

Article 89. (1) The Board shall propose to the Council of Ministers to allocate for management the assets forfeited according to the procedure established by this Act to public-financed organisations and municipalities for the performance of the functions thereof or to order the sale of the said assets.

(2) The Board shall meet at least once every two months and shall adopt decisions by a simple majority.

(3) Representatives of the National Association of Municipalities in the Republic of Bulgaria, of non-profit organisations, branch and professional organisations may be invited to the meetings of the Board.

(4) The Board shall endorse rules of organisation of the operation thereof.

Article 90. (1) The assets in respect of which a decision on sale has been made shall be sold by the National Revenue Agency according to the procedure established by the Tax and Social-Insurance Procedure Code .

(2) The Board shall dispatch to the National Revenue Agency the decision referred to in Paragraph (1) for execution within seven days after the adoption thereof together with the full set of documents comprising the case file referred to in Article 88 (3) herein.

(3) If after exhaustion of the methods of public sale according to the procedure established by the Tax and Social-Insurance Procedure Code the assets are not sold, the National Revenue Agency shall notify the Board in writing, returning the case file for making a subsequent decision on management and disposition of the assets.

(4) In the cases where assets have been allocated for management, the public-financed organisation or municipality concerned shall reimburse to the National Revenue Agency the costs incidental to the management, storage and arrangement of the sale of the said assets.

Chapter Eight

LIABILITY

Article 91. Any person, who has sustained detriment as a result of legally non-conforming acts, actions or omissions by the authorities and by the officials under this Act, committed in the course of, or in connection with, the execution of the powers or in the line of duty of the said authorities and officials, may bring an action for compensation against the State under the terms and according to the procedure established by the Act on the Liability for Damage Incurred by the State and the Municipalities .

Chapter Nine

INTERNATIONAL CO-OPERATION

Article 92. The Commission for Forfeiture of Unlawfully Acquired Assets shall exchange

information for the purposes of this Act with the competent authorities of other States and with international organisations on the basis of international instruments and international treaties which are in force for the Republic of Bulgaria.

Chapter Ten

ADMINISTRATIVE PENALTY PROVISIONS

Article 93. (1) Any official blameworthy of a breach of the obligation referred to in Article 34 herein shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000, unless the said breach constitutes a criminal offence.

(2) Where the breach under Article 34 herein has been committed by a commercial corporation, a bank or another credit institution, a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 20,000 shall be imposed.

Article 94. (1) The written statements ascertaining the violations shall be drawn up by officials designated by the Chairperson of the Commission, and the penalty decrees shall be issued by the Chairperson of the Commission.

(2) The drawing up of the written statements, the issuing, the appeal against and the execution of the penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act .

SUPPLEMENTARY PROVISION

§ 1. Within the meaning of this Act:

1. "Assets" shall be money, assets of any type, whether tangible or intangible, movable or immovable things or limited real rights.

2. "Control of a legal person" shall apply where:

(a) a natural person holds, whether directly or indirectly, more than 50 per cent of the participating interests in, or of the capital of, the legal person and controls the said legal person, whether directly or indirectly;

(b) a natural person exercises control within the meaning of § 1c of the Supplementary Provisions of the Commerce Act ;

(c) 50 per cent or more of the assets of a not-for-profit legal entity is managed or distributed to the benefit of a natural person;

(d) a not-for-profit legal entity has been established or operates to the benefit of a group of natural persons.

3. "Family members" shall be a spouse, the de facto cohabitee with the person under examination and the children who have not attained majority.

4. "Income" shall be: remuneration received by a person under an employment relationship and under a civil-service relationship, income from services provided through work done in person, income from practice of liberal professions, the net income from entrepreneurship, dividends and interest, other income from movable and immovable property, income from agricultural activity and retail trade, other income from betting in lotteries and on sports events, interest, licence royalties and commission fees, proceeds from the sale of assets, income from insurance, from litigation, bank credits and loans extended by natural persons, as well as any other income, revenue and sources of

financing.

5. "Net income" shall be income, revenue or sources of financing net of the amount of the customary and extraordinary expenses incurred by the person under examination and the family members thereof.

6. "Customary expenses" shall be the expenses on maintenance of the person and of the family members thereof according to data provided by the National Statistical Institute.

7. "Significant lack of correspondence" shall be an extent of the lack of correspondence between the assets and the net income which exceeds BGN 250,000 for the entire period under examination.

8. "Transformation of assets" shall apply where, in consideration of a real right, another real right is acquired, in whole or in part, without the respective part being insignificant.

9. "Closely linked persons" shall be a spouse or a de facto cohabitee with the person under examination; a former husband wherewith the marriage has been terminated within five years prior to the commencement of the examination by the Commission; lineal relatives up to any degree of consanguinity; collateral relatives up to the fourth degree of consanguinity, and affines up to the second degree of affinity.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. The Criminal Assets Forfeiture Act (promulgated in the State Gazette No. 19 of 2005; amended in Nos. 86 and 105 of 2005, Nos. 33 and 75 of 2006, Nos. 52, 59 and 109 of 2007, No. 16 of 2008, Nos. 12, 32 and 42 of 2009, Nos. 18 and 97 of 2010, Nos. 33 and 60 of 2011) is hereby superseded.

§ 3. (1) Within two months after the entry into force of this Act, the National Assembly shall elect and the President and the Prime Minister shall appoint members of the Commission for Forfeiture of Unlawfully Acquired Assets.

(2) The credentials of the members of the Commission for Establishing Property Acquired from Criminal Activity who are incumbent upon the entry into force of this Act shall be terminated upon the election or the appointment, as the case may be, of the members of the Commission for Forfeiture of Unlawfully Acquired Assets.

(3) The assets, liabilities, archives and the other rights and obligations of the Commission for Establishing Property Acquired from Criminal Activity shall pass to the Commission for Forfeiture of Unlawfully Acquired Assets.

(4) The Commission referred to in Paragraph (1) shall adopt the Rules referred to in Article 20 herein within one month after the determination of the composition thereof.

(5) The employment relationships of the employees of the Commission for Establishing Property Acquired from Criminal Activity shall be settled under the terms and according to the procedure established by Article 123 of the Labour Code.

§ 4. The authorities referred to in Article 13 (1) herein, who have been appointed prior to the entry into force of this Act, shall be obligated to take the action necessary for the elimination of incompatibility under Items 1, 3 and 5 of Article 8 (3) herein.

§ 5. Any examinations and proceedings for the forfeiture of assets acquired from criminal activity, which are not completed until the entry into force of this Act, shall be completed under the

terms and according to the procedure established by the Criminal Assets Forfeiture Act as hereby superseded.

§ 6. This Act shall furthermore apply to any assets acquired unlawfully prior to the entry into force of the said Act.

§ 7. Within six months after the entry into force of this Act, the National Revenue Agency shall deliver to the Interdepartmental Board for Management of Forfeited Assets the case files of any assets which have been forfeited in favour of the state according to the procedure established by the Act on Forfeiture in favour of the state of Assets Acquired from Criminal Activity as hereby superseded and which have not been sold as at the date of entry into force of this Act, for making a decision under this Act.

§ 8. The instruction referred to in Article 30 (2) herein shall be adopted within three months after the entry into force of this Act.

§ 9. The Act on the Liability for Damage Incurred by the State and the Municipalities (promulgated in the State Gazette No. 60 of 1988; amended in No. 59 of 1993, No. 12 of 1996, No. 67 of 1999, No. 92 of 2000, No. 105 of 2005, Nos. 33 and 33 of 2006, No. 43 of 2008 and No. 17 of 2009) shall be amended and supplemented as follows:

1. In Article 2 :

(a) there shall be inserted a new Paragraph (2):

"(2) The State shall be liable for any detriment inflicted on citizens by judicial acts under the Act on Forfeiture in favour of the state of Unlawfully Acquired Assets.";

2. the existing Paragraph (2) shall be renumbered to become Paragraph (3).

2. There shall be inserted an Article 2a :

"Liability for Activity of Commission for Forfeiture of Unlawfully

Acquired Assets

Article 2a. The State shall be liable for any detriment inflicted on citizens and legal persons as a result of legally non-conforming acts, actions or omissions by the authorities and by the officials under the Act on Forfeiture in favour of the state of Unlawfully Acquired Assets, committed in the course of, or in connection with, the execution of the powers or in the line of duty or the said authorities and officials."

§ 10. In Article 3 (2) , Article 4a and Article 12 of the Measures against the Financing of Terrorism Act (promulgated in the State Gazette No. 16 of 2003; amended in No. 31 of 2003, No. 19 of 2005, No. 59 of 2006, Nos. 92 and 109 of 2007, Nos. 28 and 36 of 2008, Nos. 33 and 57 of 2011), the words "the Commission for Establishing Property Acquired from Criminal Activity" shall be replaced by "the Commission for Forfeiture of Illegally Acquired Assets".

§ 11. In Item 4 of Article 35 (6) of the Markets in Financial Instruments Act (promulgated in the State Gazette No. 52 of 2007; amended in No. 109 of 2007, No. 69 of 2008, Nos. 24, 93 and 95 of 2009, No. 43 of 2010, No. 77 of 2011, No. 21 of 2012), the words "the Commission for Establishing Property Acquired from Criminal Activity" shall be replaced by "the Commission for Forfeiture of Illegally Acquired Assets".

§ 12. In Article 25 (2) of the Notaries and Notarial Practice Act (promulgated in the State

Gazette No. 104 of 1996; amended in Nos. 117, 118 and 123 of 1997, No. 24 of 1998, No. 69 of 1999, No. 18 of 2003, Nos. 29 and 36 of 2004, Nos. 19 and 43 of 2005, Nos. 30, 39 and 41 of 2006, Nos. 59 and 64 of 2007, Nos. 50 and 69 of 2008, Nos. 42, 47 and 82 of 2009, No. 87 of 2010, Nos. 32, 41 and 82 of 2011), the words "the Act on Forfeiture in favour of the state of Assets Acquired from Criminal Activity" shall be replaced by "the Act on Forfeiture in favour of the state of Unlawfully Acquired Assets".

§ 13. In Item 4 of Article 62 (6) of the Law on Credit Institutions (promulgated in the State Gazette No. 59 of 2006; amended in No. 105 of 2006, Nos. 52, 59 and 109 of 2007, No. 69 of 2008, Nos. 23, 24, 44, 93 and 95 of 2009, Nos. 94 and 101 of 2010, Nos. 77 and 105 of 2011), the words "the Commission for Establishing Property Acquired from Criminal Activity" shall be replaced by "the Commission for Forfeiture of Illegally Acquired Assets".

§ 14. In Item 3 of Article 74 (1) of the Tax and Social-Insurance Procedure Code (promulgated in the State Gazette No. 105 of 2005; amended in Nos. 30, 33, 34, 59, 63, 73, 80, 82, 86, 95 and 105 of 2006, Nos. 46, 52, 53, 57, 59, 108 and 109 of 2007, Nos. 36, 69 and 98 of 2008, Nos. 12, 32, 41 and 93 of 2009, Nos. 15, 94, 98, 100 and 101 of 2010, Nos. 14, 31, 77 and 99 of 2011 and No. 26 of 2012), the words "the Commission for Establishing Property Acquired from Criminal Activity" shall be replaced by "the Commission for Forfeiture of Illegally Acquired Assets and the directors of territorial directorate thereof".

§ 15. In Article 2 (1) of the Public Disclosure of Senior Public Official's Financial Interests Act (promulgated in the State Gazette No. 38 of 2000; amended in Nos. 28 and 74 of 2002, No. 8 of 2003, No. 38 of 2004, No. 105 of 2005, Nos. 38 and 73 of 2006, No. 109 of 2007, Nos. 33, 69 and 94 of 2008, No. 93 of 2009, Nos. 18 and 62 of 2010), there shall be inserted an Items 26a:

"26a. the Chairperson, the Deputy Chairperson and the members of the Commission for Forfeiture of Unlawfully Acquired Assets;".

§ 16. This Act shall enter into force six months after the promulgation thereof in the State Gazette.

This Act was passed by the 41st National Assembly on the 3rd day of May 2012 and the Official Seal of the National Assembly has been affixed thereto.

ANNEX IX Law of Divestment in Favour of the State of Property Acquired from Criminal Activity

Article 1

- (1) This law shall provide the conditions and the order for imposing securing measures and divestment in favour of the state of property, acquired directly or indirectly from criminal activity.
- (2) Property, acquired directly or indirectly from criminal activity, which has not been restored to the aggrieved or has not been divested in favour of the state, or confiscated under other laws, shall be subject to divestment by the order of this law.

Article 3

- (1) The procedures under this law shall be conducted when it is established that given person has acquired property of significant value about which grounded supposition may be made that it has been acquired from criminal activity, and against him punitive prosecution has started for crime under the Penal Code under:
 1. art. 108a, para 1 (terrorism) art. 108a, para 2 (financing of terrorism) art. 109 (formation, management or membership in organised criminal group with purpose to commit crimes under art. 108a, para 1 and 2) art. 110 (preparation for terrorism)
 2. art. 116, para 1, items 7 and 10
 3. art. 155, 156, 159
 4. art. 159a – 159c
 5. art. 194 – 196a (theft with subject motor vehicle)
 6. art. 198 – 200 (robbery with subject motor vehicle)
 7. art. 201 – 203
 8. art. 209 – 211, art. 212, para 3, 4 and 5, art. 212a, 213
 9. art. 213a – 214
 10. art. 215, para 2, item 1
 11. art. 227c and 227d
 12. art. 233
 13. art. 235
 14. art. 242 – 242°
 15. art. 243 – 246 and art. 250 – 252
 16. art. 253 (money laundering) and 253a (preparation for money laundering and association with such purpose)
 17. art. 257, para 1
 18. art. 282, para 5
 19. art. 301 – 306
 20. art. 308, para 2, 3 and 5
 21. art. 321 – 321a
 22. art. 327, para 1 – 3
 23. art. 337 and 339
 24. art. 346, para 2, item 4 and para 3
 25. art. 354a, para 4, 5 and 6 and art. 354c.
- (2) The procedures under this law shall also be conducted when there are sufficient data about property of significant value about which grounded supposition may be made that it has been acquired from criminal activity, but:

1. the penal procedure has not started or the started one has been terminated because the acting person has deceased, or
 2. the penal procedure has not started or the started one has been terminated because after committing the crime the acting person has fallen into durable mental disorder excluding sanity or an amnesty has followed, or
 3. (amend., - SG 86/05, in force from 26.04.06) the penal procedure has been terminated pursuant to art. 25 of the Penal Procedure Code.
- (3) The procedure of para 1 shall also be conducted when property of significant value is established, acquired from criminal activity implemented abroad which is not under the penal jurisdiction of the Republic of Bulgaria.

Article 4

- (1) By the order of this law shall be divested property, acquired during the checked period by persons about whom has been established that the grounds of art. 3 exist and in the concrete case can be made grounded supposition that the acquired is connected with the criminal activity of the persons as far as lawful source has not been established.
- (2) When the property of para 1 has been transferred to a third conscientious person against consideration the actual value of the acquired being fully paid, to divestment shall be subject only the obtained by the person of para 1.

Article 7

The transactions, implemented with property, acquired from criminal activity, shall be null with regard to the state and the given in them shall be subject to divestment when they are:

1. gratuitous transactions with third persons or corporate bodies
2. onerous transactions with third persons if they have known that the property has been acquired from criminal activity, or have acquired the property for its concealing or for non disclosure of its unlawful origin or the actual rights connected with this property.

Article 8

- (1) Subject to divestment under the conditions and by the order of this law shall also be the property transferred during the checked period to spouse, relatives of direct line without limitation in the degree, and of lateral line and by marriage – up to second degree inclusive when they have known that it has been acquired from criminal activity.
- (2) The knowledge of the persons of para 1 shall be assumed till proving the adverse.

Article 14

The information, which has become known to the bodies for establishing of property, acquired from criminal activity, at implementing their authorities under this law shall be official secret.

Article 15

- (1) The bodies of art. 12, para 9 shall implement checks and collect evidence for establishing of the origin and the location of the property, about which there are data that it has been directly or indirectly from criminal activity. The bodies shall have right to require cooperation and information from all state and municipal bodies. The conceding of the requested information cannot be refused or restricted due to considerations for official or commercial secret.
- (2) The check under this law cannot last more than 10 months. As exception the commission shall have right one time to extend this term with three months.
- (3) The procedure under this law shall be formed with decision of the commission for formation of procedure for divestment of property, acquired from criminal activity, which is not subject

to handing over and is final. The bodies for establishing of property, acquired from criminal activity, shall compile a record for each action under this law.

Article 18

- (1) The bodies of art. 12, para 9 shall check:
 1. the property, the legal ground for its acquisition and its value
 2. the transformation of the property
 3. the incomes of the checked person
 4. the public legal liabilities to the state and the municipalities, paid by the checked person
 5. the usual and the extraordinary expenses of the checked person
 6. the tax declarations of the checked person
 7. other circumstances which have importance for clarifying the origin of the property and the way of acquiring it by the checked person, the members of his family and the third persons.
- (2) At implementing the check of para 1 the bodies of art. 12, para 9 shall have right to:
 1. require explanations from the checked person
 2. appoint experts
 3. collect written evidences
 4. require from all persons, state and municipal bodies data and documents as well as the implementing of defined actions in connection with the establishing of the origin and the value of the property
 5. require the normatively defined documents for the origin of the resources and the way of acquisition and disposing with the property of the corporate body
 6. collect and check also other evidences of importance for clarifying the origin of the property
 7. implement actions for searching and seizure by the order, provided in the Penal – Procedure Code when there are sufficient grounds to be supposed that in some premises or person there are belongings, subjects, papers or computer information systems in which are contained computer information data which may be important for the procedure under this law.

Article 22

- (1) The directors of the respective territorial directorate shall prepare report to the commission about received notification of art. 21, para 1 or 2. On the basis of the report the commission shall make motivated request, supported with evidences under this law for imposing of securing measures before the regional court at the permanent address of the person, respectively at the address of the headquarters of the corporate body and in the cases when in the property is included immovable property – at the location of the property.
- (2) The court shall impose securing measures under the conditions and by the order of the Civil Procedure Code.
- (3) Upon danger of scattering, destroying, hiding or disposing with the property, acquired from criminal activity, upon request by the bodies of art. 12, para 9 the court may order sealing of premises, equipment, transport vehicles etc. in which this property is preserved.

Article 23

- (1) The court shall pronounce on the day of receiving of the request definition with which is admitted or refuses the imposing of the securing measure. The definition with which the securing is admitted shall be subject to immediate execution.

- (2) The definition of the court with which is admitted or refused the imposing of securing measure shall be subject to appellate and cassation review.
- (3) The measure of para 1 shall cover the interests and the acquisition of other civil fruits on which it has been imposed.
- (4) The court may permit implementing of payment or other disposing actions with property, on which securing measures have been imposed under this law when this is necessary for:
 1. treatment or other emergency humanitarian needs of the person, on whose property securing measures have been imposed, or of a member of his family
 2. payment of allowance
 3. payment of public legal liabilities to the state
 4. payment of remunerations for rendered labour
 5. obligatory social and health insurance
 6. payment of expenses necessary for the preservation and the maintenance of the property on which securing measures have been imposed
 7. payment of expenses in connection with the procedure under this law
 8. payment of the remuneration of the receiver in the insolvency procedure.
- (5) The permission of para 4 shall be issued for each concrete case on the basis of motivated application by the interested person and when payment of liability to the state is referred – also on initiative of the director of the respective territorial directorate. The court shall pronounce decision in 48 hours term after the receiving of the application.
- (6) Property, which is subject to perishing or which preservation is connected with big expenses shall be sold by the Agency for state receivables by the order determined in the Tax Procedure Code, the obtained sum being in a special account.
- (7) Securing measures shall not be imposed on the property, with regard to which compulsory execution cannot be directed.

ANNEX X Law on Administrative Liabilities and Sanctions

Article 83

(1) (Supplemented, SG No. 15/1998, amended and supplemented, SG No. 69/2006) A property sanction may be imposed on legal persons and sole proprietors for any failure to discharge their obligations to the state or the municipality stemming from and in connection with the performance of their activities in such cases as are provided for in a relevant law, ukaz, decree of the Council of Ministers or ordinance of the municipal council.

(2) The sanction under the previous paragraph shall be imposed in accordance with the procedures of this Act insofar as the relevant normative act does not otherwise provide.

Article 83a

(New, SG No. 79/2005)

(1) (Amended, SG No. 27/2009, SG No. 33/2011, effective 27.05.2011, supplemented, SG No. 60/2011, amended, SG No. 19/2012) A legal person, which has enriched itself or would enrich itself from a crime under Articles 108a, 109, 110 (preparations for terrorism), Articles 142-143a, 152(3) item 4, Articles 153, 154a, 155, 155a, 156, 158a, 159 - 159d, 162 (1) and (2), 172a-174, 209-212a, 213a, 214 , 215, 225c, 227 (1) - (5), 242, 250, 252, 253, 254, 254b, 255, 256, 257, 278c-278e, 280, 283, 301-307 , 307b, 307c, 307d, 308 (3), 319a-319f, 320-321a, 327, 352, 352a, 353b-353f, 354a-354c, 356j and 419a of the Criminal Code , as well as from all crimes, committed under orders of or for implementation of a decision of an organized criminal group, when they have been committed by:

1. an individual, authorized to formulate the will of the legal person;
2. an individual, representing the legal person;
3. an individual, elected to a control or supervisory body of the legal person, or
4. an employee, to whom the legal person has assigned a certain task, when the crime was committed during or in connection with the performance of this task, shall be punishable by a property sanction of up to BGN 1,000,000, but not less than the equivalent of the benefit, where the same is of a property nature; where the benefit is not of a property nature or its amount cannot be established, the sanction shall be from BGN 5,000 to 100,000.

(2) The property sanction shall also be imposed on the legal person in the cases, when the persons under paragraph 1, items 1, 2 and 3 have abetted or assisted the commission of the above acts, as well as when the said acts were stopped at the stage of attempt.

(3) The property sanction shall be imposed regardless of the materialization of the criminal responsibility of the perpetrator of the criminal act under paragraph 1.

(4) The benefit or its equivalent shall be confiscated in favour of the state, if not subject to return or restitution, or forfeiture under the procedure of the Criminal Code.

(5) Property sanctions under paragraph 1 shall not be imposed on states, state bodies and local self-government bodies, as well as on international organizations.

Article 83b

(New, SG, No. 79/2005)

(1) (Amended, SG No. 39/2011) Proceedings under Article 83a shall be initiated upon motivated proposal of the respective prosecutor to the administrative court:

1. following the entry of the indictment; or

2. when the criminal proceedings may not be initiated or the proceedings initiated were abandoned on the legal grounds that:

- a) the perpetrator shall not bear criminal responsibility because of amnesty;
- b) criminal responsibility has expired due to legal prescription, provided for by law;
- c) the perpetrator has passed away;
- d) upon commission of the crime, the perpetrator has suffered a permanent mental disorder, which rendered him unanswerable.

(2) The proposal must include:

- 1. description of the crime, the circumstances, in which it was committed and the presence of a causal link between it and the benefit for the legal person;
- 2. type and amount of the benefit;
- 3. name, purposes of activity, corporate seat and management address of the legal person;
- 4. personal details of the individuals, representing the legal person;
- 5. personal details of the individuals, accused or convicted for the crimes;
- 6. description of the written materials or of certified copies thereof, which establish the circumstances under items 1 and 2;
- 7. list of the individuals to be subpoenaed;
- 8. date and location of its drawing up, the name, position and the signature of the prosecutor.

(3) A transcript for the legal person shall be attached to the proposal.

Article 83c

(New, SG, No. 79/2005)

The prosecutor shall be entitled to request the court to take measures for securing the property sanctions against the legal person under the procedure of the Civil Procedure Code.

Article 83d

(New, SG, No. 79/2005)

The court shall review the proposal in an open meeting with the participation of the prosecutor.

Article 83e

(New, SG, No. 79/2005)

The court shall review the case within the set of circumstances, described in the proposal and based on the evidence collected shall judge on:

- 1. whether the legal person has derived an illegal benefit;
- 2. does a connection exist between the perpetrator of the criminal act and the legal person;
- 3. does a connection exist between the criminal act and the benefit for the legal person;
- 4. what is the amount of the benefit, if of a property nature;

Article 83f

(New, SG, No. 79/2005)

(1) (Amended, SG No. 59/2007) The court shall deliver a judgment for imposing the property sanction after the entry into force of the conviction or of a decision under *Article 124 (5) of the Civil Procedure Code** and after proving the circumstances under Article 83e.

(2) The decision must contain data regarding the legal person, the origin, type and amount of the benefit, the amount of the property sanction imposed.

(3) As regards cases, posing factual or legal complexities, the motives may be drafted even after delivery of the decision, but not later than 15 days.

(4) An appeal on the merits may be lodged against the decision before the respective appellate court within 14 days of communication of the decision.

(5) The respective appellate court shall review the appeal under the procedure of the Civil Procedure Code. Its ruling shall be final.

** Text of Article 124 (5) of the Civil Procedure Code*

Article 124

(5) An action to establish a criminal circumstance relevant to a civil legal relation or to reversal of an effective judgment shall be admitted solely in the cases where criminal prosecution may not be instituted or has been terminated on any of the grounds referred to in Items 2 to 5 of Article 24 (1) or has been suspended on any of the grounds referred to in Item 2 of Article 25 or Article 26 of the Criminal Procedure Code, and in the cases where the perpetrator of the act has remained undiscovered. Article 124

ANNEX XI Law on the Bulgarian National Bank

Article 4

(1) In connection with the performance of its functions, the Bulgarian National Bank may demand from banks to submit any documents and information, and may also carry out the requisite examinations.

(2) (amended; Darjaven Vestnik, issue 45 of 2002) The Bulgarian National Bank shall not disclose or pass to third parties any information obtained which is of confidential bank or commercial nature for banks and the other participants in the money turnover and credit relations, except in the cases provided for by the Law on Protection of Classified Information.

Article 6

(1) The headquarters of the Bulgarian National Bank shall be in the city of Sofia. The Bank may have branches in this country and representative offices in the country and abroad.

(2) The Bulgarian National Bank shall have a seal bearing its name and the state coat-of-arms.

Article 7

The statutory fund of the Bulgarian National Bank shall be BGN 20 million.

Article 8

(1) To cover uncollectable and doubtful receivables, the Bulgarian National Bank shall allocate provisions in the amount specified by the Governing Council which shall be an item of the accounting expenses and an adjustment for the balance sheet assets.

(2) The Reserve Fund shall be formed out through deductions in the amount of 25 per cent of the annual excess of the Bank's revenue over expenditure. The resources of this Fund shall be used for covering the Bank's losses.

(3) Upon deduction of the amount for the Reserve Fund, the necessary amounts for special funds, set up under a decision of the Governing Council, shall be allotted from the annual excess of the Bank's revenue over expenditure.

(4) The account of the state budget shall be credited annually with the remainder of the annual excess of the Bank's revenue over expenditure within four months after the end of the fiscal year.

Article 9

(1) (amended; Darjaven Vestnik, issue 10 of 2005) Where the Bank's balance sheet indicates that the amount of its assets is less than the amount of its liabilities and statutory fund, the Minister of Finance shall replenish the statutory fund of the Bank to the amount necessary to cover the deficit.

(2) The procedure under paragraph 1 for covering the balance sheet deficit shall be applied only in the cases when the resources of the Reserve Fund and on the Bank's Special Reserve Account under Article 36, paragraph 1 have been exhausted.

Article 10

The management of the Bulgarian National Bank shall be carried out by the Governing Council, the Governor and the three Deputy Governors elected to directly manage the basic departments referred to in Article 19.

ANNEX XII Law on Credit Institutions

Article 1

(1) This Law shall govern the terms and procedures for granting licenses, conducting activities, supervising and termination of credit institutions for the purpose of ensuring a stable, reliable and sound banking system and for protecting depositor interests.

(2) (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

(3) The provisions of this Law shall also apply to banks established under a separate law to the extent the other law does not provide for otherwise.

Article 2

(1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) A bank (credit institution) shall be a legal entity which is engaged in the business of publicly accepting deposits or other repayable funds and extending loans and other financing for its own account and at its own risk.

(2) A bank may also conduct the following activities if they are covered by its license:

1. (amended; Darjaven Vestnik, issue 23 of 2009, effective as of 1 November 2009, amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009; amended; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) providing payment services within the meaning of the Law on Payment Services and Payment Systems;
2. (amended; Darjaven Vestnik, issue 23 of 2009, effective as of 1 November 2009, amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009; amended; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) issuance and administration of other means of payment (traveller's cheques and letters of credit) in so far as these activities do not fall under the scope of item 1;
3. acceptance of valuables on deposit;
4. depository and custodian activities;
5. (repealed; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009)
6. financial leasing;
7. guarantee transactions;
8. trading for its own account or for customers' account with:
 - a) (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) money market instruments – cheques, bills of exchange, deposit certificates, and other beyond the cases under item 9;
 - b) foreign currency and precious metals;
 - c) (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) financial futures, options, exchange and interest-rate instruments, and other derivative instruments beyond the cases under item 9;
9. (amended; Darjaven Vestnik, issue 52 of 2007, effective as of 1 November 2007) trading for its own account and for customers' account in transferable securities, underwriting issues in securities, and other services and activities under Article 5, paragraphs 2 and 3 of the Law on Markets in Financial Instruments;
10. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) money brokerage;
11. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) advice to companies concerning their capital structure, branch strategy and related issues, as well as advice and services concerning company transformations and transactions on acquiring enterprises;
12. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009; amended; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) acquisition of claims on loans and other forms of financing (factoring, forfeiting, *etc.*);
13. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) issue of electronic money;

14. (former item 13; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) equity acquisition and management;

15. (former item 14; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) provision of bank safes;

16. (former item 15; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) collection and distribution of information and references on customers' creditworthiness;

17. (former item 16; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) other such activities defined in an Ordinance of the Bulgarian National Bank (BNB).

(3) (amended; Darjaven Vestnik, issue 52 of 2007, effective as of 3 July 2007) The acquisition, registration, settlement, payment and trade in government securities shall be effected pursuant to the procedure and terms of the Law on the Government Debt. Trade in government securities on regulated markets in financial instruments and multilateral trading facilities shall be effected pursuant to the procedure of the Law on Markets in Financial Instruments.

(4) A bank may not conduct in the line of business transactions other than those provided for under paragraphs 1 and 2, except where necessary for conducting its activities or in the process of collecting its claims on credits made. A bank may set up or acquire institutions for providing ancillary services.

(5) (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) Accepting public deposits or other repayable funds, as well as the services as provided for in paragraph 2, items 3–4 shall only be carried out by:

1. a person who has been granted a bank license by the BNB;
2. a bank with a seat in a third country, which has been granted a license by the BNB to conduct bank activities in the Republic of Bulgaria through a branch;
3. a bank authorised by the competent authorities of a Member State to carry out bank activities, which provides services on the territory of the Republic of Bulgaria either directly or via a branch.

(6) (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Article 3

(amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) (1) A financial institution is a person other than a credit institution whose principal activity is conducting one or more activities:

1. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) under Article 2, paragraph 2, items 1, 2, 6–13;
2. acquiring holdings in a credit institution or another financial institution;
3. extending loans with funds other than accepted deposits or other repayable funds.

(2) Financial institutions, which are not subject to licensing or registering under another law, shall be recorded in a register of the BNB in order to conduct activities. The register shall be public, and a certificate shall be issued thereof.

Article 3a

(new; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) (1) To be recorded in the register under Article 3, paragraph 2, the financial institution whose trade registration is on the territory of the Republic of Bulgaria shall meet the following requirements:

1. (amended; Darjaven Vestnik, issue 105 of 2011) to be established as a joint- stock company, a limited liability company or a limited liability partnership with shares and to have own funds with a composition and in an amount as specified in a BNB ordinance;
 2. the location where the principal business activity is carried out shall be situated on the territory of the Republic of Bulgaria;
 3. the persons who manage and represent the company and those who directly or indirectly acquire a qualifying holding in the company's capital shall have the required qualification, professional experience and reputation.
- (2) A foreign financial institution which intends to pursue activities on the territory of the Republic of Bulgaria through a branch or directly shall be recorded in the register based on the

notification and the certificate under Article 24, paragraph 2.

The procedure of recording and striking off the register under Article 3, paragraph 2, as well as all documents required for recording shall be specified in the ordinance under paragraph 1, item 1.

Article 14

(1) Prior to ruling on an application for granting a license, the BNB shall make preliminary studies in order to establish the validity of the submitted documents, the applicant's reliability and financial status.

(2) (amended; Darjaven Vestnik, issue 52 of 2007, effective as of 1 November 2007) Prior to ruling on the request for providing services and activities under Article 5, paragraphs 2 and 3 of the Law on Markets in Financial Instruments, the BNB shall consider the written statement of the Financial Supervision Commission which shall be submitted within a month's time from the BNB's written request supported by the relevant documents.

(3) A license for conducting banking activity shall be issued if the following conditions are concurrently in place:

1. the Articles of Association and the other Acts of Association of the applicant comply with the law;
2. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) the applicant's Articles of Association do not contain provisions, which hinder the application of principles and the best practices of corporate management;
3. the bank's capital and its paid-in portion are not below the required minimum;
4. in BNB's judgement, the activities that the applicant intends to carry out ensures the required soundness and financial stability;
5. the members of the managing board (board of directors) and of the supervisory board meet the requirements hereof and are not subject to a legal injunction to hold such a position;
6. in BNB's judgment, the shareholders who are in control of more than three per cent of all votes, could not, either by their activities or through their influence on decision making, injure the safety or soundness of the bank or its operations;
7. in BNB's judgement, no danger exists for the bank to be affected by risks arising from the non-banking activities of its founding members;
8. in the existence of a financial holding company or mixed-activity holding company, the BNB considers that the parent undertaking will not place obstacles to conducting consolidated supervision;
9. the persons having subscribed three or above three per cent of the capital have made contributions with own money;
10. no evidence exists that the existence of close relations between the bank and other persons can hinder the efficient exercise of banking supervision;
11. in BNB's judgement, the requirements or difficulties in applying third country's particular regulative or administrative acts regulating one or more legal or natural persons, with whom the bank has close links, will not impede the efficient conduct of banking supervision;
12. in BNB's judgement, the amount of the property owned by the persons who have subscribed for 10 or above 10 per cent of the capital, and/or the activities conducted by them correspond in scale and financial performance to the subscribed interest in the bank and does not raise any suspicions about the reliability and suitability of these persons to support the bank's capital where needed;
13. the origin of funds for contributions used by the persons with subscriptions for three or above three per cent of the capital is transparent and legitimate;

14. in BNB's judgement, the business plan, the managerial and organisational structure of the bank, the internal control systems, the risk management systems and the programme of anti-money laundering measures ensure adequate risk management and the necessary soundness and financial stability of the bank;

15. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) the requirement of Article 6, paragraph 3 is complied with.

(4) Within three months from receipt of the application and all necessary documents the BNB shall take a decision to grant a banking license, if the conditions of Article 15, paragraph 1 are met, or shall refuse to grant a license.

Article 16

(1) In cases other than those of Article 15, paragraph 4, the BNB shall refuse granting a license where it has established that:

1. none of the conditions under Article 14, paragraph 3 are in place;
2. the applicant has failed to submit within the established deadlines all necessary information and documents under Article 13, paragraph 2, or the documents submitted contain incomplete, contradictory or unreliable information.

(2) (amended; Darjaven Vestnik, issue 52 of 2007, effective as of 1 November 2007) Where the Financial Supervision Commission has submitted a negative opinion under Article 14, paragraph 2, the BNB shall refuse to grant a license for providing services and activities under Article 5, paragraphs 2 and 3 of the Law on Markets in Financial Instruments.

(3) The refusal to grant a license shall state a reason.

(4) Irrespective of the deadlines under Articles 14 and 15, the BNB shall grant or refuse to grant a license within 12 months from receipt of the declaration.

Article 28

(amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009)

(1) Any natural or legal person, as well as persons acting in concert, may not, without the preliminary approval by the BNB, directly or indirectly acquire shares or voting rights in a bank licensed in the Republic of Bulgaria, if as a result of such acquisition their holding becomes qualifying or if this holding reaches or exceeds the thresholds of 20, 33 or 50 per cent of the shares or voting rights. Such approval shall also be required in the event where a bank becomes a subsidiary.

(2) Preliminary approval from the BNB shall also be required where holdings become qualifying or the thresholds under paragraph 1 are reached or exceeded as a result of acquisition of shares in the stock exchange or another regulated market of securities.

Where due to objective circumstances which are not of persons' own will, their holding becomes qualifying or the thresholds under paragraph 1 are reached or exceeded, the acquirers may not exercise their voting rights on these shares until they have received the BNB approval; they shall submit a proposal for issuance of the approval within one month from the occurrence of the grounds thereof. If no approval is requested within the set term or no such approval is granted, the BNB may impose the measure under Article 103, paragraph 2, item 15.

(4) Prior to the approval of the BNB, the shares under paragraph 3 shall not be taken into consideration when the quorum of shareholders' general meeting is formed.

(5) The Bulgarian National Bank shall hold preliminary consultations and co-operate with the competent supervisory authority in a Member State where the proposed acquirer under paragraphs 1–3 is:

1. a credit institution, insurance or reinsurance undertaking, investment firm or management company licensed in a Member State; or

2. a parent undertaking of another credit institution, insurance, reinsurance undertaking, investment firm or management company licensed in a Member State; or

3. a person exercising control over a credit institution, insurance, reinsurance undertaking, investment firm or management company licensed in a Member State.

(6) Where the proposed acquirer under paragraphs 1–3 is a person licensed by the Financial Supervision Commission, the BNB shall hold consultations in advance and cooperate with the Commission.

(7) The Bulgarian National Bank shall provide without undue delay, upon request of the authority under paragraphs 5 and 6, the information required for the assessment of proposed acquisition that makes it possible to exercise effective supervision. The BNB may on its own initiative provide all essential information without explicitly expressed request.

Article 28a

(new; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009)

(1) To obtain approval, any person or persons acting in concert shall notify the BNB via a written proposal of their decision on acquisition within the meaning of Article 28, paragraph 1 or 2 or of the occurrence of grounds under Article 28, paragraph 3 and attach all necessary documents provided for in a BNB ordinance.

(2) The Bulgarian National Bank shall carry out an assessment based on the documents and information provided by the proposed acquirer, as well as on the basis of other information and documents at disposal.

(3) An approval shall be issued having regard to the likely influence of the proposed acquirer on the credit institution in order to ensure its sound and prudent management and on the basis of the assessment which shows suitability and financial soundness of the proposed acquirer. The assessment shall be based on each of the following criteria:

1. the reputation of the proposed acquirer;
2. the reputation and experience of any person who will direct the business of the bank as a result of completion of the proposed acquisition;
3. the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged;
4. whether the bank will be able as of the moment of acquisition to comply and continue to comply with the prudential requirements based on the effective legislative framework, in particular whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities and determine the allocation of responsibilities among the competent authorities;
5. whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

(4) The BNB shall refuse to issue an approval if it ascertains that the proposed acquisition does not meet any of the requirements under paragraph 3 or that the information provided by the acquirer is incomplete, irrespective of the procedure carried out under Article 28b, paragraphs 3 and 4.

Article 62

(1) Bank employees, members of the bank's managing and controlling bodies, officials from the BNB, liquidators, receivers, as well as any other persons working for the bank, may not disclose, or use to their personal benefit or to the benefit of the members of their families, information which is bank secrecy.

(2) Bank secrecy shall be facts and circumstances concerning the balances and transactions on accounts and deposits of the bank's customers.

(3) All bank employees when taking office shall sign a declaration regarding the keeping of bank secrecy.

(4) The provisions of paragraph 1 shall also apply to cases where the relations of the said persons concerned have ceased or their activities have been discontinued.

(5) Except for the BNB and for the purposes of and pursuant to the conditions set forth in Article 56, a bank may disclose information under paragraph 1 on individual customers only with their consent or pursuant to a court ruling.

(6) The Court shall be entitled to decide on disclosure of information under paragraph 2 and upon demand of:

1. the Public Prosecutor, should there be information that a crime has been committed;
2. the Minister of Finances or a person authorized by him – in case of Article 143, paragraph 4 of the Tax and Social Insurance Procedure Code;
3. the director of the territorial directorate of the National Revenue Agency where:
 - a) evidences have been submitted that the person subject to inspection has prevented the conduct of an examination or inspection or has not kept proper accounting, or that said accounts are imperfect or false;
 - b) by an act of a competent government authority evidencing the occurrence of an event which has led to the destruction of the accounting records of the person inspected;
4. (amended; Darjaven Vestnik, issue 38 of 2012, effective as of 19 November 2012) the Commission on Confiscation of Property Acquired through Criminal Activity and the directors of its territorial directorates;
5. the director of the Agency of State Financial Control or officials authorised by him where by an act of the authority it has been ascertained that:
 - a) the managers of the organisation or entity inspected have prevented the conduct of control activity by the Agency;
 - b) the organisation or entity inspected has not kept any accounting records as required or said records are incomplete or false;
 - c) there is data on deficiencies;
 - d) by an act of a public authority it has been ascertained the occurrence of a fortuitous event which has led to the destruction of accounting records of the organisation or entity inspected;
6. (amended; Darjaven Vestnik, issue 95 of 2009, effective as of 1 December 2009) the director of the Customs Agency and the heads of the customs where:
 - a) by an act of a customs authority, it has been ascertained that the person subject to inspection has prevented the conduct of a customs inspection or has not kept proper accounting or that it has been incomplete or false;
 - b) by an act of a customs authority it has been ascertained that customs requirements have been violated;
 - c) bank accounts must be attached to secure due claims collected by customs authorities, as well as to secure the collection of fines, legal interest or other;
 - d) by an act of a competent government authority evidencing the occurrence of a fortuitous event which has led to the destruction of accounting records of the entity subject to customs inspection;
7. (amended; Darjaven Vestnik, issue 69 of 2008, issue 93 of 2009, effective as of 25 December 2009; amended; Darjaven Vestnik, issue 105 of 2011; issue 44 of 2012, effective as of 1 July 2012) the directors of the Combating Organized Crime Chief Directorate and the National

Police Chief Directorate of the Ministry of Interior – for the purposes of disclosure and investigation of crimes;

8. (amended; Darjaven Vestnik, issue 109 of 2007) the chairman of the State National Security Agency – where it is required for the protection of the national security.

(7) The regional judge shall take a motivated decision in camera on the motion under paragraph 6 no later than 24 hours after its submission, fixing the time limit for disclosure of the information under paragraph 1. The court ruling is not subject to appeal.

(8) (amended; Darjaven Vestnik, issue 109 of 2007, issue 69 of 2008, issue 93

of 2009, effective as of 25 December 2009; amended; Darjaven Vestnik, issue 105 of 2011; issue 44 of 2012, effective as of 1 July 2012) On a written request of the Director of the National Investigation Service, of the Chairman of the State National Security Agency or of the Directors of the Combating Organized Crime Chief Directorate and the National Police Chief Directorate of the Ministry of Interior, banks shall provide information on the balances and flow of funds on accounts of undertakings with over 50 per cent state and/or municipal interest.

(9) On a written request from the Chairman of the State Commission on Information Protection or directors of the security services and public order services, banks shall provide information, which is bank secrecy, on persons subject to investigation for reliability under the terms and the procedure of the Law on Protection of Classified Information. The investigated person's consent to disclosure of this information shall be enclosed to the request.

(10) Where there is data on organised crime or on money laundering, the Prosecutor General or a deputy, authorised by him, may request the bank to provide the data provided for in paragraph 2. The requests addressed to the bank and the information received as an answer shall be filed in a register at the Prosecutor General and at the BNB.

(11) (new; Darjaven Vestnik, issue 105 of 2006) Banks shall submit to the Executive Director of the National Revenue Agency information on savings income according to the conditions and under the procedure of Part Two, Chapter Sixteen, Section VI of the Tax and Social Insurance Procedure Code.

Article 64

(1) The persons under Article 63, paragraph 3 may provide information which is professional secrecy to the following authorities in performing their functions or duties:

1. the judicial authorities – where criminal proceedings have been initiated;
2. the court:
 - a) in case of appeal against a BNB's administrative act issued under this Law;
 - b) in relation to a lawsuit concerning undertaken supervisory actions;
 - c) in case of initiated liquidation or bankruptcy proceedings against a bank, except the information relating to third parties who wish to purchase the bank as a going concern.
3. (amended; Darjaven Vestnik, issue 109 of 2007) the financial supervision authorities in the Republic of Bulgaria, the Bulgarian Deposit Insurance Fund, and the State National Security Agency, in the cases and according to a procedure set out in joint instructions or agreements;
4. the receivers or liquidators of banks, and the bodies which by law exercise control of a bank under liquidation or bankruptcy proceedings;
5. the auditors of financial statements of banks or other financial institutions, and the persons who by law exercise control over the auditors of banks, insurance undertakings, investment firms or other financial institutions;
6. the authorities of other Member States entrusted with the public duty to supervise financial institutions, insurance undertakings, financial markets or payment systems;

7. the authorities of other Member States which are involved in liquidation or bankruptcy proceedings of banks or in other similar proceedings, and the authorities of Member States which are responsible for the oversight of banks under bankruptcy, liquidation or other similar proceedings;

8. the authorities of other Member States which are responsible for the legally required audits of the financial statements of banks and other financial institutions, and the authorities which by law exercise oversight over banks' auditors;

9. the authorities which administer deposit-guarantee schemes in Member States;

10.(amended; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) the European Central Bank and the Member States' central banks in their capacity as monetary authorities, where this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems, and the safeguarding of stability of the financial system, including in case of emergency situation under Article 93, paragraph 1;

11.(new; Darjaven Vestnik, issue 105 of 2011) the European Systemic Risk Board (ESRB), where this information is relevant for the exercise of its statutory tasks under Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ, L 331/1 of 15 December 2010), hereinafter referred to as 'Regulation (EU) No 1092/2010', including in case of emergency situation under Article 93, paragraph 1.

(2)(new; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) In an emergency situation as referred to in Article 93, paragraph 1, the persons under Article 63, paragraph 3 may communicate information constituting professional secrecy to the authorities of the Republic of Bulgaria and other Member States, responsible for legislation on the supervision of credit and financial institutions, investment intermediaries and insurance companies, where this information is relevant for the exercise of their tasks.

(3)(former paragraph 2; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) The authorities under paragraph 1 shall use the received information only for the purposes for which it has been provided and shall not disclose or provide it to third parties, unless in meeting an obligation provided for in a law.

(4)(former paragraph 3; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) The authorities under paragraph 1, items 3–10, may receive information from the BNB only if they are bound by an obligation to keep professional secrecy analogous to that provided for in this Law.

(5)(former paragraph 4; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) Where the professional secrecy is bank secrecy as well, the procedure for disclosing bank secrecy provided for in this Law shall apply.

(6)(former paragraph 5; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) The Bulgarian National Bank shall communicate to the European Commission and the other Member States the names of the overseeing bodies under paragraph 1, items 4 and 5, which may receive information that is professional secrecy.

Article 66

Any information that is professional secrecy may be provided to a third-country competent supervisory authority on the basis of an agreement under Article 88 and provided that:

1. the recipient ensures at least the same level of protection of information as provided for in this Law;

2. the recipient is authorised and agrees to provide information of the same type where demanded by the BNB;

3. the information exchange is intended for the performance of the supervisory functions of the said supervisory authority;

4. the recipient has justified needs of the requested information.

Article 73

(1) (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) The competent managing body of each bank shall adopt and regularly review in accordance with the best internationally recognized practices for corporate governance of banks:

1. the bank's organisation structure;
2. the procedure for defining and delegating the administrators' powers and responsibilities;
3. the bank's strategy and action plan;
4. the risk management and control policy;
5. the procedure for generating and the scope of the management information;
6. the operational control organisation, including rules and procedures for approving, carrying out and reporting transactions;
7. the internal rules and procedures for risk management and control systems efficiency and for reporting the established weaknesses in the organisation and work of structural units;
8. (new; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) systems for prevention against the risk of money laundering.

(2) Paragraph 1 shall apply also to third-country bank branches.

(3) (new; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) The Bulgarian National Bank shall make recommendations and prescriptions for improving corporate governance in accordance with the best internationally recognized practices and monitor their implementation.

(4) (former paragraph 3; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) Banks shall adopt rules for their credit activities, which shall contain at least:

1. the information required from the credit applicant;
2. the way of assessing the creditworthiness of the applicant (and his guarantors);
3. the way of evaluating the offered collateral;
4. the way of evaluating the efficiency of the project offered to be funded with the credit;
5. the procedure for making a decision on the extension of a credit, in accordance with its type;
6. the way of using and repaying the credit;
7. the procedure for controlling the use of the credit according to the purpose for granting it, the current financial position of the borrower and his guarantors, and the adequacy of the collateral;
8. the various types of credit and other sanctions and the procedure for imposing them.

Article 73a

(new; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010)

(1) Banks shall have in place sound, effective and complete strategies and processes on an ongoing basis to assess and maintain the amount, types and distribution of internal capital that they consider adequate to cover the nature and level of all risks to which they are or might be exposed.

(2) The strategies and processes under paragraph 1 shall be subject to regular internal review to ensure that they remain comprehensive and proportional to the nature, scale and complexity of the activities of the banks.

Article 73b

(new; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010)

- (1) Banks shall adopt and implement a policy for the remuneration of their employees.
- (2) In relation to administrators and other persons, whose rights and obligations have a significant influence on the risk profile, policies shall be consistent with the business strategy and long-term objectives of the bank. Remuneration policy shall promote sound risk management and shall not be conducive to risk taking that goes beyond the risk profile of bank.
- (3) Remuneration policy shall be built on principles ensuring compliance with the size, internal organisation of the bank and the nature, scope and complexity of activities carried out by the bank. Principles and requirements for the remuneration policy and its disclosure shall be governed by an ordinance of the BNB.

Article 79

- (1) The Bulgarian National Bank shall supervise the activities of banks to ensure the observance of the rules in this Law and the acts on its implementation, the sound and safe management of banks and the risks they are exposed to or may be exposed to, and the maintenance of own funds adequate to the risks.
- (2) The Bulgarian National Bank shall review the rules, strategies, procedures and mechanisms which banks have introduced to comply with this Law and the acts on its implementation and shall assess the risks to which banks are or may be exposed. On the basis of the review and the evaluation, the BNB shall determine whether the rules, strategies, procedures and mechanisms adopted by banks, the way they are applied, and their own funds ensure stable management and coverage of risks.
- (3) The frequency and intensity of the supervisory review and evaluation under paragraph 2 shall depend on the size of the respective bank, its systemic importance and nature, the volume and complexity of its activities. The review and evaluation under paragraph 2 shall be updated at least on an annual basis.
- (4) The supervision under paragraphs 1–3 shall cover the activities of the banks licensed in the Republic of Bulgaria, including the activities they carry out through a branch or directly on the territory of a Member State or a third country.
- (5) The Bulgarian National Bank shall also supervise the activities of third- country bank branches, and in the cases as specified in this Law – the activities of branches of banks from Member States as well.
- (6) The activities of a financial holding company, or a mixed activity holding company which has a bank-subsidiary, shall be subject to supervision on a consolidated basis by the BNB, unless otherwise provided for in a legal act.
- (7) The Bulgarian National Bank also have the powers under Article 80, paragraphs 1 and 3 also over legal persons controlled by a bank if this is relevant for the purposes of the supervision under paragraphs 1 and 6.
- (8) The Bulgarian National Bank, its bodies and the persons authorised by them shall not be liable for any damages caused in exercising their supervisory functions, unless they have acted with intent.
- (9) Undertakings which, in certain circumstances, may be assumed to be conducting banking operations without a permit shall submit, upon demand from the BNB, the required information and documents. For this purpose, the authorised persons may carry out on-site inspections.
- (10) The Bulgarian National Bank may petition the court to repeal illegitimate decisions of a bank's Shareholders' General Meeting or its managing bodies within one month from BNB's notification of the respective decision.
- (11) For the issuance of permits and documents and for the provision of any administrative services that result from the banking supervision, banks and other persons shall pay the BNB fees following a procedure and in an amount as determined by the BNB Governing Council.

Article 79a

(1) (new; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010; former wording of Article 79a; Darjaven Vestnik, issue 105 of 2011) In exercising its duties under this Law, the BNB shall:

1. (amended; Darjaven Vestnik, issue 105 of 2011) participate in the activities of the European Banking Authority (EBA);
2. (amended; Darjaven Vestnik, issue 105 of 2011) follow the guidelines, recommendations, standards and other measures approved by the European Banking Authority, except in the cases where there are grounded reasons not to apply the measures which shall be stated thereof.

(2) (new; Darjaven Vestnik, issue 105 of 2011) The Bulgarian National Bank shall cooperate with the European Banking Authority and provide the European Banking Authority with all the information required by it to carry out its duties in accordance with the terms and provisions of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ, L 331/12 of 15 December 2010), hereinafter referred to as 'Regulation (EU) No 1093/2010'.

Article 79b

(new; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010) Exercising its supervisory functions to a bank licensed in Republic of Bulgaria, which operates in one or more Member States, or to a bank licensed in another Member State which operates through a branch in the Republic of Bulgaria, the BNB shall duly consider the potential impact of its decisions on the stability of the financial system in all other Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time.

Article 80

(1) The Bulgarian National Bank may require banks and their share- holders to submit to it all the relevant accounting and other documents, and any information on their activities, and may conduct on-site inspections through the employees and other persons authorised by it.

(2) For the consolidated supervision performance, the BNB may require parent companies and banks' subsidiaries to provide all the relevant documents and information.

(3) The banking supervisory authorities shall have the right to:

1. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) free access to the office premises and information systems of the persons conducting banking activity;
2. demand documents and collect information in relation to the performance of the task assigned;
3. appoint external independent experts;
4. appoint an external auditor for a bank, who will carry out a financial or other type of audit;
5. conduct counter examinations in other bank and non-bank undertakings;
6. attend the meetings of the managing and controlling bodies of banks and ex- press opinions that are to be written down in the minutes of the meeting;
7. (new; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) demand copies of documents verified by the persons under Article 10, paragraph 1 or a person authorized by them and determine the term of their submission.

(4) In exercising its supervisory powers, the BNB may appoint independent ex- perts to evaluate bank's assets and may require that the bank reflect the results of this evaluation in its financial statements or supervisory reports.

(5)(amended; Darjaven Vestnik, issue 109 of 2007) On-site inspections in a bank may be carried out jointly with employees of the State National Security Agency, the Financial Supervision Commission or other competent authorities.

(6)Government authorities and officials shall render assistance, within their powers, to the banking supervisory authorities in the performance of their functions.

Article 103

(1) The Bulgarian National Bank may impose the measures under paragraph 2 when the BNB finds out that a bank or any of its administrators or share- holders have committed certain offences, consisting of:

1. the violation or bypassing of the provisions of this Law, legal or other acts and the BNB guidelines;
2. the breach of a fiduciary duty;
3. the conclusion of banking transactions which affect the bank's financial stability or banking transactions which, through the use of fictitious persons, frustrate or bypass the application of this Law, legal or other acts and the BNB guidelines;
4. the non-fulfilment by the bank of any written commitments to the BNB;
5. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) carrying out transactions or other actions in violation of the banking license granted to the bank or of any other permission or approval given by the BNB;
6. the prevention of exercising banking supervision;
7. threatening depositors' interests;
8. effecting any transactions or operations representing money laundering or in violation of the Law on the Measures against Money Laundering and the acts on its implementation;
9. threatening the stability of payment systems;
- 10.(amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) the violation of the conditions under which the bank's license has been granted or other permission or approval that has been given;
- 11.reduction of own funds by 20 per cent or more when applying a supervisory test for a sudden and unexpected change in the interest rates, specified in the ordinance under Article 40, paragraph 1.

(2)In the cases under paragraph 1 the BNB may:

1. issue a written warning to the bank;
2. convene a shareholders' general meeting or call a session of the managing and supervisory boards (board of directors) by setting the agenda of this meeting or session;
3. issue written orders to cease and eliminate such violations;
4. issue written orders for actions intended to improve the bank's financial position;
5. (amended; Darjaven Vestnik, issue 94 of 2010, effective as of 31 December 2010; amended; Darjaven Vestnik, issue 105 of 2011) impose on the bank more stringent prudential requirements than those imposed on it in normal operation; where a bank does not meet the requirements of Article 73, paragraph 1 and Article 73a or in the review and evaluation under Article 79, paragraph 2 it has been established that it does not provide sound management and coverage of risks, the BNB shall impose additional capital requirement above the minimum required, if as a result of self- application of other measures it is not expected within a reasonable time the bank to improve sufficiently its rules, procedures, mechanisms and strategies. In imposing the additional capital requirement, the following shall be taken into account:
 - a) the quantitative and qualitative aspects of the bank's assessment process referred to in Article 73a;

b) the current adequacy of the bank's internal rules and procedures for management and control referred to in Article 15, paragraph 1, items 4 and 6;

c) the outcome of the supervisory review and evaluation carried out in accordance with Article 79, paragraph 2;

6. issue written orders for the bank to take action and change interest rates, maturity structure, and other terms and conditions relating to the bank's policy and operations;

7. limit the bank's activity by prohibiting to conduct certain transactions, activities or operations;

8. constrain the volume of certain types of activities conducted by the bank;

9. oblige the bank to increase its capital by a written notification;

10. disallow payment of dividends or distribution of capital in any form whatsoever;

11. forbid a foreign bank to carry out activities through a branch or directly; where a permanent prohibition has been imposed on the activities of a bank's branch, the bank's respective body shall make a decision to stop the activities of the branch, to settle the relations with the bank's creditors and to strike the branch off the respective Trade Register;

12. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009; amended; Darjaven Vestnik, issue 105 of 2011) demand a reduction in the bank's operating expenses, including in variable remuneration as a percentage of total net revenues when it is inconsistent with the maintenance of a sound capital base and/or prohibit their payment;

13. demand changes in the bank's internal rules and procedures;

14. (amended; Darjaven Vestnik, issue 105 of 2011) issue written orders for the bank to dismiss one or more individuals authorised to manage and represent the bank, as well as members of the management board, board of directors or supervisory board; if within the time limit set by the BNB the bank has not dismissed the respective person, the BNB may remove that person from office and appoint another person in his place until conducting the respective vote; from the day of receiving the BNB's act on the dismissal, the powers of the person subject to the measure shall be terminated and his managerial or representative actions after this date shall have no effect for the bank;

15. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) temporarily suspend the voting rights of a shareholder and/or issue written orders to a shareholder to dispose of the shares held by him within 30 days;

16. forbid the conduct of transactions and operations with persons who have close links with the bank or who belong to the same consolidation group as that of the bank, or who are members of the bank's managing bodies, or who control the bank or have a qualifying holding or take part in the management of the persons controlling the bank;

17. attach additional requirements for the bank in connection with its activity;

18. require a rehabilitation plan that will be implemented by the bank after the approval by the BNB;

19. appoint two or more conservators in the bank for a specified period of time;

20. place the bank under special supervision in accordance with Articles 115–121 in case of insolvency danger;

21. (amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) withdraw the bank's license for conducting bank activity or any other permission or approval given by the BNB; by the act of the withdrawal of the license, the BNB shall in all cases appoint conservators, provided they have not been appointed prior to the issuance of this act.

(3) In cases of implementation of measures under paragraph 2, the provisions of Article 26, paragraph 1 and Article 34 of the Code on Administrative Procedure, regarding clarifications and objections of parties concerned, shall not apply.

(4) All acts on imposing the measures under paragraph 2 shall come immediately into effect.

(5)(amended; Darjaven Vestnik, issue 105 of 2011) The Bulgarian National Bank shall have the right to require an announcement of any acts on implementing the measures under paragraph 2, respectively entry of any circumstances arising from imposing such measures in the Trade Register.

(6)(amended; Darjaven Vestnik, issue 24 of 2009, effective as of 31 March 2009) When the voting rights of shareholders are temporarily suspended under paragraph 2, item 15, the amount of the shares held by them shall not be taken into consideration when the quorum for holding the shareholders' general meeting and for taking decisions by this meeting is formed. In these cases, if the soundness and safety of the bank's management or its operations is endangered, the BNB may impose on the bank the measures under paragraph 2, items 7, 10 and 19.

(7)The Bulgarian National Bank takes appropriate measures under paragraph 2 against a bank licensed in the Republic of Bulgaria which operates, through a branch or directly, on the territory of another Member State when it has been notified by the competent authorities of the host country that this bank does not observe the applicable legal provisions on banking in the respective Member State. The type and character of the measures taken shall be communicated to the competent authorities of the host Member State.

(8)(amended; Darjaven Vestnik, issue 52 of 2007, effective as of 1 November 2007) The Bulgarian National Bank shall mandatorily withdraw a bank's permit for conducting activities under Article 5, paragraphs 2 and 3 of the Law on Markets in Financial Instruments, if the Financial Supervision Commission has requested this by a reasoned proposal.

(9)In the cases under paragraph 1 the BNB may impose the respective appropriate measures under paragraph 2 even on the branches of banks from a third country and its administrators, as well as on the branches of banks from a Member State and their administrators, in accordance with Section II of this Chapter.

(10) In case of violation of this Law or ordinances for its implementation committed by a financial holding company or a mixed activity holding company, or permitted by a person managing a financial holding company or a mixed activity financial holding company, the BNB may impose the measures under paragraph 2 on the financial holding company or the mixed activity financial holding company, and on its administrators.

(11) When imposing the measures under paragraph 9, the BNB shall cooperate with the competent authorities of the respective Member States.

Article 152

(1) Whoever commits or permits the commitment of a violation under this Law or the regulatory acts governing its enforcement, provided the act does not constitute a crime shall be sanctioned by a fine from BGN 1000 to BGN 4000 and in case of repeated violation – from BGN 3000 to BGN 12,000.

(2)(amended; Darjaven Vestnik, issue 105 of 2011) If the violator under paragraph 1 is a bank, it shall be sanctioned by a financial penalty from BGN 50,000 to BGN 200,000, and in case of repeated violation – from BGN 200,000 to BGN 500,000.

(3)(amended; Darjaven Vestnik, issue 105 of 2011) If the violator under paragraph 1 is a legal person other than bank, it shall be sanctioned by a financial penalty from BGN 5000 to BGN 20,000, and in case of repeated violation – from BGN 20,000 to BGN 50,000.

(4)(repealed; Darjaven Vestnik, issue 105 of 2011)

Article 152a

(new; Darjaven Vestnik, issue 105 of 2011) (1) Whoever communicates false information or circumstances of a bank which may be detrimental to its reputation and credibility shall be sanctioned by a fine from BGN 2000 to BGN 5000, and in case of repeated violation – from BGN 3000 to BGN 10,000.

(2)Where the violation under paragraph 1 was perpetrated through the mass media, the fine shall be from BGN 5000 to BGN 10,000, and in case of repeated violation – from BGN 8000 to BGN 20,000.

(3) If the violator under paragraph 1 or 2 is a legal person, it shall be sanctioned by a financial penalty as follows:

1. in case of paragraph 1 – from BGN 10,000 to BGN 30,000, and in case of repeated violation from BGN 30,000 to BGN 50,000;
2. in case of paragraph 2 – from BGN 20,000 to BGN 50,000, and in case of repeated violation from BGN 50,000 to BGN 150,000.

ANNEX XIII Financial Supervision Commission Act

Article 1

(1) This Act shall provide for the establishment, scope of activities, structure, functions, and operation of the Financial Supervision Commission.

(2) Within the meaning of this Act, financial supervision shall be the supervision over:

1. (Am. – SG, iss. 52 in 2007; iss. 43 in 2010) activities of the regulated securities markets, the Central Depository, investment intermediaries, investment and management companies, natural persons who are directly engaged in securities transactions and investment consultancy, public companies and other issuers of securities under the Public Offering of Securities Act, Law on Measures against Market Abuse with Financial Instruments, Act on Special Investment Purpose Companies and the Markets in Financial Instruments Act.

2. (Am. – SG, iss. 67 in 2003, iss. 97 in 2007) activities of insurers, reinsurers, insurance brokers and insurance agents under the Insurance Code and of the health insurance companies under the Health Insurance Act;

3. (Am. – SG, iss. 67 in 2003) activities of companies engaged in supplementary social insurance activities and the managed by them funds, pursuant to the Social Insurance Code.

4. (New – SG, iss. 43 in 2010) activities of credit rating agencies under Regulation (EC) No. 1060/2009 of the European Parliament of the Council of 16 September 2009 on the credit rating agencies (OJ, L 302/1 from 17 November, 2009), hereinafter referred to as “Regulation 1060/2009”.

(3) The Financial Supervision Commission, and its bodies and authorized officials shall supervise through:

1. Issuance of permits (licenses) and approvals, and by refusing to issue such permits and approvals;
2. Conducting off-site and on-site inspections on the operations of the persons under paragraph 2;
3. Implementation of administrative enforcement measures and imposing of administrative sanctions.

(4) The provisions of the Act shall not apply to:

1. The National Social Security Institute;
2. The National Health Insurance Fund.

Article 19

(1) Inspections shall be conducted by Commission administration officials designated by an order of the Chairman or the respective Deputy Chairperson.

(2) The officials under paragraph 1 shall conduct inspections on site and on the Commission premises on:

1. (Am. – SG, iss. 67 in 2003, iss. 84 in 2006, iss. 52 in 2007; iss. 43 in 2010) the compliance with this Act, the Social Insurance Code, the Public Offering of Securities Act, the Act on the Special Investment Purpose Companies, Markets in Financial Instruments Act, Law on Measures against Market Abuse with Financial Instruments, the Insurance Code, the Health Insurance Act and the secondary legislation for their application as well as with Regulation 1060/2009, according to Art. 23 hereof;

2. Prevention and detection of legal offences.

(3) A supervised person shall be obligated to provide all the conditions for the normal performance of an inspection.

(4) Commission administration officials shall be obligated to identify themselves in performing their official duties by presenting the order under paragraph 1.

(5) The inspected person shall be obligated to assist the Commission and its administration officials by:

1. Providing premises for conducting the inspection and by reporting at request at the Commission building.
2. Designating its employee as a contact person to assist the inspecting officials;
3. (Suppl. – SG, iss. 43 in 2010) Providing access to official premises and to information systems;
4. Providing all accounting, commercial, and other documents, necessary to establish facts and circumstances in relation to the inspection scope;
5. Providing, upon request, certified copies of accounting and other documents; the certification is done by putting the text „True to the original”, dated, signed and sealed by an authorized representative of the inspected person;
6. Providing, upon request, the official’s explanations in writing.

(6) A statement of findings shall be prepared in two copies for each conducted inspection, and shall be signed by the Commission’s official who has conducted the inspection, and shall be served against signature to the inspected person.

Article 25 (Am. – SG, iss. 31 in 2003; iss. 103 in 2005)

(1) Information representing a professional secrecy may be disclosed only:

1. (Am. – SG, iss. 52 in 2007) Before the bodies of the Court, the Prosecutor’s Office, the investigation authorities and the police authorities in case of initiated criminal procedure, and before the court, the liquidator and the receiver in civil and commercial proceedings in the cases of liquidation or bankruptcy of a regulated entity, if the information does not harm the interests of third persons.
2. (Am. – SG, iss. 109 in 2007) Before the bodies exercising bank supervision and the State Agency of National Security under terms and procedure set by joint instructions insofar as this is necessary for performance of their functions;
3. (Am. – SG, iss. 52 in 2007; iss. 97 in 2007) Before auditors performing audit of regulated entities and quaestors, liquidators or receivers of regulated persons, the Investor Compensation Fund and the Guarantee Fund insofar as this is necessary for performance of their functions;
4. (New – SG, iss. 52 in 2007) To clearing houses or other entities which according the law carry out clearing or settlement of the markets in financial instruments in the Republic of Bulgaria, insofar as needed for the exercising of their functions in case of default or possible default by the market participants;
5. (Prev. item 4 – SG, iss. 52 in 2007) By the explicit written consent of the person to whom it refers;
6. (Prev. item 5 – SG, iss. 52 in 2007) As generalized data in a manner not allowing individualization of the persons it refers to.

(2) Information concerning health status of natural persons, received in connection with the exercising of financial supervision, may be disclosed only with their explicit written consent or on the order of the court upon presence of data on a committed crime.

(3) (Am. – SG, iss. 52 in 2007) The persons and bodies under Para 1 shall be under the obligation to keep the confidentiality of the information obtained and to use it for the purposes for which it has been provided to them, save for the cases when the Commission has given an express assent it to be used for other purposes as well.

(4) Information representing a professional secrecy may be provided to the authorities of a Member State, carrying out financial supervision, on condition that they keep the confidentiality of the received information and use it only in connection with the performance of their functions:

1. for verification of compliance with the requirements for issuance of licences for carrying out of activity on financial markets, as well as for exercising of supervision over performance of this activity;

2. for imposing sanctions;

3. upon appeal against their acts by administrative procedure or through the courts.

(5) (New – SG, iss. 52 in 2007) The Commission may provide information constituting professional secret, on condition that the same level of confidentiality for the provided information is ensured of:

1. the Member State's authorities which exercise supervision on the operation of credit institutions, in relation to the fulfillment of their supervisory functions;

2. the Member State's authorities which participate in procedures of liquidation, insolvency or other similar procedures of investment intermediaries, insurers, collective investment undertakings and their management companies and depositaries, in relation to the fulfillment of their supervisory functions;

3. persons from a Member State who are responsible for envisaged by law audits of the reports of investment intermediaries, credit institutions, insurers and other financial institutions, in relation to fulfillment of their supervisory functions;

4. The Member State's authorities who administrate investor compensation schemes or funds for securing insurance receivables in relation to the fulfillment of their functions.

(6) (Prev. item 5; am. – SG, iss. 52 in 2007) Information representing a professional secrecy may be provided to a foreign body from a third country, exercising financial supervision, on the grounds of an agreement for cooperation and information exchange and provided that the body to which the information is provided:

1. ensures at least the same level of confidentiality of the provided information;

2. has a power and agrees to provide information of the same nature upon request by the Commission;

3. needs the required information for performance of its supervision functions.

(7) (Prev. item 6; am. – SG, iss. 52 in 2007) The Commission may provide under the procedure of para 1 item 1 in the cases of liquidation or bankruptcy, item 2 and 3 and para 6, information which represents a professional secrecy, received from the bodies of a Member State, performing financial supervision, only with their explicit consent and for the purposes for which the consent has been given.

ANNEX XIV Law on Gambling

Article 41 – Types of gambling games

(1) Gambling games permitted under this act shall be: lotteries, betting on outcomes of sports competitions and horse and dog races, betting on Chance Events, and betting on guessing of facts, games played with gambling machines and casino games.

(2) The rules for organising of gambling games shall be approved in accordance with the provisions of Article 22, Paragraph 1, item 11. A gambling game organiser shall be responsible for the whole organisation of the activities and performance of accounting, which should ensure the accurate reporting of all operations related to the games in compliance with the existing legislation and its rules approved under the foregoing sentence.

Article 45 – Working hours and restrictions to visitors

(1) Gambling halls, casinos, and premises for acceptance of bets and paying out of winnings may be open 24 hours for visitors.

(2) The following individuals shall not be admitted into gambling halls and casinos:

1. Individuals under the age of 18;
2. Uniformed individuals, except for individuals attending in line of duty;
3. Armed individuals, except for attending in line of duty which require their armed presence;
4. Individuals without identity documents;
5. Individuals who have violated the order in the casino, including individuals in a state of intoxication or under the effect of drugs or other psychotropic substances;
6. Individuals who have jeopardised the order and have disturbed conducting of the games and who have been prohibited by the organiser to participate in gambling games.

(3) An information board shall be visibly placed Immediately next to the entrance of the places under Paragraph 1, on which the prohibitions under Paragraph 2, items 1, 2, 3 and 4 shall be displayed.

Article 72 - Requirements

(1) Gaming tables in a casino may not be less than five, of which at least two roulette wheels, and gambling machines may not be less than 15.

(2) The gambling machines in a casino may be connected with each other for achieving a premium jackpot in compliance with the requirement of Article 69, Paragraph 1.

(3) No operation of gaming tables and accessories thereof, and of gambling machines which are not approved by the Commission shall be allowed.

Section VII

Remote Gambling Games

Article 77 - Definition

(1) Remote gambling games shall be operated by use of remote communication equipment. Participants shall bet directly via Internet or by other electronic communication facilities.

(2) All remote games shall be controlled by a central computer system with technical and functional characteristics approved by the Commission, based on tests conducted in an approved laboratory under Article 22, Paragraph 1, item 8 and under conditions and according to a procedure set forth in the ordinance under Article 42, Paragraph 2.

(3) Gambling games under Article 41, Paragraph 1, with the exception of raffles and instant lottery games may be organised remotely via Internet or by other electronic communication facilities. The requirements of this chapter shall apply, accordingly.

(4) Participants in remote games shall be subject to mandatory individual registration in compliance with the provisions of Article 45, Paragraph 2, item 1.

(5) The procedure for mandatory individual registration under Paragraph 4 shall be determined in the ordinance under Article 6, Paragraph 1, item 4.

(6) The personal data of the participants shall be requested, processed and stored subject to the provisions of the Personal Data Protection Act.

Article 78 – Payments

Payments in remote games involving betting and payouts of wins shall be effected by a bank transfer, mandatory via the bank account of the game organizer opened in accordance with Article 6, Paragraph 1, item 3, subject to full compliance with the rules approved by the organiser under Article 22, Paragraph 1, item 11.

Article 79 – Mandatory information

The following information in the Bulgarian language should mandatory be contained in the gambling game organiser's website through which the gambling games are organized: Organiser's data of his business registration, including a tax and/or other identification number, the license issued by the Commission, gambling game rules, clear and unambiguous listing of methods of accepting bets and formation and payout of winnings, amounts of bets and amounts of the respective wins, assistance services, correspondence data, including telephone number and e-mail address for contacting directly and in a timely manner the organiser and the Commission, methods of filing of complaints and alerts to the organiser and to the Commission.

Article 80 – Communication Equipment

(1) The communication equipment for organizing remote gambling games via Internet comprises computer systems and networks including the server of the gaming organiser and all relevant components, operating systems and gaming software.

(2) The gaming software shall contain a random number generator, which shall determine the outcomes of the games, with the exception of games with betting on outcomes of sports competitions and horse-races and dog-races, betting on chance events, and betting involving right guessing of facts.

(3) The communication equipment should perform both geographic localizing of the IP address and the identification of the date, hour, duration of the gaming session of a person who has registered as a participant in a game on the organiser's website. The data under the foregoing sentence should be kept for a period not less than 12 months from the date of their collection and processing.

(4) An organizer of remote gambling games shall ensure to the controlling authorities of the Commission, the National Revenue Agency and the Ministry of Interior continuous remote access to the local control server under Article 6, Paragraph 3 located in the territory of the Republic of Bulgaria, including to the data base containing information of the games with participants from the territory of Bulgaria.

Article 81 – Declaring, testing, and payout percentages of bets

(1) The number and type of gaming facilities in an Internet casino or in an Internet gambling hall shall be declared by the organiser when filing an application for issuance of a license.

(2) In case of a change of the number, the type of the virtual gaming facilities and the jackpot system, only the software of the game shall be subject to testing in accordance with a procedure and method determined in the Ordinance under Article 42, Paragraph 2.

(3) Software of the virtual gambling machines should ensure a payout percentage of bets not less than 80 per cent of the total write.

Article 82 –Premium jackpot

Virtual gambling machines may be connected with each other for achieving a premium jackpot, which is an accumulation formed by allocations of up to 5 per cent of each bet.

Article 83 – Remote games by electronic means of communication

(1) Remote gambling games under this act, in which the bet is made by the phone call rates or the rate of another electronic communication service may be organised by the following electronic means of communication: mobile and stationery telephone sets, wireless, television, satellite, and other means.

(2) The game rules shall clearly and unambiguously specify methods of accepting bets and payout of wins, amounts of bets and methods of determination of the respective winnings. The rules shall be subject to approval by the Commission.

Article 84 - Bet

(1) The bet under Article 83 shall be expressed as the rate paid for a telephone or another electronic communication service. The provider of such service should make sure in advance that the gambling game is permitted in accordance with the provisions of this act.

(2) When betting by means of an electronic communication service, the bet shall be considered to have been made by the person - owner or lawful user of the electronic communication means.

(3) It is forbidden to make bets from a means for transmission of electronic communication service that is owned by a state or municipal organisation or a legal entity financed from the state budget. A bet made from such means shall be deemed void.

ANNEX XV Law on Limitation of Cash Payments

Article 3

(1) Payments in the territory of Bulgaria shall be made only via bank transfers or deposits to payment accounts where:

1. their value is equal to or in excess of BGN 15,000;
2. their value is below BGN 15,000 where they are part of a financial consideration under a contract the value of which is equal to or in excess of BGN 15,000.

(2) Paragraph 1 shall also apply in the cases of payments in foreign currencies where their equivalent in Bulgarian leva is equal to or in excess of BGN 15,000. The equivalent in Bulgarian leva shall be determined on the basis of the exchange rate of the Bulgarian National bank for the day of payment.

ANNEX XVI Law on Measures Against Money Laundering

Chapter One **GENERAL PROVISIONS**

Article 1

(Amended, SG No. 1/2001, No. 54/2006)

This Act shall regulate preventive measures against using the financial system for money laundering purposes, as well as organisation and control over such measures.

Article 2

(Amended, SG No. 1/2001, No. 54/2006)

(1) Under this Act, money laundering shall be:

1. any transformation or transfer of property acquired through or in connection with any criminal activity or participation therein in order to conceal the unlawful origin of such property, or abetting a person participating in such an activity in order to avoid the legal implications of their actions;
2. concealing the nature, origin, location, allocation, movement or rights related to property acquired through criminal activity or participation therein;
3. acquisition, possession, or use of property, with the knowledge at the time of receiving, that it has been acquired through criminal activity or participation therein;
4. participation in any activity under Items 1-3, association for the purpose of performing such activity, attempt to perform such activity, as well as abetting, inciting, facilitating performing of such activity or its concealment.

(2) Money laundering shall also be the case when the activity, through which the property under Paragraph 1 has been acquired, has been performed in a European Union member state, or another country not falling under the jurisdiction of the Republic of Bulgaria.

Article 3

(1) (Amended, SG No. 54/2006) The measures for prevention against using the financial system for money laundering purposes shall be:

1. identification of clients and verifying their identification;
2. identification of the client's actual legal-person owner, and taking relevant measures to verify its identification in a way providing enough grounds for the person under Paragraphs 2 and 3 to accept the actual owner as being established;
3. collection of information from the client regarding the purpose and the nature of the

relationship, which has been established or is to be established with the client;

4. ongoing monitoring of all established commercial or professional relations and verification of all transactions performed within such relations to determine the extent, to which these comply with the available information on the client, its commercial activity and risk profile, including clarification of the funds' origin in all cases under the law;

5. disclosure of information on any doubtful transactions and clients.

(2) The measures under Article 1 shall be mandatory for:

1. (Amended, SG No. 1/2001, 31/2003, No. 59/2006, No. 16/2008, SG No. 23/2009, effective 1.11.2009, SG No. 101/2010, effective 30.04.2011) The Bulgarian National Bank, credit institutions carrying on activity within the territory of the Republic of Bulgaria, financial institutions, exchange bureaus and the other payment service providers;

2. (Supplemented, SG No. 31/2003, amended, SG No. 103/2005, No. 54/2006) Insurers, re-insurers, and insurance agents, headquartered in the Republic of Bulgaria; insurers, re-insurers, and insurance agents from an European Union Member State or a state - party to the Agreement on Establishment of the European Economic Area, which engage in operations on the territory of the Republic of Bulgaria; insurers and re-insurers, headquartered in states, other than those indicated, licensed by the Commission for Financial Supervision, to conduct operations in the Republic of Bulgaria through a branch; insurance agents, headquartered in states, other than those indicated, listed in a Commission for Financial Supervision registry;

3. (Amended and supplemented, SG No. 1/2001, amended, SG No. 54/2006) Mutual investment schemes, investment intermediaries and management companies;

4. (New, SG No. 1/2001, amended, SG No. 54/2006, supplemented, SG no. 92/2007) Pension funds and health insurance companies;

5. (Renumbered from Item 4, amended, SG No. 1/2001) Privatisation authorities;

6. (Renumbered from Item 5, amended, SG No. 1/2001) Persons who organise the awarding of public procurement orders;

7. (Renumbered from Item 6, SG No. 1/2001) Persons who organise and conduct gambling games;

8. (Renumbered from Item 7, SG No. 1/2001) Legal persons which have employee mutual aid funds;

9. (Renumbered from Item 8, SG No. 1/2001) Persons lending cash against a pledge of chattels;

10. (Renumbered from Item 9, SG No. 1/2001, amended, SG No. 57/2011) Postal operators licenced to perform postal money orders under the Law on Postal Services;

11. (Renumbered from Item 10, SG No. 1/2001) Notaries public;

12. (Renumbered from Item 11, SG No. 1/2001, amended and supplemented, SG No. 31/2003, amended, SG No. 52/2007) Market operator and/or regulated market;

13. (Renumbered from Item 12, SG No. 1/2001) Leasing entities;

14. (Renumbered from Item 13, amended, SG No. 1/2001) State and municipal authorities executing concession agreements;

15. (Renumbered from Item 14, SG No. 1/2001) Political parties;

16. (Renumbered from Item 15, SG No. 1/2001) Trade unions and professional organisations;

17. (Renumbered from Item 16, amended, SG No. 1/2001) Non-for-profit legal entities;

18. (Renumbered from Item 17, SG No. 1/2001, amended, SG No. 67/2008) Registered auditors;

19. (Renumbered from Item 18, SG No. 1/2001, amended, SG No. 105/2005) National Revenue Agency authorities;

20. (Amended, SG No. 1/2001) Customs authorities;

21. (New, SG No. 1/2001; Amended, SG No. 31/2003, repealed, SG No. 16/2011);

22. (New, SG No. 1/2001) Sports organisations;

23. (New, SG No. 1/2001) The Central Depository;

24. (New, SG No. 1/2001, amended, SG No. 31/2003, SG No. 92/2007, repealed, SG No. 16/2011);

25. (New, SG No. 1/2001) Merchants dealing in arms, petrol and petrochemical products;

26. (New, SG No. 1/2001; Amended, SG No. 31/2003) Persons providing, by occupation, advice in taxation matters;

27. (New, SG No. 1/2001) Wholesale traders.

28. (New, SG No. 31/2003) Persons providing, by occupation, advice in legal matters, where they:

a) Participate in the planning or performance of a client deal or transaction concerning:

aa) Purchase or sale of a real property or transfer of a merchant's business;

bb) Management of cash, securities, or other financial assets;

cc) Opening or operating a bank account or a securities account;

dd) Raising funds to incorporate a merchant, increase the capital of a company, extend a loan or for any form of raising funds for the business operations of such merchant;

ee) (Supplemented, SG No. 54/2006) Incorporate, organise operations or management of a company or another legal person, an off-shore company, a company managed under a trust arrangement or any other such entity;

ff) (New, SG No. 54/2006) Fiduciary property management;

b) Act for the account or on behalf of their client in any financial or real property transaction;

29. (New, SG No. 31/2003) Persons providing real property intermediation by occupation;

30. (New, SG No. 54/2006) Persons, whose occupation is to provide:

a) management address, correspondence address, or office for the purpose of legal person registration;

b) legal person, off-shore company, fiduciary management company or similar entity registration services;

c) fiduciary management services for property or person under letter b);

31. (New, SG No. 57/2011) Persons whose occupation is to provide accounting services;

32. (New, SG No. 57/2011) Private enforcement agents.

(3) Measures under paragraph (1) shall be mandatory for the persons under paragraph (2) also when they have been declared bankrupt and in liquidation.

(4) (Supplemented, SG No. 31/2003) Measures under paragraph (1) shall apply also to branches of persons under paragraphs (2) and (3) registered abroad, and to branches registered in this country held by foreign persons falling within the scope of those described in paragraphs (2) and (3).

(5) (New, SG No. 31/2003, repealed, SG No. 54/2006).

(6) (New, SG No. 31/2003, amended, SG No. 54/2006) Persons, referred to in Paragraph (2), Item (28), shall not be obliged to disclose under this Act any information obtained by them during or in relation to any court or preliminary proceedings, which are pending, about to be open, or are closed, as well as any information related to establishing a client's legal status.

(7) (New, SG No. 54/2006, repealed, SG No. 16/2011).

Article 3a

(New, SG No. 31/2003)

(1) (Amended, SG No. 109/2007) The authorities for supervision of the activities of persons referred to in Article 3, paragraphs (2) and (3) shall be under the obligation to provide information to the Financial Intelligence Directorate of the State Agency for National Security where, in the performance of their supervision activities, they should establish any performance of a transaction or deal related to a suspected money laundering or failure to meet the obligation prescribed in Article 11a.

(2) (Amended, SG No. 109/2007) The examinations performed by the authorities referred to in paragraph (1) shall also include a check for the compliance of examinees with the requirements of this Act. Where a violation is established, the supervision authorities shall inform the Financial Intelligence Directorate of the State Agency for National Security thereof by sending it an abstract from the relevant part of the memorandum of findings.

(3) (New, SG No. 54/2006, amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security and the supervisory authorities may exchange classified information for the purpose of their legally established functions.

Article 3b

(New, SG No. 54/2006)

(1) Banks, registered on the territory of the Republic of Bulgaria, and foreign banks, performing activities on the territory of the country through a branch, shall not enter in any partner (banking) relations with banks in jurisdictions, where they do not have a physical presence, and do not belong to a regulated financial group.

(2) Banks, registered on the territory of the Republic of Bulgaria, and foreign banks, performing activities on the territory of the country through a branch, shall not enter into any partner relations with banks outside the country, which allow their accounts to be used by banks in jurisdictions, where they do not have physical presence, and do not belong to a regulated financial group.

Article 3c

(New, SG No. 54/2006)

(1) Persons under Article 3, Paragraph 2 and 3 shall ensure application of all measures under this Act and all statutory acts related to its application by its branches and affiliates, where they have majority interest, abroad to the extent made possible by the relevant foreign legislation.

(2) (Supplemented, SG No. 92/2007, amended, SG No. 109/2007) If the legislation in the foreign country does not allow or if it restricts the application of any measures under Paragraph 1, persons under Article 3, Paragraphs 2 and 3 have the obligation to notify the Financial Intelligence Directorate of the State Agency for National Security and the respective supervisory authority, as well as to undertake additional measures, as appropriate for the risk, as established in the rules for implementing this Act.

(3) (Amended, SG No. 109/2007) Branches and affiliates, where persons under Article 3, Paragraphs 2 and 3, have majority interests abroad, shall not be obliged to notify the Financial Intelligence Directorate of the State Agency for National Security under Articles 11 and 11a.

Chapter Two

IDENTIFICATION OF CLIENTS; COLLECTION, STORAGE AND DISCLOSURE OF INFORMATION

Section I

Identification of Clients

Article 4

(Supplemented, SG No. 1/2001, amended, SG No. 31/2003)

(1) (Amended, SG No. 54/2006) The persons under Article 3, Paragraphs 2 and 3, shall be bound to identify their clients when business or professional relations are established, including when opening an account, and when executing a transaction or concluding a deal of a value exceeding BGN 30,000 or its equivalent in foreign currency, and persons referred to in Article 3, Paragraphs 2, Items 1-4, 9-11, 13 and 28, shall also be bound to do so in case of any cash transaction exceeding BGN 10,000 or its equivalent in foreign currency. Opening and maintenance of an anonymous account or an account under a dummy name shall not be allowed.

(2) Paragraph (1) shall also apply to cases of effecting more than one transaction or deal which separately does not exceed BGN 30,000 or its equivalent in a foreign currency, or BGN 10,000 or its equivalent in a foreign currency, respectively, but available data suggest that such transactions or deals are related.

(3) (Supplemented, SG No. 54/2006) The persons under Article 3, Paragraph (2), Item (7), shall be bound to identify their clients following the procedure set out in Article 72, Paragraph (2) of the Law on Gambling, as well as upon executing any transaction or concluding a deal exceeding BGN 6,000 or its equivalent in foreign currency.

(4) (Amended, SG No. 54/2006, SG No. 109/2007) In cases, when person under Article 3, Paragraphs 2 and 3 is not able to identify the client as required by this Act and the statutory acts on its application, as well as upon failure to submit a statement under Paragraph 7, this person shall decline to execute the transaction or to enter into any commercial or professional relations, including opening an account. If the person under Article 3, Paragraphs 2 and 3 is not able to identify the client in cases of already established commercial or professional relations, this person shall terminate said relations. In such cases, the person under Article 3, Paragraph 2 and 3 shall decide whether to notify the Financial Intelligence Directorate of the State Agency for National Security under Article 11. This provision shall not apply to persons under Article 3, Paragraph 2, Item 28 under the terms of Article 3, Paragraph 6.

(5) (Amended, SG No. 54/2006) In establishing commercial or professional relations or effecting a transaction or deal by an electronic statement, electronic document or electronic

signature, or any other form where the client is not present, the persons referred to in Article 3, paragraphs (2) and (3) shall be under the obligation to undertake appropriate measures to verify the client's identification data. Such measures may consist of checking the documents made available, requiring additional documents, confirmation of identification by person, other than those referred to in Article 3, paragraphs (2) and (3) or by a person under the obligation to apply anti-money laundering measures in an EU member country, or the introduction of a requirement for the first payment involved in the transaction or deal to be made using an account set up in the client's name with a Bulgarian bank, a branch of a foreign bank that has received permission (licence) from the Bulgarian National Bank to operate in Bulgaria through a branch, or with a bank from an EU member country.

(6) The measures referred to in paragraph (5) shall be incorporated in the internal rules referred to in Article 16.

(7) Persons effecting a transaction or deal via or with a person referred to in Article 3, paragraphs (2) and (3) at a value exceeding BGN 30,000 or its equivalent in foreign currency or, respectively, exceeding BGN 10,000 or its equivalent in foreign currency where payment is made in cash, shall be bound to require the declaration prior to effecting such transaction or deal.

(8) The format for the declaration referred to in paragraph (7) and under Article 6, paragraph (5), Item (3), the terms and procedure for filing, as well as the terms and procedure for exception from the declaration requirement shall be regulated in the rules for implementing this Act.

(9) (Amended, SG No. 92/2007) Persons under Article 3, paragraphs 2 and 3 shall not perform identification under Article 3, paragraph (1) and shall not require presentation of a declaration under paragraph (7) from its client where such client is a credit institution from the Republic of Bulgaria, from another Member State or a bank from a third country named in a list as endorsed under a joint order issued by the Minister of Finance and the Governor of the Bulgarian National Bank.

(10) The list referred to in paragraph (9) shall include countries the legislation of which provides for requirements consistent with the requirements under this Act. The list shall be promulgated in the State Gazette.

(11) (Amended, SG No. 54/2006) In cases where, because of the nature of the transaction or deal, its value cannot be determined as of the time it is effected, the person referred to in Article 3, paragraphs (2) and (3) shall be bound to identify their client at such time when the value of such transaction or deal is determined if such value exceeds BGN 30,000 or its equivalent in foreign currency or, respectively, exceeds BGN 10,000 or its equivalent in foreign currency where payment is made in cash. This case does not exclude the identification obligation when establishing commercial or professional relations.

(12) (Amended, SG No. 103/2005) Persons referred to in Article 3, paragraph (2), Item (2) shall identify their clients when executing an insurance contract under Section I of Annex 1 of the Insurance Code, where the per annum gross amount of periodic premiums or instalments under such insurance contract is BGN 2,000 or more, or the premium or instalment under such insurance contract is a one-time payment and amounts to BGN 5,000 or more.

(13) Persons referred to in Article 3, paragraphs (2) and (3) shall be under the obligation to identify their clients also outside the cases referred to in paragraphs (1) through (12) where a suspicion of money laundering has arisen.

(14) (New, SG No. 54/2006) Persons under Article 3, Paragraphs 2 and 3 shall identify and verify the identifications of their clients, when a suspicion in the client's identification data arises, or when they have been notified on any change thereof.

(15) (New, SG No. 54/2006, amended, SG No. 92/2007) The verification of the clients' identification data and the real owners shall be conducted before establishing commercial or professional relations, opening an account or executing a transaction under Paragraph 1, 2, or 3. The rules for implementing this Act may provide an exception to this rule.

(16) (New, SG No. 54/2006) Persons under Article 3, Paragraph 2 and 3 may apply, depending on the potential risk assessment, simplified or extended measures under Article 3, Paragraph 1 under terms and procedure, established by the rules for implementing this Act.

(17) (New, SG No. 92/2007) No identification under Article 3, paragraph (1) shall be performed and no declaration under paragraph (7) shall be filed where the client is a government authority of the Republic of Bulgaria.

(18) (New, SG No. 92/2007) No identification under paragraph (1) shall be performed and no declaration under paragraph (7) shall be filed where the client is an institution having government authority functions in accordance with the *acquis communautaire* provided that:

1. the person under Article 3, paragraph (2) and (3) has gathered sufficient information which does not create any doubt as to the institution's identity;

2. the institution follows accountability procedures and its activity is transparent;

3. the institution reports to a Community authority, to an authority of a Member State, or there are verification procedures which ensure control of its activities.

(19) (New, SG No. 92/2007) Where a bank account of a person under Article 3, paragraph (2), subparagraphs (11) and (28) from the Republic of Bulgaria, from another Member State or from a country named in the list referred to in paragraph (9) is used to deposit amounts of a client of the person under Article 3, paragraph (2), subparagraphs (11) and (28), the bank shall not perform the identification under Article 3, paragraph (1) of such client and shall not require a declaration under Article 7, provided that such identification has been made and the declaration accepted by the notary public or by the person under Article 3, paragraph (2), subparagraph (28) and the information gathered in such identification is available to the bank upon request. The bank shall gather sufficient information so as to verify compliance with the conditions for applying simplified measures.

(20) (New, SG No. 92/2007) Persons under Article 3, paragraphs (2) and (3) cannot apply simplified measures under Article 3, paragraph (1) in respect of persons from countries named in the list under Article 7a, paragraph (3).

Article 5

(Amended, SG No. 1/2001)

(1) (Amended, SG No. 54/2006) Persons under Article 3, Paragraph 2 and 3 shall establish whether their client acts on its own behalf and at its own expense or on behalf and at the expense of a third party. Where a transaction or deal is effected through a representative, the persons under Article 3, paragraphs (2) and (3), shall be bound to request evidence for the representative powers and to identify the representative and the person represented.

(2) (Amended, SG No. 54/2006) Where a transaction or deal is effected on behalf and at the expense of a third party without proxy, the persons under Article 3, paragraphs (2) and (3) shall be bound to identify such third party, on whose behalf the transaction has been executed, and the person executing the transaction.

(3) (New, SG No. 31/2003) In case of a suspicion that the person effecting the transaction or deal is not acting in their own name and for their own account, persons referred to in Article 3, paragraphs (2) and (3) must make the notification referred to in Article 11 and undertake proper measures to collect information for identifying the person in whose benefit such transaction or deal is actually being effected. Such measures shall be specified in the rules for implementing this Act.

Article 5a

(New, SG No. 54/2006, effective 5.10.2006)

(1) Persons under Article 3, Paragraphs 2 and 3 shall apply extended measures in relation to clients who are currently holding or have previously held a high government position in the Republic of Bulgaria or a foreign country, as well as any clients, who are persons related to them.

(2) The Council of Ministers shall set forth the terms and procedure for application of Paragraph 1.

Article 5b

(New, SG No. 92/2007)

(1) When entering in correspondent relations with a credit institution from a third country other than those named in the list under Article 4, paragraph (9), a credit institution under Article 3, paragraph (2), subparagraph (1) shall:

1. gather sufficient information on the respondent credit institution enabling it to gain full understanding of the nature of its activity and to determine, on the basis of publicly available information, the institution's reputation and the quality of its supervision;

2. assess the internal controls against money laundering and financing of terrorism applied by the respondent credit institution;

3. make arrangements according to which the establishment of any new correspondent banking relations is to take place only upon the prior approval of a person holding a

managerial position with the credit institution;

4. allocate the responsibilities of either of the two correspondent institutions concerning the application of measures against money laundering and financing of terrorism and document this allocation accordingly.

(2) In cases under paragraph (1), where third parties which are clients of the respondent credit institution also have access to the institution's correspondent account, the credit institution under Article 3, paragraph (2), subparagraph (1) must assure itself that the respondent institution carries out identification, identification verification and on-going monitoring of third parties having direct access to its account, and that the respondent institution is able to provide the necessary identification and other data about such clients upon request.

Article 5c

(New, SG No. 92/2007)

Persons under Article 3, paragraphs (2) and (3) must apply extended measures in respect of products or transactions which might lead to anonymity, under terms and following procedures as determined in the rules for implementing this Act.

Article 6

(1) (Amended, SG No. 54/2006) Identification of clients and verification of identification thereof shall be done as follows:

1. (Supplemented, SG No. 1/2001) In the case of legal persons - by presentation of official statement certifying their current status issued by the respective register, and where such person is not subject to registration - by presentation of a certified copy of the document of incorporation and registration of the name, domicile, address and the representative;

2. In the case of natural persons - by presentation of identity document and registration of its type, number and issuer, as well as the name, address, unified civil registry number, and in addition, for natural persons having the qualifications of a sole proprietor, by presentation of the documents under Item (1).

(2) (Repealed, SG No. 105/2005, new, SG No. 54/2006) Persons under Article 3, Paragraphs 2 and 3 shall identify the natural persons, who are actual owners of a legal-entity client, as well as take action to verify their identification, depending on the client type and the risk level resulting from establishing the client relationships and/or executing transactions with client of such type. Upon lack of any other possibility, identification may be carried out through a statement, signed by the legal person's legal representative of agent. The terms and procedure to identify and verify the identification, the terms and procedure for release from the identification obligation, as well as the form and the procedure to submit the statement, shall be set forth in the rules on the application of this Act.

(3) (New, SG No. 1/2001, amended, SG No. 31/2003) A photocopy shall be made of the documents referred to in Paragraph (1), Items (1) and (2), except where the date contained therein are shown precisely in other documents issued by the person referred to in Article 3,

paragraphs (2) and (3) and are kept under the terms specified in Article 8.

(4) (New, SG No. 1/2001) In cases where an activity is subject to licensing, permission or registration, persons effecting deals or transactions in relation to such activity shall present a copy of the respective license, permit or certificate of registration;

(5) (Renumbered from Paragraph 3, amended, SG No. 1/2001, No. 31/2003) The persons under Article 3, paragraph (2), Items (1), (2), (3), (4), (5), (6), (7), (10), (12), (14), (18), (19) and (20) shall set up special offices, which shall:

1. Collect, process, store and disclose information about the specific transactions or deals;

2. Collect evidence of the ownership of the property subject to transfer;

3. Require information about the origin of cash funds or valuables that are the subject of the transaction or deal; the origin of such funds shall be certified by a declaration;

4. (Amended, SG No. 96/2011, effective 1.01.2012) Collect information about their clients and maintain accurate and detailed documentation about their transactions involving cash funds or valuables, including the information and documents under Article 6 of the Law on Foreign Exchange;

5. (Amended, SG No. 109/2007) In the event of a suspicion of money laundering, present the information collected as per Items (1), (2), (3) and (4) to the Financial Intelligence Directorate of the State Agency for National Security under the procedure set in Article 11.

- (6) (Amended, SG No. 1/2001) The persons under Article 3, Paragraph (2), Items (1), (2), (3), (4), (5), (6), (7), (10), (12), (14), (18), (19) and (20) shall perform the obligations personally, where it is not possible to set up a special office.

- (7) (Amended, SG No. 1/2001, No. 31/2003) All persons under Article 3, paragraphs (2) and (3) shall perform their obligations under this Act, whether they set up a special office or not.

Article 6a

(New, SG No. 92/2007)

(1) The Bulgarian National Bank, credit institutions under Article 3, paragraph (2), subparagraph (1), and persons under Article 3, paragraph (2), subparagraphs (2), (3) and (4) may refer to a previous identification of the client performed by a credit institution under the following conditions:

1. the seat of the credit institution which has performed the identification is in the Republic of Bulgaria, in another Member State or in a country named in the list under Article 4 paragraph (9);

2. the information required under Article 6, paragraphs (1) through (4) is available to the person which makes a reference to a previous identification performed by the credit

institution;

3. upon request, the credit institution which has performed a previous identification is able to provide immediately the person which makes a reference to such identification with certified copies of identification documents.

(2) A reference to a previous identification under paragraph (1) does not relieve the person making such reference from liability for non-compliance with the identification requirements under Article 6, paragraphs (1) through (4).

Section II

Collection of Information

Article 7

(1) Where a suspicion for money laundering arises, the persons under Article 3, paragraphs (2) and (3), shall be bound to collect information about the material components and the size of the transaction or deal, the respective documents and other identification data.

(2) (Amended, SG No. 54/2006, SG No. 109/2007) The data collected for the purposes of this Act shall be documented and stored in a way providing access to the Financial Intelligence Directorate of the State Agency for National Security, the relevant supervisory authorities, and the auditors.

Article 7a

(New, SG No. 54/2006, effective 5.10.2006)

(1) Persons under Article 3, Paragraphs 2 and 3 shall place under special monitoring their commercial or professional relations, and transactions involving persons from countries, which do not apply or apply fully the international standards against money laundering.

(2) When the transaction under Paragraph 1 has no logical economic explanation or readily visible grounds, persons under Article 3, Paragraph 2 and 3 shall collect to the extent possible additional information on any circumstances related to the transaction, as well as its purpose.

(3) (Amended, SG No. 92/2007) Countries which do not apply, or do not fully apply international standards against money laundering, shall be specified in a list approved by the Minister of Finance in accordance with the decisions under Article 40, paragraph 4 of Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Any additional measures against such countries shall be set forth in the rules for implementing this Act.

Section III

Storage of Information

Article 8

(Amended, SG No. 1/2001)

In the cases under Articles 4- 7, the persons under Article 3, paragraphs (2) and (3), shall be bound to keep the documents and data about clients and about transactions or deals for a period of 5 years following their completion. For clients, the period shall commence from the beginning of the calendar year following the year of terminating the relationship, and for deals and transactions it shall commence from the beginning of the calendar year following the year of effecting the latter.

Article 9

(Amended, SG No. 1/2001, SG No. 109/2007)

The data and documents under Article 8 shall be provided to the Financial Intelligence Directorate of the State Agency for National Security upon request, in the original or a transcript certified ex officio. The procedure, time and regular periods for that shall be established in the implementation rules of the Act.

Section IV Disclosure of Information

Article 10

(Amended and supplemented, SG No. 1/2001, amended, SG No. 31/2003,
supplemented, SG No. 54/2006, repealed, SG No. 109/2007)

Article 11

(1) (Amended and supplemented, SG No. 1/2001, amended, SG No. 109/2007) Where money laundering has been suspected, the persons under Article 3, paragraphs (2) and (3), shall be bound to notify the Financial Intelligence Directorate of the State Agency for National Security immediately prior to the completion of the transaction or deal while delaying its execution within the allowable time as per the regulations dealing with the respective type of activity.

(2) (Amended, SG No. 1/2001, SG No. 109/2007) In case a delay in the transaction or deal is objectively impossible, the person under Article 3, paragraphs (2) and (3) shall notify the Financial Intelligence Directorate of the State Agency for National Security immediately after its completion.

(3) (New, SG No. 1/2001, amended, SG No. 109/2007) Notification of the Agency may be done also by personnel of the persons under Article 3, paragraphs (2) and (3) that are not responsible for enforcing anti-money laundering measures. The Directorate shall protect the anonymity of such personnel.

(4) (New, SG No. 54/2006, amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security shall provide the person under Article 3, Paragraph 2 and 3, and under Article 3a information, related to the notification made

thereby. The decision on the volume of information, which has to be returned for each particular notification case, shall be taken by the Agency director.

(5) (New, SG No. 57/2011) The obligation referred to in Paragraph (1) shall apply even where the transaction or deal has not been completed.

Article 11a

(New, SG No. 31/2003, effective 01.01.2004)

(1) (Amended, SG No. 109/2007) Persons referred to in Article 3, paragraphs (2) and (3) shall notify the Financial Intelligence Directorate of the State Agency for National Security of any payment in cash at a value exceeding BGN 30,000 or its equivalent in foreign currency made by or to any of their clients.

(2) (Amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security shall keep a register of payments referred to in paragraph (1). The register may only be used for the purposes of counteracting money laundering.

(3) (Amended, SG No. 22/2009) The procedure and time terms for the provision, use, storage and destruction of the information referred to in paragraph (1), as well as its deletion from the register referred to in paragraph (2), shall be determined in the rules for implementing this Act.

Article 11b

(New, SG No. 31/2003)

(1) (Amended, SG No. 109/2007, SG No. 96/2011) The Customs Agency shall provide the Financial Intelligence Directorate of the State Agency for National Security with the information about trade credits involved in exports and imports, about financial leasing between local and foreign persons and about the cross-border carriage of monetary funds, which information is being collected under the terms and procedure of the Law on Foreign Exchange.

(2) (Supplemented, SG No. 109/2007) The procedure for the provision of the information referred to in paragraph (1) shall be determined jointly by the Chairperson of the State Agency for National Security and by the Minister of Finance.

Article 11c

(New, SG No. 31/2003, repealed, SG No. 109/2007)

Article 12

(Amended, SG No. 1/2001)

(1) (Amended, SG No. 54/2006, SG No. 109/2007) In cases under Articles 11 and 18, the Minister of Finance may, upon a proposal by the Chairperson of the State Agency for National Security, put a stay, by an order in writing, on a certain transaction or deal for a

period of up to 3 business days as of the day following the issuance of the order. If no preventive measure, impoundment or injunction are imposed within that period, the person under Article 3, paragraphs (2) and (3), shall be free to execute the transaction or deal.

(2) (Amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security shall notify the Prosecutor's Office immediately of the stay on the transaction or deal, providing the relevant information while protecting the anonymity of the person under Article 3, paragraphs (2) and (3) that has made the notification under Article 11 or 18.

(3) The prosecutor may impose a preventive measure or file a request with the relevant court to impose an impoundment or injunction. The court ought to adjudicate on the request within 24 hours of its submission.

(4) (Supplemented, SG No. 31/2003, amended, SG No. 54/2006, SG No. 109/2007, SG No. 36/2008) When, in the course of investigation and analysis of any information obtained under this Act, the suspicion in money laundering has not been cleared, the Financial Intelligence Directorate of the State Agency for National Security shall disclose this information to the prosecutor's office or to the relevant security or public order service, while preserving the anonymity of the person under Article 3, Paragraphs 2 and 3, and under Article 3a, and of its employees, making the notification under Articles 11 or 18.

Article 13

(Amended, SG No. 1/2001)

(1) (Amended, SG No. 31/2003, amended, SG No. 108/2006, SG No. 109/2007) In case of notification under Article 11 or 18 the Financial Intelligence Directorate of the State Agency for National Security may request information about suspicious transactions, deals or clients from the persons under Article 3, paragraphs (2) and (3), with the exception of the Bulgarian National Bank and the credit institutions that operate on the territory of the Republic of Bulgaria. The information requested shall be provided within the time period set by the Agency.

(2) (Amended and supplemented, SG No. 31/2003, amended, SG No. 54/2006, No. 108/2006, No. 109/2007, SG No. 36/2008) In case of written notification under Article 11 or 18 the Financial Intelligence Directorate of the State Agency for National Security may request information about suspicious transactions, deals or clients from the Bulgarian National Bank and the credit institutions that operate on the territory of the Republic of Bulgaria. The information requested shall be provided within the time period set by the Directorate.

(3) (Amended, SG No. 109/2007) The State Agency for National Security may request information under the terms of Paragraph (1) from state and municipal authorities, which information cannot be denied. The information requested shall be provided within the time period set by the Directorate.

(4) (Amended, SG No. 109/2007) In setting the time period under paragraphs (1) through (3), the Directorate shall take into consideration the volume and contents of the information requested.

(5) (Amended, SG No. 31/2003, SG No. 109/2007) For analysis purposes, the Financial Intelligence Directorate of the State Agency for National Security shall receive from the Bulgarian National Bank information gathered under Article 7 of the Law on Foreign Exchange.

(6) (Repealed, SG No. 109/2007).

(7) (Amended, SG No. 109/2007) The provision of information under paragraphs (1) through (5) may not be refused or restricted due to considerations of official, banking or commercial secrecy.

Article 14

(1) (Amended and supplemented, SG No. 1/2001, supplemented, SG No. 31/2003, previous Article 14, SG No. 54/2006, amended, SG No. 109/2007) The persons under Article 3, paragraphs (2) and (3), persons who manage and represent them, and their personnel may not notify their client or any third party of the disclosure of the information in the cases under Articles 9, 11, 11a, 13 and 18.

(2) (New, SG No. 54/2006) The information disclosure ban under Paragraph 1 shall not apply to the relevant supervisory authority under Article 3a.

(3) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons belonging to one and the same group which is in a Member State or in a country named in the list under Article 4, paragraph (9).

(4) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons under Article 3, paragraph (2), subparagraphs (11), (18) and (28) from Member States or from countries named in the list under Article 4, paragraph (9) which conduct their professional activity within the framework of a single legal body or group having joint ownership, management or control in implementing this Act.

(5) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons under Article 3, paragraph (2), subparagraphs (1) to (3), (11), (18) and (28) in cases concerning one and the same client or one and the same transaction involving two or more parties, under the following conditions:

1. the parties are located in a Member State or in a country named in the list under Article 4 paragraph (9);

2. the parties belong to one and the same professional category;

3. the parties are subject to confidentiality obligations in respect of proprietary, bank or commercial secrets and personal data protection that correspond to Bulgarian legislation;

4. the information may be used solely to prevent money laundering and financing of terrorism.

(6) (New, SG No. 92/2007) Where persons under Article 3, paragraph (2),

subparagraphs (11), (18) and (28) are trying to dissuade a client from engaging in illegal activity, this shall not be considered information disclosure in the meaning of paragraph (1).

(7) (New, SG No. 92/2007) Exclusions under paragraphs (3) through (5) shall not apply, and no disclosure of information shall be allowed between persons under Article 3, paragraphs (2) and (3) and persons from countries named in the list under Article 7a, paragraph (3), nor where persons under Article 3, paragraphs (2) and (3) are in non-compliance of their obligations under the Law on Personal Data Protection.

Article 15

(1) (Amended, SG No. 1/2001, No. 31/2003, previous Article 15, SG No. 54/2006, amended, SG No. 109/2007) Disclosure of information in the cases specified under Articles 9, 11, 11a, 13 and 18 shall not result in any liability for violation of other laws or a contract.

(2) (New, SG No. 54/2006) Under the terms of Paragraph 1, no liability shall arise also in cases, when it has been established that no crime has been committed, and the transactions have been legal.

Section V

Protection of Information

(New, SG No. 1/2001)

Article 15a

(New, SG No. 1/2001)

(1) (Supplemented, SG No. 31/2003, amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security may use information constituting of official, banking or commercial secrets, and protected private information obtained under the terms and following the procedure set in Articles 9, 11, 11a, 13 and 18 solely for the purposes of this Act.

(2) (Amended and supplemented, SG No. 31/2003, amended, SG No. 109/2007) Officers of the Financial Intelligence Directorate of the State Agency for National Security, shall not disclose or use to their own benefit or to the benefit of any persons related to themselves any information or facts constituting of official, banking or commercial secrets that they have become aware of in the performance of their office.

(3) (Amended and supplemented, SG No. 31/2003, amended, SG No. 109/2007) The employees of the Directorate shall sign a declaration of confidentiality as per paragraph 2.

(4) (Amended, SG No. 31/2003, SG No. 109/2007) The provision set in paragraph (2) shall also apply to cases where the said persons are not in office or.

Chapter Three

INTERNAL ORGANISATION AND CONTROL

Article 16

(1) (Amended, SG No. 1/2001, No. 31/2003, SG No. 109/2007) The persons under Article 3, paragraphs (2) and (3), shall be bound to adopt, within 4 months following their registration, internal rules for the control and prevention of money laundering, which shall be approved by the Chairperson of the State Agency for National Security.

(2) (Supplemented, SG No. 54/2006) The internal rules under paragraph (1) shall establish clear criteria for detecting suspicious transactions or deals and clients, the procedure for personnel training and the use of technical means for the prevention and detection of money laundering, as well as a system for internal control over the implementation of all measures under this Act.

(3) (New, SG No. 1/2001, amended, SG No. 109/2007) The internal rules under Paragraph (1) shall be submitted to the Chairperson of the State Agency for National Security for endorsement within 14 days of their adoption.

(4) (New, SG No. 31/2003, amended, SG No. 109/2007) Professional organisations or associations of the persons referred to in Article (3), paragraphs (2) and (3), in agreement with the State Agency for National Security, may adopt uniform internal rules for money laundering control and prevention to which rules the members of such organisations and associations may subscribe within the time period set in paragraph (1) by means of a statement of declaration. Such uniform internal rules and statements of declaration shall be sent to the Financial Intelligence Agency within the time period set in paragraph (3).

Article 17

(1) (Supplemented, SG No. 1/2001, amended, SG No. 109/2007, previous Article 17, SG No. 36/2008) Control of the implementation of this Act shall be assigned to the Minister of Finance and the Chairperson of the State Agency for National Security.

(2) (New, SG No. 36/2008) In implementation of its functions according to this act, the Ministry of Finance and the State Agency for National Security shall collaborate per a procedure set by a joint instruction of the Minister of Finance and the Chairperson of the Agency.

(3) (New, SG No. 93/2009, effective from 25.12.2009) The bodies of supervision of the Financial Intelligence Directorate of the State Agency for National Security may inspect on-site the persons under Articles 3, Paragraphs (2) and (3) concerning the application of measures on the prevention of the use of the financial system for the purpose of money laundering, as well as where a suspicion for money laundering arises.

(4) (New, SG No. 93/2009, effective from 25.12.2009) The bodies of supervision of the Financial Intelligence Directorate of the State Agency for National Security shall be the selected by the Chairperson of the State Agency for National Security officials from the composition of the Directorate.

(5) (New, SG No. 93/2009, effective from 25.12.2009) The examinations under Paragraph 1 may be performed jointly with the authorities, assigned by virtue of a special Act to exercise control over persons pursuant to Article 3, Paragraphs (2) and (3).

(6) (New, SG No. 93/2009, effective from 25.12.2009) The examinations shall be done on the basis of a written order by the Chairperson of the State Agency for National Security or by an official, authorised by him/her, where the objectives, time limit and the venue of the examination, the examinee, as well as the names and positions of the examiners shall be defined.

(7) (New, SG No. 93/2009, effective from 25.12.2009) The persons under Article 3, Paragraphs (2) and (3), the state authorities, the local government bodies and their employees shall be obliged to cooperate with the bodies of supervision of the Financial Intelligence Directorate of the State Agency for National Security in performing their functions.

(8) (New, SG No. 93/2009, effective from 25.12.2009) When performing on-site inspections, bodies of supervision pursuant to Paragraph (3) shall have the right to free access in the office premises of the persons pursuant to Article 3, Paragraphs (2) and (3), as well as the right to require documents and gather evidence in connection with the implementation of the task assigned to them.

Article 17a

(New, SG No. 1/2001, repealed, SG No. 109/2007)

Article 18

(1) (Amended and supplemented, SG No. 1/2001, amended, SG No. 54/2006, No. 109/2007, previous Article 18, SG No. 36/2008) The Financial Intelligence Directorate of the State Agency for National Security may receive information on suspicion for money laundering, apart from the persons under Article 3, Paragraphs 2 and 3, also from government authorities and through international exchange.

(2) (New, SG No. 36/2008) Financial Intelligence Directorate of the State Agency for National Security on its own initiative and if requested shall exchange information on cases related to suspicion for money laundering with the respective international authorities, authorities of the European Union and authorities of other states, based on international treaties and conditions of reciprocity.

Article 19

(Amended, SG No. 54/2006)

(1) Should a person under Article 3, Paragraph 2 fail to fulfil its obligations under this Act, the Minister of Finance may order such a person to take specific measures as necessary to eliminate the violations or revoke the licence issued thereto, if issued by him, or order the licence to be deleted from the registry for the relevant activity, if there is a registration regime.

(2) The issuing authority for the licence of a person under Article 3, Paragraph 2 may revoke the licence issued acting at its discretion or upon proposal by the Minister of Finance made under Paragraph 1.

Article 20

(Amended, SG No. 30/2006, No. 54/2006)

The acts under Article 19 may be appealed pursuant to the Administrative Procedure Code.

Chapter Four INTERNATIONAL CO-OPERATION

Article 21

(Amended, SG No. 1/2001, repealed, SG No. 54/2006)

Article 22

(Amended, SG No. 1/2001, amended and supplemented, SG No. 31/2003, supplemented, SG No. 54/2006, repealed, SG No. 109/2007)

Chapter Five ADMINISTRATIVE AND PENAL PROVISIONS

Article 23

(1) (Amended and supplemented, SG No. 1/2001, amended, SG No. 31/2003, amended, SG No. 109/2007, supplemented, SG No. 93/2009, effective from 25.12.2009) A person who commits a violation or allows commitment of a violation pursuant to Articles 4, 5, 6, 7, 8, 9, 13 and 15a, or refuses to cooperate pursuant to Article 17, Paragraph (7) or to provide free access to the office premises of the persons pursuant to Article 3, Paragraphs (2) and (3), or to submit the required documents or evidence pursuant to Article 17, Paragraph 8, shall be punished by a fine of BGN 500 to BGN 10,000, unless such an offence constitutes a crime.

(2) (Supplemented, SG No. 31/2003, amended, SG No. 54/2006) A person who commits a violation or allows commitment of violation pursuant to Articles 11, 11a and 14, shall be punished by fine of BGN 5,000 to BGN 20,000, if the offence does not constitute a crime.

(3) (Supplemented, SG No. 1/2001) A person who commits, or allows another to commit a violation pursuant to Article 16 shall be punished by fine of BGN 200 to BGN 2,000.

(4) (Amended, SG No. 54/2006) Where a violations under paragraphs (1), (2) and (3) has been committed by a sole proprietor or a legal person, financial sanctions shall be imposed to the amount of BGN 2,000 to BGN 50,000.

(5) (New, SG No. 54/2006) If a person commits or allows a violation under this Act or the statutory acts on its application to be committed, outside of cases under Paragraphs 1-4, shall be imposed a fine of BGN 500 to BGN 2,000.

(6) (New, SG No. 54/2006) When the violation under Paragraph 5 has been committed by a sole proprietor or a legal person, financial sanction to the amount of BGN 1,000 to BGN 5,000 shall be imposed.

Article 24

(1) (Amended, SG No. 1/2001, supplemented, SG No. 54/2006, amended, SG No. 109/2007) The protocols establishing violations shall be drawn up by officers of the Ministry of Finance or of the State Agency for National Security, while the penal decrees shall be issued by the Minister of Finance or the Chairperson of the State Agency for National Security, or by officials duly authorized by them for that purpose.

(2) The preparation of statements, the issuance, appeal and execution of penal orders shall be done pursuant to the procedure specified in the Law on Administrative Violations and Sanctions.

ADDITIONAL PROVISIONS **(Title amended, SG No. 92/2007)**

§ 1. In the meaning of this Act,

1. (Amended, SG No. 54/2006) "Commercial or professional relation" shall be any relation, associated with the occupation of the institutions and persons bound under this Act, and assumed to have an element of continuity by the moment the relation is established.

2. (Amended, SG No. 54/2006) "Regulated financial group" shall be any financial group, which is subject to effective consolidated supervision;

3. (Repealed, SG No. 54/2006, new, SG No. 92/2007) A "group" shall be a group of companies consisting of:

a) a parent company and its subsidiaries; the group includes also companies in which the parent company or its subsidiaries participate, or

b) companies managed jointly under a contract or under an establishment charter or articles of incorporation or association, or

c) companies where more than half of the members of their management or supervisory bodies are the same persons in the respective financial year and until the date of preparing their consolidated financial statements.

4. (New, SG No. 31/2003, amended, SG No. 109/2007, SG No. 93/2009, effective 25.12.2009) "Security Services" shall denote the National Intelligence Service and the Military Intelligence Service under the Ministry of Defence and the General Directorate for Combating Organised Crime under the Ministry of Interior.

5. (New, SG No. 31/2003, amended, SG No. 82/2006, No. 109/2007, SG No. 69/2008, SG No. 93/2009, effective 25.12.2009, SG No. 88/2010, effective 1.01.2011, SG No. 48/2011, effective 24.06.2011, SG No. 44/2012, effective 1.07.2012) "Public Order Services" shall denote the chief directorates "National Police", "Border Police", "Fire Safety and

Protection of the Population" and the regional directorates of the Ministry of Interior, and the Military Police Service with the Minister of Defence.

6. (New, SG No. 31/2003) "A supervision authority" shall be a government authority empowered by law or another piece of legislation to exercise overall control over the activity of a person referred to in Article 3, paragraphs (2) and (3).

7. (New, SG No. 92/2007) A "Member State" shall be a state which is a member of the European Union.

8. (New, SG No. 92/2007) A "third country" shall be a state which is not a member state in the meaning of item (7).

§ 1a. (New, SG No. 92/2007) This Act shall transpose the provisions of Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and Commission Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 2. This Act shall repeal the Law on Measures Against Money Laundering (SG, No. 48/1996).

§ 3. The persons under Article 3, paragraphs (2) and (3), shall be bound to submit to the Financial Intelligence Agency, within 3 months following the coming of this Act into force, any available information related to money laundering.

§ 4. The persons under Article 3, Paragraph (2), Items (1), (2), (3), (4), (5), (9), (11), (13) and (18) shall be bound to bring their organisation and activities in compliance with the requirements of this Act and to submit their internal rules under Article 16 to the Minister of Finance, within 5 months following the coming of this Act into force.

§ 5. In Article 10 of the Law on Administrative Violations and Sanctions (Promulgated, SG No. 92/1969, amended, SG No. 54/1978, No. 28/1982, Nos. 28 & 101/1983, No. 89/1986, No. 24/1987, No. 94/1990, No. 105/1991, No. 59/1992, No. 102/1995, Nos. 12 & 110/1996, and Nos. 11, 15 & 59/1998), after the words "persons concealing", a comma shall be placed, and the phrase "as well as allowing" shall be added.

§ 6. The implementation of this Act shall be hereby assigned to the Council of Ministers, which shall adopt Rules for its implementation within two months of the effective date of this Act. This Act was passed by the 38th National Assembly on 9 July 1998 and the State Seal was affixed thereto.

ACT ON THE AMENDMENT AND SUPPLEMENT TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING

Promulgated State Gazette No. 31/04.04.2003

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 20. (1) Persons referred to in Article 3, paragraphs (2) and (3) for which the obligation to apply measures against money laundering has arisen prior to the adoption of this Act shall bring their internal rules referred to in Article 16 into compliance with the requirements of the Act and send them to the Financial Intelligence Agency within 4 months following the coming into force of this Act.

(2) Persons referred to in Article 3, paragraphs (2) and (3) for which the obligation to apply measures against money laundering has arisen pursuant to this Act shall adopt their internal rules under Article 16 and send them to the Financial Intelligence Agency within the time terms referred to in paragraph (1).

§ 28. (1) All assets, liabilities, records and any other rights and obligations of the Financial Intelligence Bureau Agency shall be taken over by the Financial Intelligence Agency.

(2) The established legal relations of employment and service shall not be terminated, and Article 123 of the Labour Code shall apply accordingly.

§ 29. Paragraph 7 shall become effective from 01.01.2004.

Law on Lev Re-denomination

(Promulgated, State Gazette No. 20/5.03.1999, amended, SG No. 65/20.07.1999, effective 5.07.1999)

TRANSITIONAL AND FINAL PROVISIONS

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§ 4. (1) (Amended, SG No. 65/1999) Upon the entry of this Act into force, all figures expressed in old lev terms as indicated in the laws which will have entered into force prior to the 5th day of July 1999 shall be replaced by figures expressed in new lev terms, reduced by a factor of 1,000. The replacement of all figures expressed in old lev terms, reduced by a factor of 1,000, shall furthermore apply to all laws passed prior to the 5th day of July 1999 which have entered or will enter into force after the 5th day of July 1999.

(2) The authorities, which have adopted or issued any acts of subordinate legislation which will have entered into force prior to the 5th day of July 1999 and which contain figures expressed in lev terms, shall amend the said acts to bring them in conformity with this Act so that the amendments apply as from the date of entry of this Act into force.

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§ 7. This Act shall enter into force on the 5th day of July 1999.

ACT ON THE AMENDMENT AND SUPPLEMENT

TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING

(SG No. 54/2006)

FINAL PROVISIONS

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§ 29. § 8 and § 11 provisions shall become effective three months after the Act's promulgation in State Gazette.

ACT ON THE AMENDMENT AND SUPPLEMENT TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING

(Promulgated State Gazette No. 92/13.11.2007)

FINAL PROVISIONS

§ 10. The Council of Ministers shall adopt any amendments to the rules for implementing this Act ensuing from this Act by 15 December 2007.

Act to Amend and Supplement
The Law on Ministry of Interior
(State Gazette No. 93/2009, effective 24.12.2009)

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Supplementary Provision

§ 59. (Effective 24.11.2009, SG No. 93/2009) This Act introduces:

1. The Convention on the establishment of a European Police Office (Europol) adopted on 26 July 1995 (ratified by law, SG No. 105/2006, non-promulgated) and Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime.

2. Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union.

Transitional and Final Provisions

§ 60. Upon entry into force of this Act, existing civil service relations of civil servants employed in the Ministry of Interior shall be retained as per Article 87a of the Law on Civil Servants.

§ 61. Upon entry into force of this Act, existing employment relations of persons working in the Ministry of Interior under employment contracts shall not be terminated, in accordance with Article 123 of the Labour Code.

§ 62. (Effective 24.11.2009, SG No. 93/2009) Incumbent investigating police officers who do not comply with the requirements set out in Article 217(1) shall perform the investigation functions assigned to them in the course of two years from the date of entry into force of this Act.

§ 63. (Effective 24.11.2009, SG No. 93/2009) The Ministry of Interior shall be the legal successor of assets, liabilities, rights and obligations of the Ministry of Emergency Situations rendered defunct by the National Assembly's Decision adopting the structure of the Council of Ministers of the Republic of Bulgaria (SG No. 60/2009), as well as of any documents which are not subject to archiving under the procedure of the Law on National Archives Stock.

§ 64. (Effective 24.11.2009, SG No. 93/2009) The following persons shall be appointed to the Ministry of Interior without a competition held to this effect and without the special requirements of Article 179, Paragraphs 1(4) and 3 being met: civil servants employed under civil service relations and officials employed under employment relations with the Minister of Emergency Situations who perform functions relating to protection in cases of disasters and enabling citizens' access to the emergency services via the National Emergency Call System Employing the Single European Number `112' prior to the date of entry into force of the National Assembly's Decision adopting the structure of the Council of Ministers of the Republic of Bulgaria (SG No. 60/2009), which rendered the Ministry of Emergency Situations defunct.

§ 65. (Effective 24.11.2009, SG No. 93/2009) Prior to 31 December 2009, employees under § 64 shall be paid their relevant remunerations, benefits and clothing allowances, as set according to the existing statutory procedure.

§ 66. Upon entry into force of this Act, existing civil service relations of civil servants, as well as employment relations of persons working in the Special Courier Service under employment contracts shall not be terminated. The aforementioned relations shall be transformed, accordingly, into civil service or employment relations as employees of the Ministry of Interior, whereby the persons concerned shall be appointed to the same positions which they held prior to the employment relation transformation.

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TRANSITIONAL AND FINAL PROVISIONS

to the Act Amending and Supplementing the Law on Ministry of Interior

(SG No. 88/2010, effective 9.11.2010)

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§ 104. In the Law on Measures against Money Laundering (Promulgated SG No. 85/1998, amended and supplemented, SG No. 1/2001, amended, SG No. 102/2001, amended and supplemented, 31/2003, amended, SG No. 103/2005, SG No. 105/2005, No. 30/2006, amended and supplemented, SG No. 54/2006, amended, SG No. 59/2006, SG No. 82/2006, No. 108/2006, SG No. 52/2007, amended and supplemented, SG No. 92/2007, SG No. 109/2007, amended, SG No. 16/2008, amended and supplemented, SG No. 36/2008,

amended, SG No. 67/2008, SG No. 69/2008, SG No. 22/2009, SG No. 23/2009, amended and supplemented, SG No. 93/2009) in § 1, Item 5, the words “Preliminary proceedings” are deleted and the words "Fire Safety and Rescue" and “Civil Protection” shall be replaced with "Fire Safety and Protection of the Population".

.....

§ 117. The Act shall become effective from the day of its promulgation in the State Gazette, except § 1 - 23, § 25, § 27 - 30, § 32 - 34, § 40, § 41, § 43 - 55, § 63 - 89 and § 91 - 114, which shall become effective from 1.01.2011.

.....

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Law on Payment Services and Payment Systems

(SG, No. 101/2010, effective 30.06.2011)

.....

§ 69. This Act shall become effective on 30 June 2010 with the exception of:

1. § 1 - 16, § 41 - 56, § 62 and 66, which shall enter into force on 30 April 2011.
2. § 60 and 68, which shall enter into force on 31 December 2010.

TRANSITIONAL AND FINAL PROVISIONS of the Act Amend and Supplement the Law on Foreign Exchange

(SG No. 96/2011)

.....

§ 25. The Law on Measures against Money Laundering (promulgated, SG. No. 85/1998, amended SG No. 1 and 102/2001, SG No. 31/2003, SG No. 103 and 105/2005, SG No. 30, 54, 59, 82 and 108/2006 SG No. 52, 92 and 109/2007, SG No. 16, 36, 67 and 69/2008, SG No. 22, 23 and 93/2009, SG No. 88 and 101/2010, SG No. 16, 48 and 57/2011) is amended as follows:

.....

§ 26. The provisions of § 2 and § 25 paragraph 1 shall enter into force on January 1, 2012

ANNEX XVII Law on Measures against the Financing of Terrorism

Article 1. This Act defines the measures against the financing of terrorism, as well as the procedure and the control with respect to the application of the said measures.

Article 2. The purposes of this Act shall be to prevent and detect actions by natural persons, legal persons, groups and organizations that are directed at financing terrorism.

Article 3. (1) The measures under this Act shall be:

1. blocking/freezing of funds, financial assets and other property;
2. prohibition to provide financial services, funds, financial assets or other property.

(2) (Amended and supplemented, SG No. 19/2005, supplemented, SG No. 28/2008, amended, SG No. 38/18.05.2012 effective 19.11.2012) The persons who have implemented a measure under Paragraph (1) shall immediately notify the Minister of Interior, the Minister of Finance, the Chairperson of the State Agency for National Security and the Criminal/Illegal Assets Forfeiture Commission.

(3) The blocking/freezing under Paragraph (1) shall have the effect of an attachment or distraint.

Article 4. (Amended, SG No. 28/2008) The information necessary to achieve the purposes of this Act shall be collected, processed, systematized, analyzed, stored, used and provided by the State Agency for National Security.

Article 4a. (New, SG No. 57/2011, amended, SG No. 38/18.05.2012 effective 19.11.2012) The information exchange needed for the purposes of this Act shall be organised in accordance with a joint instructional document issued by the Minister of Interior, the Minister of Finance, the Chairperson of the State Agency for National Security, the Chairperson of the Criminal/Illegal Assets Forfeiture Commission and the Prosecutor General of the Republic of Bulgaria.

Article 5. (1) (Supplemented, SG No. 28/2008) Acting on a motion by the Minister of Interior, the Chairperson of the State Agency for National Security or the Prosecutor General, the Council of Ministers shall adopt, supplement and modify a list of the natural persons, legal persons, groups and organizations in respect whereof the measures under this Act should be applied.

(2) The following shall be included in the list referred to in Paragraph (1):

1. natural persons, legal persons, groups and organizations identified by the United Nations Security Council as associated with terrorism, or with respect to whom sanctions for terrorism have been imposed by a resolution of the United Nations Security Council;

2. (supplemented, SG No. 33/2011, effective 27.05.2011) persons against whom criminal proceedings have been instituted for terrorism; financing of terrorism; recruitment and training of individuals or groups of people for the purpose of practising terrorism, forming, managing or membership of an organized crime syndicate having as its purpose the

practice of terrorism or the financing of terrorism; preparation to practise terrorism; forgery of an official document for the purpose of facilitating the practice of terrorism, manifest incitement to practising terrorism; or a threat to practise terrorism, within the meaning given by the Penal Code.

(3) Any other persons, identified by the competent authorities of another country or of the European Union, may also be included in the list referred to in Paragraph (1).

(4) The decision of the Council of Ministers under Paragraph (1) shall be promulgated immediately after the adoption thereof.

(5) The persons referred to in Paragraphs (2) and (3) can appeal against the decision of the Council of Ministers, whereby they are included in the list referred to in Paragraph (1), before the Supreme Administrative Court. Any such appeal shall not stay the execution of the act appealed against.

(6) (Supplemented, SG No. 28/2008) In case the grounds for including a person in the list have ceased to exist, the Minister of Interior, the Chairperson of the State Agency for National Security or the Prosecutor General shall, acting on his or her own initiative or at the request of the parties concerned, submit a proposal to the Council of Ministers to remove the said person from the list within 14 days after becoming aware of the grounds for removal. The decision of the Council of Ministers whereby the list is modified shall be promulgated according to the procedure established by Paragraph (4).

(7) A copy of the judgement of the Supreme Administrative Court granting an appeal under Paragraph (5) shall be transmitted to the Council of Ministers, which shall immediately introduce the required modifications. The decision of the Council of Ministers, whereby the list is modified, shall be promulgated according to the procedure established by Paragraph (4).

(8) (Supplemented, SG No. 28/2008, SG No. 33/2011, effective 27.05.2011) The investigating magistrates and the prosecutors shall immediately notify the Prosecutor General and the Chairperson of the State Agency for National Security where they institute criminal proceedings for terrorism; financing of terrorism; recruitment and training of individuals or groups of people for the purpose of practising terrorism, forming, managing or membership of an organized crime syndicate having as its purpose the practice of terrorism or the financing of terrorism; preparation to practise terrorism; forgery of an official document for the purpose of facilitating the practice of terrorism, manifest incitement to practising terrorism; or a threat to practise terrorism, within the meaning given by the Penal Code.

Article 6. (1) Any funds, financial assets and other property owned by persons included in the list under Article 5 herein, regardless of the fact in whose possession they are found, as well as any funds, financial assets and other property found in the possession of, or held by, persons included in the list under Article 5 herein, shall be blocked or frozen, except for the items and the rights that cannot be subject to execution.

(2) The measure under Paragraph (1) shall also be applied to any funds, financial assets and other property acquired after the promulgation of the list under Article 5 herein.

(3) The implementation of the measure under Paragraph (1) shall not prevent the

accrual of interest on and the acquisition of other civil fruits from the funds, financial assets and other property blocked/frozen, and anything that is newly acquired shall also be blocked/frozen.

(4) The Minister of Finance may authorize that payments or other acts of disposition be effected with the funds, financial assets and other property blocked/frozen, when necessary for the following purposes:

1. medical treatment or other urgent humanitarian needs of the person whose property is blocked/frozen, or of a member of the family thereof;

2. payment of liabilities to the State;

3. payment of remunerations for work performed;

4. compulsory social insurance;

5. meeting current needs of the natural persons included in the list under Article 5 herein, and the members of the families thereof.

(5) The authorization under Paragraph (4) shall be issued on a case-by-case basis, upon a reasoned application by the person concerned or, regarding the payment of liabilities to the State, also on the initiative of the Minister of Finance. The Minister of Finance shall pronounce within 48 hours after receiving any such application.

(6) Any refusal of the Minister of Finance to grant an authorization under Paragraph (4) shall be appealable before the Supreme Administrative Court.

Article 7. (1) Natural and legal persons shall be prohibited from providing funds, financial assets or other property, as well as financial services, to any persons included in the list under Article 5 herein, except with an authorization issued under the terms and according to the procedure established by Article 6 herein.

(2) The prohibition under Paragraph (1) shall not apply to ordinary petty transactions intended to meet current needs of the natural person included in the list under Article 5 herein or of the members of the family thereof.

Article 8. (1) Any transactions in blocked/frozen funds, financial assets and other property of persons included in the list under Article 5 herein, as well as any transactions relating to the provision of funds, financial assets and other property to such persons, shall be prohibited.

(2) Anything given by the parties to a transaction carried out in violation of Paragraph (1) shall be forfeited to the Exchequer.

(3) An action under Paragraph (2) shall be brought by the Minister of Finance in the area where the property is located or the transaction is performed. If the place of performance of the transaction is abroad, the action shall be brought before the Sofia City Court.

(4) If the funds, financial assets or other property subject to forfeiture are no longer

available, the cash equivalent shall be awarded.

(5) Third parties acting in good faith who claim independent rights to blocked/frozen funds, financial assets and other property may bring their claims within six months after the promulgation in the State Gazette of the decision of the Council of Ministers to adopt, supplement or modify the list under Article 5 herein.

Article 9. (1) (Amended, SG No. 109/2007) Any person, who knows that given financial operations or transactions are intended to finance terrorism, must immediately notify the Minister of Interior and the Chairperson of the State Agency for National Security.

(2) (Amended, SG No. 31/2003, repealed, SG No. 109/2007).

(3) (Amended, SG No. 31/2003, SG No. 92/2007, SG No. 109/2007, amended and supplemented, SG No. 36/2008, amended, SG No. 57/2011) Should suspicion arise about the financing of terrorism, the persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering (LMML) shall be under the obligation to identify the relevant customers and verify their evidence of identity used in the suspicious operation or transaction in accordance with the procedure provided for in Article 6 of the LMML, gather information on the transaction or operation in accordance with Article 7 of that Act, and immediately notify also the Financial Intelligence Directorate of the State Agency for National Security before the operation or transaction is performed, while delaying its implementation within the admissible period laid down by the legislative regulations on the relevant type of activity. In such cases, the Agency shall exercise the powers vested therein under Articles 13 and 18 of the LMML.

(4) (New, SG No. 57/2011) The notification obligation under Paragraphs (1) and (3) shall also apply to attempted operations or transactions aimed at the financing of terrorism, and to funds suspected to be related to or used for acts of terrorism, or used by terrorist organisations or terrorists.

(5) (New, SG No. 92/2007, amended SG No. 28/2008, renumbered from Paragraph 4, SG No. 57/2011) In case of objective impossibility that the operation or transaction be delayed, the person under Article 3 (2) and (3) of the Law on Measures against Money Laundering must also notify the State Agency for National Security immediately after the operation or transaction is performed.

(6) (Renumbered from Paragraph 4, SG No. 92/2007, renumbered from Paragraph 5, SG No. 57/2011) The persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering shall include in the internal rules thereof referred to in the Law on Measures against Money Laundering, criteria for the identification of suspicious operations, transactions and customers directed at financing terrorism.

(7) (Renumbered from Paragraph 5, SG No. 92/2007, amended SG No. 28/2008, renumbered from Paragraph 6, SG No. 57/2011) The disclosure of information under Paragraph (3) may not be restricted on considerations of classified information constituting an official, commercial or bank secret and shall entail no liability for violation of other laws.

(8) (New, SG No. 92/2007, renumbered from Paragraph 7, amended, SG No. 57/2011) Subject to paragraph 7, neither shall any liability ensue in cases when it is established that no

criminal offence has been committed and the operations and transactions have been lawful.

(9) (New, SG No. 92/2007, renumbered from Paragraph 8, SG No. 57/2011) The persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering, the persons who supervise and represent them, and their employees, may not notify their customer or third parties about the disclosure of information under this Act, except in the cases of Article 14 (2) - (5) of the LMML, subject to the restrictions under Article 14 (7) thereof.

Article 9a. (New, SG No. 92/2007) (1) (Amended, SG No. 28/2008) The bodies to supervise the activities of the persons referred to under Article 3 (2) and (3) of the LMML shall inform the minister of interior and the State Agency for National Security if, in the course of performing their supervision activities, they find out the presence of operations or deals wherein suspicion of financing of terrorism is involved.

(2) (Amended, SG No. 28/2008) The inspections carried out by the bodies referred to under paragraph (1) shall also include verification of whether the inspecting persons satisfy the requirements hereof. If any infringements are found out, the supervisory bodies shall inform the State Agency for National Security by sending an excerpt from the relevant part of the statement of ascertainment.

Article 10. (1) The competent authorities, which have received information in connection with the application of this Act, shall not disclose the identity of the persons who have provided any such information.

(2) The information collected under this Act may only be used for the purposes of this Act or to counter crime.

Article 11. (1) (Amended, SG No. 109/2007, supplemented, SG No. 28/2008) In the cases under Article 9 (1) and (3) herein, the Minister of Interior or the Chairperson of the State Agency for National Security may issue a written order to suspend a particular operation or transaction for a period of up to three days reckoned from the day succeeding the date of issuing of the order. The Minister of Interior shall immediately notify the prosecuting magistracy and shall provide it with all relevant information.

(2) (Supplemented, SG No. 28/2008) In urgent cases, where this is the only opportunity to block/freeze funds, financial assets or other property of a person in respect of whom there is reason to believe that he or she prepares to commit a terrorist act, the Minister of Interior or the Chairperson of the State Agency for National Security may, by a written order, block/freeze funds, financial assets or other property for a period of up to 45 working days reckoned from the day succeeding the date of issuing of the order. The Minister of Interior shall immediately notify the prosecuting magistracy and shall provide it with all relevant information.

(3) (Supplemented, SG No. 28/2008) The orders of the Minister of Interior, or the Chairperson of the State Agency for National Security respectively, under Paragraphs (1) and (2) shall be appealable before the Supreme Administrative Court. The Supreme Administrative Court shall pronounce on any such appeal within 24 hours after its receipt. Any such appeal shall not stay the execution.

(4) The persons obliged to comply with the orders under Paragraphs (1) and (2) shall be considered notified as of the date on which they receive a transcript of the said orders.

(5) (Supplemented, SG No. 28/2008) Where a corporeal immovable is blocked, a copy of the order of the Minister of Interior, or the Chairperson of the State Agency for National Security respectively, under Paragraph (2) and the judgment of court under Paragraph (3) shall be transmitted to the competent recording office.

Article 12. (Amended, SG No. 19/2004, amended, SG No. 38/18.05.2012 effective 19.11.2012) The measures under Article 3 (1) herein shall be lifted within seven days after the promulgation in the State Gazette of the decision of the Council of Ministers whereby the natural or legal persons, groups or organizations are removed from the list, unless the Criminal/Illegal Assets Forfeiture Commission presents, within the same time limit, a court ruling on extension of the said measures.

Article 13. (Amended and supplemented, SG No. 28/2008) The Minister of Interior as well as the Chairperson of the State Agency for National Security respectively shall exchange with the competent authorities of other countries and of international organizations information for the purpose of preventing and detecting actions by natural and legal persons directed at financing terrorism.

Article 14. (Amended, SG No. 31/2003, SG No. 109/2007) The State Agency for National Security shall, acting on its own initiative or if requested to so, exchange information under this Act with the corresponding international bodies and with the authorities of other countries on the basis of international treaties and bilateral agreements or under conditions of reciprocity.

ADMINISTRATIVE PENALTY PROVISIONS

Article 15. (1) Any person, who commits or suffers another to commit any violation under Article 6 (1), Article 7 (1), Article 9 (1) and (3), and Article 11 (1) and (3) herein, shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 5,000, unless the act committed constitutes a criminal offence.

(2) Where a violation under Paragraph (1) is committed by a sole trader or a legal person, a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 50,000 shall be imposed.

Article 16. (1) The written statements ascertaining the commission of violations shall be drawn up by the authorities of the Ministry of Interior, and the penalty decrees shall be issued by the Minister of Interior or by officials authorized by him.

(2) The ascertainment of violations, the issuing, appeal against and the execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS (Title amended, SG No. 57/2011)

§ 1. (Amended, SG No. 59/2006) "Financial services," within the meaning given by

this Act, shall be: carrying out the activities under Article 2 (1) and (2) of the Credit Institutions Act; insurance, reinsurance or insurance-related services; public offering of securities and trade in securities; all forms of management of funds or properties on a professional basis; all forms of management of collective investments, management of social insurance companies and funds; provision and dissemination of financial information, processing of financial data and the respective software ensuing from providers of other financial services, as well as consulting, in intermediation, accounting and other auxiliary activities related to the financial services described above.

§ 1a. (New, SG No. 57/2011) "Funding of terrorism" within the meaning given by this Act shall be any direct or indirect, illegal and intentional provision and/or raising of funds, financial assets or other property, and/or provision of financial services intended or known to be intended to be used, in full or in part, for terrorist activities within the meaning given by the Penal Code.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. (Amended, SG No. 31/2003) The persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering (LMML) shall, within four months after the entry of this Act into force, supplement the internal rules thereof under Article 16 (1) of the LMML by adding criteria for identification of suspicious operations or transactions and customers directed at financing terrorism, and shall transmit the said regulations to the Director of the Financial Intelligence Agency for approval.

§ 3. Items 1 and 2 of § 21 of the 2003 State Budget of the Republic of Bulgaria Act (promulgated in the State Gazette No. 120 of 2002; corrected in No. 2 of 2003) are repealed.

§ 4. The implementation of this Law is entrusted to the Minister of Interior and the Minister of Finance.

The Law was passed by the 39th National Assembly on the 5th day of February 2003 and the Official Seal of the National Assembly has been affixed thereto.

ANNEX XVIII Law on the Ministry of Interior

Article 140

(1) Investigative work shall be carried out by:

1. taking explanations from citizens;
2. (amended, SG No. 88/2010) checking in information databases data about persons and objects;
3. taking samples for comparative analysis;
4. marking objects and sites;
5. examination of objects and documents;
6. carrying out surveillance;
7. identification of persons and objects;
8. breaking into and scrutinizing premises, buildings, installations, vehicles and sections of areas;
9. monitoring of postal, telegraph and other correspondence;
10. monitoring telephone calls;
11. collecting information from technical communication channels;
12. operative infiltration;
13. operative experiments;
14. verbal and written admonitions seeking to curb breaches of the rule of law;
15. operative examination of collected data and documentation thereof;
16. making controlled deliveries and confidential transactions;
17. carrying out documentary counterchecks.
18. (repealed, SG No. 28/2008);
19. (amended, SG No. 82/2009) issuance and use of Bulgarian personal documents with changed basic data regarding undercover operatives;
20. setting up and use of not-for-profit legal entities or of commercial companies under terms and procedure, established by a law, to provide cover for investigation activities, involving undercover operatives or when conducting undercover operations under pursuant to item 16.

(2) The activities under paragraph (1) shall be carried out through specific methods and techniques, as well as through using special investigative techniques and citizens who have volunteered to support the functions of the bodies of MoI.

Article 144

Investigative work shall be carried out on the following grounds:

1. receipt of data about persons contemplating, perpetrating or having perpetrated illegal activities, where there is not enough evidence to open or initiate criminal proceedings;
2. receipt of data about events or activities causing a threat to national security or the public order;
3. investigating persons, hiding from the bodies of the criminal prosecution or who have evaded service of punishment, imposed by sentences in felony cases;
4. search for missing persons and identification of unidentified corpses;
5. request from the bodies of the preliminary proceedings and the court;
6. request from state bodies and organizations, according to their lawful competences;

7. fulfilment of international treaties, to which the Republic of Bulgaria is party.

Article 161

(1) (Amended, SG No. 69/2008) Information databases shall be compiled with the respective MoI structures depending on their functional competences.

(2) The databases under paragraph (1) may also be automated.

(3) The information databases shall be built, used, controlled and closed down under terms and conditions determined by the Minister of Interior and according to this Act.

(4) (Amended, SG No. 88/2010) Every person shall be entitled to request access to his/her personal data, processed in the information databases of the MoI or of SIS and collected without his/her knowledge.

(5) The administrator of personal data shall deliver an opinion within 14 days of receipt of the request for access.

(6) Upon request, the individual shall be provided with a hard copy of his/her processed personal data.

(7) (Amended, SG No. 88/2010) MoI bodies shall refuse entirely or in part to provide data if:

1. that would:

a) endanger national security or public order;

b) endanger security of information classified as state or official secret;

c) expose of the sources of information or the covert collection methods and techniques

2. the provision of such data to the person would adversely affect the fulfilment of the legally defined objectives of the MoI bodies.

3. the information had been input into the SIS by another state, which had not consented to making it available.

(8) Notification of the applicants of the refusal under paragraph (7) shall be made in writing, indicating only the legal grounds. The absence of notification within the legally prescribed deadlines shall also be considered a refusal.

(9) The refusal under paragraph (7) shall be subject to appeal under the Administrative Procedure Code.

(10) The procedure for access to the databases under paragraph (1) shall be determined by ordinance of the Minister of Interior.

ANNEX XIX Law on Obligations and Contracts

ANNEX XX Law on Payment Services and Payment Systems (LPSPS)

Article 10 – Granting a license

(1) The company that wishes to obtain a license for conducting activity as a payment institution should apply in writing to the BNB.

(2) The documents required for granting a license of a payment institution shall be laid down in an Ordinance of the BNB.

(3) When submitting his application for granting a license, the applicant shall provide the BNB with a written declaration that the information submitted with the application and the documents attached to the application are up-to-date, complete and truthful.

(4) To be granted license as a payment institution, the applicant must concurrently comply with the following conditions:

1. to be registered or be in the process of establishing a limited liability company or a joint-stock company;

2. to have paid the capital required under Article 8, corresponding to the types of payment services that the applicant intends to provide;

3. the origin of the company's paid-in capital or the funds used to acquire shares in the case of transfer of shares shall be transparent and legal;

4. the registered office and the head office recorded in the Commercial Register shall be the same as the location where the applicant's actual management will occur;

5. to apply reliable rules to ensure robust governance arrangements for its payment services business which include:

a) a clear organisational structure;

b) well-defined, transparent and consistent lines of responsibility;

c) effective procedures to identify, manage, monitor and report the risks to which the payment institution is or might be exposed;

d) adequate internal control mechanisms, including sound and effective administrative and accounting procedures;

e) a programme of anti-money laundering measures;

6. the business plan and the forecast budget calculation for the first three financial years shall demonstrate that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;

7. to apply sound and adequate measures for safeguarding payment service users' funds and payment instruments used;

8. the persons managing and representing the applicant company and the members of its management and supervision bodies, including the representatives of legal entities, possess the appropriate knowledge and experience and have good reputation, the requirements being established in a separate Ordinance;

9. the persons holding, directly or indirectly, qualifying holdings in the applicant's capital within the meaning of § 1, paragraph 1, item 6 of the Additional Provisions of the Law on Credit Institutions have provided evidence of their suitability taking into account the need to ensure the sound and prudent management of a payment institution;

10. no close links within the meaning of § 1, paragraph 1, item 10 of the Additional Provisions of the Law on Credit Institutions have been identified between the applicant and other natural or legal entities that would prevent the effective exercise of their supervisory functions;

11. at BNB's discretion, the laws, regulations or administrative provisions of a third country governing one or more natural or legal entities with which the payment institution has close links, or difficulties involved in the enforcement of these laws, regulations or administrative provisions, shall not prevent the effective exercise of BNB's supervisory functions.

(5) The rules referred to in paragraph 4, item 5 shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.

Payment Systems Supervision

Article 121 – Supervisory Measures to Payment Systems

(1) In case the BNB establishes breaches in the activity of a payment system, depending on the nature and gravity of the breach, it may:

1. issue a written warning and/or issue mandatory instructions to the operator and/or participant in the payment system;
2. oblige the operator and/or participant in the payment system to discontinue and rectify the breaches within a given time-limit;
3. order the payment system operator to exclude a certain participant from the payment system, if the participant fails to observe the requirements or rules of the system stipulated herein;
4. order the participants and the operator of the payment system to change its rules ;
5. oblige the system operator to carry out, at its own expense, internal or external audit of the system or its participants;
6. impose on the payment system operator temporary or permanent prohibition to engage in the activity of the payment system;
7. revoke the license of the operator of a payment system subject to licensing.

(2) The measures under paragraph 1, item 1 may also be imposed on persons exercising managerial functions under contract, as well as persons exercising control, within the meaning of § 1, paragraph 1, item 7 of the Additional Provisions of the Law on Credit Institutions, over an operator or participant in a payment system.

Supervision over Payment Service Providers

Article 122 – General Provisions

(1) The Bulgarian National Bank shall exercise supervision to ensure compliance with this Law and its implementing legislation over payment service providers having their head offices in the Republic of Bulgaria, as well as over the branches and agents of payment service providers having their head office in a Member State and operating on the territory of the Republic of Bulgaria by exercising the right of establishment.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) If, as part of its official duties or on the basis of a complaint by a payment service user or electronic money holder or another interested party, including an association of users, the BNB establishes that a payment service provider has violated this Law or its implementing legislation or Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ, L 266/11 of 9 October 2009), the BNB shall have the right to impose the relevant supervisory measures and/or impose property sanctions in order to discontinue the breach.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) Where a complaint is filed by a payment service user or an electronic money holder or another interested party, in its

response the BNB shall inform the complainant on the option to refer the issue for consideration by the Conciliation Commission on Payment Disputes.

Article 123 - Additional Requirements to Supervision of Payment Institutions and Electronic Money Institutions

(amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) The BNB supervisory powers over payment institutions and electronic money institutions shall be proportionate to the risks they are or might be exposed to in connection with their activity, as well as with a view to maintaining own funds adequate to such risks.

Article 124 - Supervision Measures to Payment Service Providers

(1) In case the BNB establishes breaches in the activity of a payment service provider, depending on the nature and gravity of the breach, it may:

1. issue a written warning and/or issue mandatory instructions to the payment service provider;
2. oblige the payment service provider to discontinue and rectify the breaches within a given time-limit;
3. require changes in the internal rules and procedures of the payment service provider;
4. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) forbid the conducting of activities related to the provision of some or all payment services or the activity of electronic money issuance until the irregularities have been resolved.

(2) Where persons licensed to execute postal funds transfers under the Law on Postal Services systematically violates the provisions of this Law or its implementing legislation, the BNB Governor shall submit a motivated proposal to the chairman of the State Agency for Information Technology and Communications for revoking the license of these persons to execute postal funds transfers.

(3) The imposition of supervisory measures shall be without prejudice to the possibility of applying measures under other implementing legislation.

(4) At the BNB discretion, the application of supervisory measures might be made public.

Article 125 - Additional Supervisory Measures to Payment Institutions

(1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) In case the BNB establishes breaches in the activity of a payment institution or an electronic money institution, in addition to the measures under Article 124, it may:

1. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) oblige the payment institution or the electronic money institution to carry out, at its own expense, an extraordinary audit;
2. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) impose on the payment institution or the electronic money institution stricter supervisory requirements than the requirements established therefor during its normal operation;
3. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) restrict the business of the payment institution or the electronic money institution, prohibiting it from effecting specified transactions, activities or operations;
4. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) restrict the volume of specific types of activities carried out by the payment institution or the electronic money institution or request an increase in its own funds;
5. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) withdraw the license of the payment institution or the electronic money institution.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) The imposition of additional supervisory measures shall be without prejudice to the possibility of applying measures under other implementing legislation.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) At the BNB discretion, the application of additional supervisory measures may be made public.

ADMINISTRATIVE PENALTY PROVISIONS

Article 138 - Fines and Property Sanctions

(1) Any person who commits or allows a breach to be committed of this Law or of implementing legislation, unless the act constitutes a criminal offence, shall be liable to a fine of up to BGN 3000, and for a repeated breach – from BGN 3000 to BGN 5000.

(2) Any payment system operator who commits or allows a breach to be committed of this Law or of implementing legislation, shall be liable to a property sanction of up to BGN 10,000, and for a repeated breach – from BGN 10,000 to BGN 20,000.

(3) Any payment service provider under Article 122, paragraph 1 who commits or allows a breach to be committed of this Law or of implementing legislation, shall be liable to a property sanction of up to BGN 8000, and for a repeated breach – from BGN 8000 to BGN 15,000.

(4) Any participant in the payment system who commits or allows a breach to be committed of this Law or of implementing legislation, shall be liable to a property sanction of up to BGN 8000, and for a repeated breach – from BGN 8000 to BGN 15,000.

(5) Any payment system operator, payment service provider or participant in a payment system who fails to execute a supervisory measure imposed by the BNB shall be liable to a property sanction of up to BGN 20,000, and for a repeated breach – from BGN 20,000 to BGN 100,000.

(6) Any person who performs activities as a payment institution without a license, unless the act constitutes a criminal offence, or carries out without authorisation another activity for which this Law requires authorisation, shall be liable to pay a fine of up to BGN 20,000, and for a repeated breach – from BGN 20,000 to BGN 40,000. Where the offender is a legal entity, it shall be liable to a property sanction of up to BGN 40,000, and for a repeated breach – from BGN 40,000 to BGN 80,000.

(7) Any person who performs activities as a payment system operator without a license where such license is required, unless the act constitutes a criminal offence, shall be liable to a property sanction of up to BGN 50,000, and for a repeated breach – from BGN 50,000 to BGN 100,000. Where the offender is a legal entity, it shall be liable to a property sanction of up to BGN 100,000, and for a repeated breach – from BGN 100,000 to BGN 200,000.

(8) (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) Any person who performs activity as an electronic money institution without having a license, if the act does not constitute a crime, or performs without a permit other activity of which this Law does require a permit, shall be liable to pay a fine of up to BGN 20,000, and for a repeated breach from BGN 20,000 to BGN 40,000. Where the offender is a legal person, it shall be liable to a property sanction of up to BGN 40,000, and for a repeated breach – from BGN 40,000 to BGN 80,000.

ANNEX XXI Law on the State Agency for National Security

Article 13

(1) (Amended, SG No. 93/2009) The specialized administrative directorates shall be:

1. Inspectorate Directorate;
2. Financial Intelligence Directorate;
3. Information and Archive Directorate;
4. Coordination and Information Analysis Directorate;
5. Human Resources Directorate;
6. Legal Normative Directorate;
7. International Cooperation Directorate;
8. Financial and Economic Activities and Property Management;
9. Administrative Services Directorate.

(2) (Repealed, SG No. 93/2009).

(3) (Repealed, SG No. 93/2009).

(4) (Repealed, SG No. 93/2009).

(5) (Amended, SG No. 93/2009) The territorial directorates and the independent territorial departments of the State Agency for National Security shall be set up by an act of the Council of Ministers upon a proposal of the Chairperson of the Agency, by which their seats and areas of operation shall be determined. The territorial directorates and the independent territorial departments shall carry out operative search activities.

(6) (New, SG No. 93/2009) The structure and activities of the territorial directorates and of the separate territorial departments shall be determined by an act of the Chairperson of the Agency. The structure of the territorial directorates shall include departments and sectors, whereas the structure of the independent territorial departments may also comprise of sectors. Structural units of a lower ranking may also be set up within the independent territorial departments and within the territorial directorates.

Article 14

(Amended, SG No. 93/2009) The activities of the specialized administrative directorates shall be determined by force of the Rules and Regulations on the Implementation of this Law.

(2) Departments and sectors may also be set up within the directorates as per paragraph 1 by an act of the Agency Chairperson.

Article 15

(Amended, SG No. 93/2009) (1) The specialized directorates and the specialized administrative directorates shall be headed by Directors, who shall be appointed by the Agency Chairperson and shall act as direct supervisors of the staff of said directorates.

(2) The Director of the Directorate Security of the State Agency for National Security shall also be the Information Security Officer.

Article 16

(Amended, SG No. 93/2009) (1) The Directors under Article 15 shall carry out the general and immediate governance of the directorates, by:

1. planning, organizing, managing, controlling and assuming responsibility for their functions;
2. carrying out the orders of the Agency Chairperson and reporting to the latter;
3. shall be responsible for the results of the activity, the observance of the laws, the other regulatory acts and orders of the Chairperson.
4. coordinating the functions of the General Directorates vis-a-vis other government authorities, through the Agency Chairperson;
5. managing the databases, ensuring and being in charge of the information handling synchronicity of the Directorate with the relevant territorial units;
6. being in charge of the management of human resources.
7. performing other functions assigned by an order of the Chairperson, the deputy Chairpersons and the Secretary General of the Agency within the statutory activities of the State Agency for National Security.

(2) In discharging their duties of office as per paragraph 1, the Directors shall be authorized to issue orders.

Article 24

Operative search activities may be performed for any of the following reasons:

1. intelligence received in respect of persons preparing, perpetrating or having perpetrated criminal acts as may constitute a threat to national security, where such intelligence is not sufficient for initiating or commencing criminal prosecution against them;
2. intelligence received in respect of events or actions as may constitute a threat to national security;
3. a request on the part of pre-trial authorities or a court of law;

4. implementation of international treaties to which the Republic of Bulgaria is a party.

Article 88

(1) Civil servants of the Agency who have knowingly breached their official duties, shall be liable to disciplinary sanctions as provided under this Law.

(2) Such disciplinary violations shall be as follows:

1. failure to implement the provisions of this Law, or any pieces of secondary legislation issued on the basis hereof or in relation hereto, or an order or instruction of the Chairperson or deputy Chairpersons of the Agency, or a direct superior;

2. non-performance of the duties of office;

3. non-adherence to the powers vested in the office;

4. non-abidance by the rules of the Code of Ethics Governing the Conduct of Civil Servants Of the State Agency for National Security.

(3) Such disciplinary liability shall be borne separately and independently of any civil, penal or administrative-penal liability, whichever of these is provided by law.

Article 89

(1) Disciplinary sanctions shall be imposed not later than two months following detection of the violation, and not later than one year after its commission.

(2) Where a disciplinary violation is also a criminal or an administrative offence, the periods of time as per paragraph 1 shall commence as of the date of entry into force of the court decision or the penal decree.

(3) Expiry of the periods as per paragraph 1 herein shall be temporarily suspended in cases where the civil servant concerned is on a statutory leave of absence, or has been placed in custody or under house arrest.

Article 132

(1) Parliamentary oversight on the performance of the Agency shall be carried out by a specialized permanent committee of the National Assembly.

(2) The Chairperson, deputy Chairpersons and officers of the Agency shall be under obligation to report, when invited to do so, to the National Assembly or the Committee as per paragraph 1 herein, and supply the required information.

(3) Every year, not later than January 31st, the Chairperson of the Agency shall submit to the Council of Ministers a report in the activities of the Agency. The Council of Ministers shall submit said report to the National Assembly for approval by a parliamentary decision.

(4) Prior to the parliamentary discussion of the draft annual budget, the Committee as per

paragraph 1 herein shall consider the program budget and the three-year budgetary forecast of the Agency, as presented by its Chairperson.

(4) (New, SG No. 22/2009) The report referred to in Paragraph 3 shall include information regarding the use of data under Article 11a of the Law on Measures Against Money Laundering.

(5) (Renumbered from Paragraph (4), SG No. 22/2009) Prior to the parliamentary discussion of the draft annual budget, the Committee as per paragraph 1 herein shall consider the program budget and the three-year budgetary forecast of the Agency, as presented by its Chairperson.

ANNEX XXII Markets in Financial Instruments Act (LMFI)

Article 11

(1) An investment intermediary shall be managed jointly by at least two persons who satisfy the requirements according to para 2. They may authorize third persons for the performance of separate actions.

(2) A person who is a member of the governing or control body of the investment intermediary or manages its activity must:

1. have higher university education and professional experience, necessary to manage the business of the investment intermediary in conformity with the services and activities stated under Art. 5 para 2 and 3;

2. not have been sentenced for an intentional crime of general nature;

3. not have been member of a management or supervisory body, or unlimited liability partner in a company, for which bankruptcy proceedings have been instituted or wound up due to bankruptcy, where there are unsatisfied creditors;

4. not have been declared bankrupt or be involved in pending insolvency proceedings;

5. not be the spouse or a relative in the direct or collateral line up to the third degree inclusive, or by affinity up to the third degree to another member of the company's management or supervisory body and not be in de facto conjugal cohabitation with such member;

6. not have been deprived of the right to occupy positions involving financial responsibilities;

7. not have been during the last one year before the act of the relevant competent authority, a member of a management or supervisory body of a company, whose license to pursue business subject to licensing regime to the Commission or the Bulgarian National Bank was withdrawn, except in the cases where the license was withdrawn on the company's request, as well as if the act for withdrawal of the issued license was canceled under the due procedure;

8. not have been imposed administrative punishments during the last 3 years for committed gross breach of this Act, the Law on Public Offering of Securities (LPOS), the Law on Measures Against Market Abuse With Financial Instruments (LMAMAFI), the Special Purpose Vehicles Act (SPVA) or their implementing instruments;

9. not have been imposed administrative punishments during the last 3 years for breaches of this Act, the LPOS, LMAMAFI, SPVA or their implementing instruments, which are qualified as systematic;

10. not have been dismissed from office in a management or supervisory body of a company under this Act, LPOS, or SPVA on the grounds of imposed coercive administrative measure, save for the cases when the Commission's act was canceled under the due procedure.

(3) A member of a management or supervisory body of an investment intermediary, as well as a person, authorized to manage or represent it, must be a person of good repute and who does not jeopardize the investment intermediary's management, investor interests and does not impede the investment supervision.

(4) The requirements of para 2-3 shall also apply for natural persons representing legal persons who are members of the management and supervisory bodies of an investment intermediary.

(5) The requirements under para 2-3 shall also apply to any other persons who may, independently or jointly with another person, enter into transactions for the account of the investment intermediary.

(6) The circumstances under para 2, item 3-10 shall be attested by a declaration.

(7) The persons under para 2 and 5 shall be subject of approval by the deputy chairman before their entry in the commercial register, and the persons under para 4 – before their appointment as representatives of the legal entities – members of the management and supervisory bodies of the

investment intermediary. The deputy chairman shall pronounce within a 15-day period after the filing of the application with enclosed to it documents, attesting compliance with the requirements, applicable to those persons. The deputy chairman shall deny to issue an approval, if any of those persons fails to satisfy the requirements of this Act or through his/her activities or influence on the decision making, may jeopardize the safety of the company or its operations;

(9) Professional experience within the meaning of para 2 item 1 shall exist, if the person has worked not less than:

1. one year in undertakings from the non-banking financial sector or banks, and the duties of the person were connected with the main activities of these undertakings; or

2. three years in government institutions or other public entities, whose main functions include management and control of government or international public financial assets or management, control and investment of cash in funds formed by virtue of a statutory act.

(9) The Commission shall impose the coercive administrative measure under Art. 118 para 1 item 5 when a person under para 2-5 ceases to meet the requirements of para 2 or 3.

Article 13

(1) In order for one or more services and activities under Art. 5 para 2 and 3 to be carried out by way of occupation by persons which are not banks, a license from the Commission shall be required.

(2) To issue a license under para 1 an application according a model form shall be filed, to which shall be attached:

1. the Articles or the Memorandum of Association;

2. particulars for the capital under Art. 8

3. a programme of the company's operations, including data about the types of business which the company envisages to carry out as well about its internal organization;

4. particulars for the persons under Art. 11;

5. the general conditions applicable to contracts with clients;

6. rules related to the personal transactions with financial instruments of the members of the management and supervisory bodies of the investment intermediary, the investment intermediary's employees;

7. particulars for the persons who have direct or indirect qualifying holding in the company – applicant, as well as for the number of the held by them votes; the persons shall present written statements according a model form set by the deputy chairman about the origin of the funds with which the payments against the subscribed shares have been made, including also whether the funds are not loan and about the paid by them taxes during the last five years;

8. particulars for other persons with whom the applicant is a related person;

9. other documents and information, as laid down in an ordinance.

(3) In the cases where an investment intermediary wishes to perform services and activities under Art. 5 para 2 and 3, which are not covered by its license, then it must file an application with the Commission for extension of the scope of the license, to which shall be attached the documents under para 2, item 1, 2, 3 and 5, as well as other documents and information, laid down in an ordinance.

(4) In cases where a market operator wishes to be licensed to organize a Multilateral Trading Facility and the persons who manage the activity of the Multilateral Trading Facility are one and same with the persons who manage the activity of the regulated market, it shall be considered that these persons meet the requirements of Art. 11 para 2 and 3.

(5) The Commission shall issue a license to a market operator for the organization of a Multilateral Trading Facility, if it satisfies the relevant requirements of this Chapter, save for Art. 14 para 4 item 1 and Art. 16 para 1 item 7.

Article 26

(Am. – SG, iss. 24 in 2009, in effect as of 31 March, 2009)

(1) Any natural or legal person, or persons acting in concert, who have taken a decision to acquire, directly or indirectly, a qualifying holding in an investment intermediary must notify of it in writing the deputy chairperson before the acquisition.

(2) The requirement under para 1 shall be also applied for any natural or legal person, or persons, acting in concert, who have taken a decision to increase subsequently, directly or indirectly, their qualifying holding, so that it reaches or passes over the thresholds of one fifth, one third or one second of the capital, or of the votes in an investment intermediary's general meeting, or in such a way that as a result of this increase the investment intermediary to become their subsidiary.

26a (New – SG, iss. 24 in 2009, in effect as of 31 March, 2009)

(1) Any natural or legal person who has taken a decision to transfer a direct or indirect holding, so that not to possess anymore a qualifying holding in an investment intermediary, must notify of it in writing the deputy chairperson, before effecting the transfer. The requirement of sentence one shall also apply in the cases where as a result of the transfer, the voting right or the holding of such person in the investment intermediary's capital will fall under one second, one third or one fifth, or the investment intermediary will cease to be a subsidiary of such person.

(2) The persons whose holding in an investment intermediary falls under the thresholds according to para 1 as a result of action of a third party, or of other circumstance, of which they did not know and could not have known before the reduction of their holding, must immediately upon learning of it, notify the deputy chairperson.

(3) To the notification under para 1 and 2 the persons shall attach data on the holding which they have or will have before and after the transfer, as well as other data and documents as laid down in an ordinance.

26b (New – SG, iss. 24 in 2009, in effect as of 31 March, 2009)

(1) The persons under Art. 26 shall file with the deputy chairperson a notification in which they shall state the holding in the capital, or in the votes at the general meeting which they intend to acquire, as well as the holding which they will have after the acquisition. To the notification the persons shall attach also other data and documents as laid down in an ordinance.

(2) The deputy chairperson within two business days from receiving the notification and of all required data and documents according to para 1, shall send to the person a written confirmation of the notification effected by such person, where he/she shall indicate the date on which the time-limit for pronouncement on the notification expires.

(3) In the cases where not all required data and documents are enclosed to the notification under para 1, the deputy chairperson shall send by the end of the next business day a written notice to such person, stating the data and documents which must be enclosed.

(4) The deputy chairperson shall make assessment of the acquisition on the basis of the notification within 60 business day from the date of the written confirmation under para 2.

26c (New – SG, iss. 24 in 2009, in effect as of 31 March, 2009)

In the event that the submitted documents are incomplete, incorrect, non-complied with the statutory provisions, or additional information or proofs are needed for the authenticity of the presented data, the deputy chairperson within the period for carrying out the assessment, but not later than the end of the 50-ieth business day of that period, shall send a notification of the established deficiencies and irregularities, or of the required information and documents.

(2) The term for making the assessment by the deputy chairperson shall stop running for the period from the date of requesting the information and documents according to para 1 to the receiving of a reply from the person. The suspension of the term may not be for a longer period than 20 business days.

(3) The suspension of the term for making an assessment by the deputy chairperson may be for a period up to 30 business days in the cases where the person is:

1. with a seat, or domicile, or subject to regulation outside the European Union, or
2. a natural persons or a legal entity that is not subject to supervision according Directive 2004/39/EC, Directive 85/611/EEC, Directive 92/49/EEC, Directive 2002/83/EC, Directive 2005/68/EC and Directive 2006/48/EC.

(4) In cases other than those under para 1 – 3, any subsequent requirement for additional information from the person in connection with the making of assessment by the deputy chairperson shall not lead to suspension of the term.

26d (New – SG, iss. 24 in 2009, in effect as of 31 March, 2009)

(1) In the cases of acquisition or increase of a qualifying holding under Art. 26, the deputy chairperson may issue a ban on the execution of the acquisition, if he/she finds out that the requirements of Art. 26e were not satisfied, or if the information provided by the person is incomplete, the applicant has presented false data or documents with false content, the sound management and safety of the investment intermediary is jeopardized, or he interest of the investment intermediary's clients have not been otherwise ensured.

(2) The deputy chairperson shall notify in writing the person of his/her decision under para 1 within two business days from taking the decision and within the term under Art. 26b para 4, enclosing also the motives for his/her decision.

(3) On request of the person, or on the deputy chairperson's initiative, the motives for the issue of the decision under para 1 shall be disclosed publicly.

(4) If the deputy chairperson does not issue a ban according to para 1, he/she may set a term within which the acquisition to be carried out, as well as to prolong, if needed, that term.

(5) If within the period under Art. 26b para 4 the deputy chairperson does not issue a prohibition for carrying out the acquisition and does not notify of it in writing the person, the latter may acquire the stated holding in the investment intermediary.

(6) The persons that have acquired or increased their qualifying holding before the deputy chairperson to pronounce on the filed application, or before the expiration of the term for pronouncement, or despite of the ban for execution of the acquisition, as well as in the cases when they have not filed an application under Art. 26 before the acquisition, shall not have right to exercise their voting right in the investment intermediary's general meeting.

(7) The limitation according to para 6 shall not apply if a person that has acquired or increased his qualifying participation, without having complied with the requirement of Art. 26 para 1, informs of it the deputy chairperson within 7 business days and the deputy chairperson confirms the acquisition in compliance with the requirements of the law.

(8) In case that persons possessing a qualifying holding in the investment intermediary may prejudice the investment intermediary's sound management and safety, the deputy chairperson may impose temporary or final ban on the exercising of voting right by these persons in the investment intermediary's general meeting.

ANNEX XXIII Rules on the Implementation of the Law on Measures Against Money Laundering

Chapter 1.

IDENTIFICATION OF CUSTOMERS AND VERIFICATION OF THE IDENTIFICATION DATA

Identification of customers

Art. 1. (1) The identification of a customer and of a beneficial owner of a customer-legal entity, as well as the verification of the identification data shall be done through the use of documents, data or information from an independent source.

(2) The identification and the verification of the identification can be done by demanding additional documents, confirmation of the identification by another person pursuant to Art. 3, paras 2 and 3 of the Law on Measures against Money Laundering (LMML) or by a person obliged to implement measures against money laundering in an EU member state or in a country enlisted pursuant to Art. 4, paragraph 9 of the LMML, or in another suitable manner which gives sufficient grounds to the person under Art. 3, paras 2 and 3 of the LMML to accept the identification of the customer as trustworthy performed.

(3) (*amend. SG 108/2007*). By way of derogation the persons under Art. 3, Para. 2, Items 1 - 4 of the LMML can conclude the verification of the identity of the client or the beneficial owner that is legal person during the establishment of business relations when all of the following conditions are met:

1. the performance of the verification before the establishment of business relations would lead to interruption of the normal conduct of the respective business activity;
2. measures for effective management of the money laundering risk have been taken in each concrete case;
3. the verification is completed within a reasonably short period after the initial contact with the customer.

(4) (*new SG 108/2007*) By way of derogation the verification of the beneficiary to an insurance policy can be performed after establishing business relations only if it is carried out at the time or before payment is effected under the insurance policy or at the time or before the beneficiary exercises rights vested under the insurance policy.

(5) (*new SG 108/2007*) By way of derogation a credit institution that carries out activities in the Republic of Bulgaria can allow the opening of a bank account before the verification of the client's identity is completed under the following conditions:

1. the account is not closed before the completion of the verification
2. no operations by or on behalf of the holder of the account are carried out before the completion of the verification including transfers to the account on behalf of or at the expense of its owner.

Art. 2. (1) Identification and verification of natural persons shall be performed through producing of official identification document and providing of a copy of the latter.

(2) Natural persons – sole traders produce also the documents pursuant to Art. 3.

(3) At identifying natural persons also data is collected on:

1. the names
2. date and place of birth;
3. official personal identification number or another unique element of identity ascertainment which is contained in a valid official document bearing a photography of the customer;
4. citizenship;
5. state of permanent residence and address (post office box is insufficient);

(4) The persons under Art. 3, paras 2 and 3 of the LMML can, upon risk assessment, gather further data like:

1. address for correspondence;
2. telephone, fax and e-mail address;
3. profession;
4. position;
5. employer.

(5) Whenever in the official identification document no data are available under paragraph (3), their gathering shall be performed through producing other official documents.

Art. 3., (1) Identification, and verification of the identification of legal persons shall be performed through producing of an original or a copy certified by a public notary of an official excerpt of the respective register, showing their actual status, and a certified copy of the agreement, or act of establishment. The purpose of the latter is to ascertain the ownership, the management and the control of the customer-legal entity.

(2) At identifying a legal entity, data are gathered on the name, the legal and organisational form, the official seat, the address of management and the address for correspondence, the activity pattern or purpose, the term of existing, the managerial and representative bodies, the kind and structure of the managerial body, the basic place of commercial activity.

(3) Whenever in the official excerpt of the respective register the data under paragraph (2) are not available, their gathering shall be performed through producing other official documents.

(4) The customers-legal entities with nominal directors, secretaries or owners of the capital produce certificate or another valid document in accordance with the legislation of the jurisdiction in which they have been registered, where the certificate has been given by a central register or by a registry agent, and the beneficial owners of the customer-legal entity must be evident therein.

(5) Beneficial owner of a customer-legal entity is:

1. natural person or natural persons who directly or indirectly own more than 25% of the shares or of the capital of a customer-legal entity, or of another similar structure, or exercise direct or indirect control over it;

2. natural person or natural persons in favour of which more than 25% of the property is controlled or distributed, whenever the customer **is** a foundation, a non-profit organisation or another person performing trustee management of property or property distribution in favour of third persons;

3. a group of natural persons in favour of whom a foundation, or a public benefit organisation, or a person performing trustee management of property or property distribution in favour of third persons is established, or acts, when these persons are not determined but can be determined by specific signs.

(6) The legal representatives of a customer-legal entity, the proxies and other natural persons subjects to identification in relation to the identification of the customer-legal entity, shall be identified according to Art. 2.

Art. 4. (1) The persons under Art. 3, paras 2 and 3 of the LMML verify the information under Art. 3 by means of one or more of following methods:

1. revision of the balance sheet, the financial reports and the accountability bills, (including the auditing report, if any);
2. inquiry through an intermediary about business information;

3. inquiry assignment to lawyers partnerships or either natural or legal persons rendering accountancy services of good reputation;
4. demanding bank references;
5. demanding references from persons who are, or have been using the services of the customer, or either have been or are in commercial or professional relations with them;
6. obtaining information from the commercial register or other sources to find out whether the company has been or is being in procedure of insolvency, obliteration, liquidation or termination;
7. making use of other independent sources (accessible databases of public and private organisations, internet)'
8. visits to production premises or administrative offices of the company;
9. telephone, postal or e-mail contacts.

(2) After estimation of the persons under Art. 3, paragraphs 2 and 3 of the LMML other methods may be used provided that the confidentiality principles and a formal assessment of the veracity of the documents produced by the customers are not infringed.

Art. 5. (1) The persons subject to enlisting in the BULSTAT register shall produce a copy of the identification card or respectively of the certificate of registration within the validity term according to Art. 17, paragraphs 3 and 4 of the Law on the BULSTAT Register.

(2) The persons whose registration is subject to enlisting according to the requirements of the Code of Tax and Insurance Procedure shall produce the respective identification number.

(3) In the cases of certain activity – subject of licensing, permission or registration, the persons conducting deals and operations related to such activity shall produce a copy of the respective licence, permission or registration certificate.

Art. 6. (1) In the cases of conducting an operation or deal on behalf or for the account of a third person there shall be identified the person who performs the operation or deal, and also the person on whose behalf the operation or deal is performed and also the relation between them should be found out.

(2) In the cases of performing an operation or deal through a third person-bearer of a document for the performance of the operation or deal, also the third person-bearer of the document shall be identified.

Art. 7. The persons under Art. 3, paras 2 and 3 of the LMML are obliged to effectively apply the procedures for identification of the customer and verification of the identification data also in the cases of establishment of commercial or professional relations or performance of an operation or deal in the absence of the customer.

Art. 8. (1) The information pursuant to Art. 2 and 3 shall be used by the persons under Art. 3., paras 2 and 3 of the LMML for an initial assessment of the risk profile of the customer.

(2) On the base of analysis the persons under Art. 3, paras 2 and 3 of the LMML shall define a category of customers or business relations of a higher risk whom they shall put under special supervision and in relation to whom they shall apply extended measures. In those categories can be included customers who do not have permanent residence or place of commercial activity in the country, as well as the off-shore companies,

the companies of nominal owners or of bearer shares, the companies of trustee management or other similar structures.

(3) The enhanced customer due diligence in regard to the clients under Para. 2 may include:

1. undertaking visits to the address indicated by the client;
2. requesting additional documents and information from the client
3. gathering information through another client
4. referring to the internet
5. requiring references from the counterparts inside the country or abroad or from other persons under Art. 3, Para. 2 of the LMML
6. gathering information on the origin of the incomes
7. verification of the activities of the client including through visits to the production facilities or administrative premises of the client, or by acquiring information from the counterparts
8. verification through the employer of a client being a natural person
9. (*amend. SG37/2008*) measures included in the instructions issued by the Director of the Financial Intelligence Directorate of State Agency for National Security.
10. other measures deemed appropriate by the person under Art. 3, Para. 2 and 3 of the LMML.

(4) (*new SG 108/2007*) The customers, operations and transactions that are linked to states included in the list under Art. 7a, Para.3 of the LMML shall be considered of higher risk and shall be subjected to enhanced due diligence and the measures under Para. 3 shall be applied.

(5) (*new SG 108/2007; amend. 37/2008*) Depending on the level of risk, measures under Para. 3 shall be also applied in the cases under Art. 3c, Para. 2 of the LMML. The Director of Financial Intelligence Directorate of State Agency for National Security following a notification under Art. 3c, Para. 2 of the LMML can issue concrete guidelines for the application of enhanced due diligence in each concrete case.

(6) (*new SG 108/2007*) Under the terms of Paras. 1-5 the persons under Art.3, Para.2 and 3 of the LMML depending on the assessment of risk shall carry out enhanced due diligence of the information under Art. 3 through the means under Para. 4.

(7) (*former para 4, SG 108/2007*).The persons under Art. 3, Para. 2 and 3 of the LMML shall decide in each concrete case the concrete measures to be taken based on the type of client, the nature of the client's activity and the business relations with the client.

Art.8a. (*new SG 108/2007*) (1) Customers pursuant to Art.5a, Para. 1 of the LMML consist of potential customers, existing customers and beneficial owners of the client that is a legal person who are:

1. heads of State, heads of government, ministers and deputy ministers;
2. members of parliament;
3. members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
4. members of courts of auditors;
5. members the boards of central banks;
6. ambassadors and charges d'affaires;
7. high ranking officers in the armed forces;
8. members of the administrative, management or supervisory bodies of state-owned enterprises;

(2) The categories stipulated in Para. 1, items 1-7 include where applicable the

respective positions in the institutions and bodies of the European Union and of the international organizations.

(3) The measures stipulated for the categories of customers under Para. 1 shall also be applied in respect of mayors and deputy mayors of counties, the mayors and deputy mayors of districts and the chairpersons of the municipal councils.

(4) The categories stated in Para. 1, items 1-8 do not include officials at intermediate or more junior level.

(5) For the purpose of Art. 5a of the LMML the related person shall include:

1. spouse or persons who live in factual partnership with them;
2. relatives of descending line to the first degree of affinity and their spouse or persons who live in factual partnership with them;
3. the relatives of ascending order of the first degree of affinity;
4. any natural person who is known or it can be supposed from publicly available information to have joint beneficial ownership of legal person, or any other close business, professional or other relations, with a person referred to in Para. 1;
5. any natural person who has sole beneficial ownership of a legal person which is known or it can be supposed from publicly available information to have been set up for the benefit de facto of the person referred to in paragraph 1.

(6) Without prejudice to the application of enhanced due diligence based on the assessment of risk, in case the person no longer holds a position under Para. 1 for a period no shorter than 1 year, the persons under Art. 3, Paras. 2 and 3 of the LMML are not obliged to apply Art. 5a, Para.1 of the LMML and Art. 8a, Paras. 7-12 of these Rules.

(7) For a person under Art. 3, Paras. 2 and 3 of the LMML to enter into business relations with persons found to fall under the categories pursuant to Para.1 or related persons under Para.5, there is required the approval of an official at a managerial position, designated by the respective executive body of the person under Art. 3, Paras. 2 and 3 of the LMML.

(8) In cases where after establishing commercial or professional relations it is found out that a customer or the beneficial owner of a customer that is legal person falls under the categories as per Para. 1 or is related person under Para. 5, the continuation of business relations requires prior approval of a person under the preceding paragraph.

(9) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to undertake adequate actions to establish the origin of the funds, used in the commercial or professional relations with a customer or the beneficial owner of a customer that is a legal person for whom they have found out that he/she is a person under Para. 1 or a related person under Para. 5.

(10) The obligation under Para. 9 also arises when performing separate operation or transaction without establishing professional or commercial relations with the customer or the beneficial owner of the customer that is a legal person, for whom it is found out that he/she is a person under Para. 1 or a related person under Para. 5, regardless of the value of the operations or deal.

(11) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to carry out constant and enhanced monitoring over their commercial or professional relations with persons under Para. 1 and related persons under Para. 5.

(12) In regard to the potential customer, existing customer or beneficial owner of a customer that is a legal person, who holds a position under Para. 1 or is a related person under Para. 5, the enhanced measures under Art. 8, Para. 3. shall apply. The concrete measures which shall be applied in each respective case are to be decided by the person under Art. 3, Para.2 and 3 of the LMML while taking into consideration the type of customer pursuant to Paras. 1 and 5 and the nature of the commercial or business relation

with him/her.

(13) Based on the analysis of risk the persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to elaborate effective internal systems, that would allow them to determine whether a potential customer, an existing customer or the beneficial owner of a customer – legal person holds a position under Para.1 or is related person under Para. 5.

(14) The systems under Para. 13 can be based on the following sources of information:

1. information gathered through the application of Art. 8, Para. 3;
2. written declaration required from the customer with the purpose of determining whether the person falls within the categories pointed in Paras. 1 and 5;
3. information received through the use of internal or external databases.

(15) In case of failure to identify a customer as falling under Art. 5a, Para. 1 of the LMML the control bodies are obliged to discuss the reasons for the infringement and where adequate measures under Para. 13 had been taken, they should abstain from imposing a sanction.

Art. 8b. (*new SG 108/2007*) In regard to products and transactions which might lead to anonymity the persons under Art. 3, Paras. 2 and 3 are obliged to apply the following measures:

1. analyze the risk associated with the respective product or transaction while taking into consideration factors such as the use of the product in more than one jurisdiction, the size of the financial resources associated with the products and transactions and the profile of the customers of the respective product or transaction;
2. undertake constant monitoring of the respective product or transaction and take appropriate measures to determine the level of risk;
3. to acquaint the employees with the risk related to the respective product or transaction and the measures necessary to counteract the risk;
4. document the risk analysis undertaken and the measures taken to counteract the risk.

Art. 9. (1) Whenever a change occurs in the circumstances related to the identification during the carrying out of the operation or transaction or of the professional or commercial relations, the clients being legal persons or sole traders shall submit to the persons under Art. 3, Para. 2 and 3 of the LMML an official extract of the respective register within 7 days of the registration of the change.

(2) Whenever a change to the circumstances related to the identification occurs during the carrying out of the operation or transaction or of the professional or commercial relations, the clients being natural persons shall notify the persons under Art. 3, Paras. 2 and 3 of the LMML submitting the respective certifying documents within 7 days of the change.

(3) The persons under Art. 3, Paras. 2 and 3 of the LMML shall maintain up-to-date information on their clients and the operations and transactions carried out by them while periodically checking and updating the existing databases.

(4) The databases of the clients and the business relations of potentially higher risk shall be checked and updated at shorter intervals.

(5) Where necessary the information is checked for being updated and additional action is taken for the identification and verification of the identification when:

1. a transaction or operation of value that differs from the typical value for the concrete client takes place
2. there is a significant variation from the usual use of the opened account

3. the person under Art. 3, Para. 2 and 3 becomes aware that the information gathered about an existing client is insufficient.

Art. 10 – (1) The declaration under Art. 4, Para. 7 and Art. 6, Para. 5, item 3 of the LMML is filed before the person under Art. 3, Para. 2 and 3 of the LMML or before a person authorized by the latter prior to the performance of the operation or transaction.

(2) The declaration shall contain the fields required pursuant to Annex 1.

(3) The declaration may form a part of another document, issued by the declaring person; however it shall contain all the required fields under Annex 1 and not raise suspicion about the person filing it or about its contents.

(4) The banks and the banks having a seat abroad and having received permit (license) from the Bulgarian National Bank to carry out activity in Bulgaria through a branch, may relieve their clients from the obligation to file declaration under Art. 4, Para. 7 of the LMML by an ordinance of the persons that manage and represent the respective bank provided that the following conditions are simultaneously met for each separate operation:

1. the client has once and for all declared the origin of the funds it operates or shall operate with

2. the client is known to the respective bank as a result of permanent business relations established with the bank or the bank has received the necessary references from another bank with which it maintains permanent relations.

3. the operations undertaken permit the tracing of the origin of the funds with which the client operates or the respective banks disposes of other credible information on the origin of those funds.

(5) Whenever performing operations or transactions with funds of origin different from the declared, as well as whenever suspicion on the origin of the funds arises, the person under Art. 3, Para. 2 and 3 of the LMML shall require that the client file a declaration under Art. 4, Para. 7 of the LMML.

(6) (*amend. SG 37/2008*) The respective bank shall submit to the Financial Intelligence Directorate of State Agency for National Security a copy of the ordinance under Para. 4, which shall enter into force subject to prior endorsement by the Director of the Financial Intelligence Directorate of SANS. The endorsement is considered fulfilled if the Financial Intelligence Directorate of SANS does not object, based on information available under LMML or the Law on Measures against the Financing of Terrorism, within 5 business days considered from the reception of the notification.

(7) (*amend. SG 37/2008*) Whenever a change in the circumstances for the client relieved from the obligation for declaring occurs, the Director of Financial Intelligence Directorate of State Agency for National Security may issue an obligatory instruction to the respective bank to revoke its ordinance.

(8) The bank revokes its ordinance under Para. 4 on its own initiative whenever the conditions for its issuing have disappeared or the bank decides that its revocation is instrumental for the purposes of the LMML.

(9) The specialized units under Art. 6, Para. 5 of the LMML within the respective bank shall carry out their obligations pursuant to the Law, the Rules and the internal rules under Art. 16, Para. 1 of the LMML also in respect to the operations and transactions of the bank's clients being relieved from the obligation to file declaration under Para. 4.

Art. 11. (1) The declaration under Art. 6, Para. 2 of the LMML shall be filed to the person under Art. 3, Paras. 2 and 3 of the LMML or to the official authorized by the person before carrying out the operation or transaction.

(2) The declaration shall contain the fields as required pursuant to Annex 2.

Chapter 2

Gathering, Storing and Disclosing Information

Art. 12 (1) The gathering of information whenever a suspicion of money laundering arises shall be carried out under the terms and conditions of the LMML, the Rules and the internal rules under Art. 16, Para. 1 of the LMML.

(2) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to register in a special log each notification regarding suspicion for money laundering that is disclosed by their employees to a representative of the specialized unit or a member of the managing bodies irrespective of the means for transmitting the notification.

(3) The log under Para. 2 shall be strung through, numbered and endorsed with the signature of the head of the specialized unit and the seal of the person under Art. 3, Paras. 2 and 3 of the LMML.

(4) Whenever registering a notification under Para. 2 the head of the specialized unit or a person authorized by him/her shall initiate a file in which all documents related to the actions taken by employees of the person under Art. 3, Paras. 2 and 3 in regard to the notification shall be collected and sequenced in accordance with the filing sequence.

(5) The head of the specialized unit shall be responsible for the appropriate storage and maintenance of the log under Para. 2 as well as of the files under Para. 4.

(6) The persons under Art. 3, Paras. 2 and 3 shall perform their obligations under this article personally where it is impossible to establish a specialized unit.

(7) (*amend. SG 37/2008*) The Chairperson of State Agency for National Security may issue obligatory instructions to the persons under Art. 3, Paras. 2 and 3 of the LMML regarding the terms and conditions for collection and storage of the information.

Art. 13. (*amend. SG 37/2008*) (1) The disclosure under Art. 11 of the LMML shall be carried out in writing and using the form adopted by the Director of Financial Intelligence Directorate of State Agency for National Security.

(2) Officially certified copies of all gathered documents on the operation or transaction and on the client shall be enclosed in the disclosure.

(3) In urgent cases the disclosure may be carried out orally while written confirmation shall be filed within 24 hours.

(4) The incompliance with the form does not void the disclosure already carried out.

Art. 14. The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to ensure that the information under Art. 12 is stored in a way that would not allow the use of the information for purposes other than those specified in the LMML.

Art. 15 (1) In order to check and disclose the information received the Financial Intelligence Directorate of State Agency for National Security may carry out on-site inspection of the persons under Art. 3, Paras. 2 and 3 – on its own or jointly with the supervisory organs.

(2) During the inspections under Para. 1 the Financial Intelligence Directorate of the State Agency for National Security has the powers to:

1. unlimited access to the official premises of the persons being subject of the inspection

2. demand documents, information and written explanations about the

circumstances related to the subject of the inspection

3. (*amend. SG 37/2008*) get assistance of expert appraisers or other experts.

(3) The ordinance for the inspection shall specify the purpose, duration and place of the inspection, the person that is being inspected as well as the name and position of the inspecting persons.

Art. 16. (1) The persons under Art. 3, Paras. 2 and 3 of the LMML shall submit the information under Art. 11a of the LMML to the Financial Intelligence Directorate of State Agency for National Security in hard copy or using magnetic media or electronically using the form provided in Annex 3, on a monthly basis not later than the 15th day of the month following the month of the information supplied.

(2) (*amend. SG 37/2008*) The Bulgarian National Bank, the banks and the banks being seated abroad, and having obtained permit (license) by the Bulgarian National Bank to carry out activities in Bulgaria through a branch shall submit the information under Art. 11a of the LMML to the Financial Intelligence Directorate of State Agency for National Security pursuant to the terms and conditions of Para. 1 using the form adopted through joint instruction of the Chairperson of the Bulgarian National Bank and the Chairperson of State Agency for National Security.

(3) The information under Art. 11a of the LMML may be submitted electronically subsequent to the setup of a protected electronic link between the respective person under Art. 3, Paras. 2 and 3 and the Financial Intelligence Directorate of State Agency for National Security.

Chapter 3

Internal Organization, Control and Training

Art. 17. The internal rules pursuant to Art. 16, Para. 1 of the LMML shall lay down:

1. clear criteria for detecting suspicious operations or transactions or clients
2. the terms and conditions for collection, analysis, storage and disclosure of information on operations or transactions
3. the rules of the organization and the work of the specialized unit pursuant to Art. 6, Para. 5 of the LMML
4. (*supplemented SG 108/2007*) the distribution of responsibilities for the implementation of the measures against money laundering within the branches of the person under Art. 3, Paras. 2 and 3 of the LMML as well as the measures including risk assessment procedures in regard to branches and affiliates under the terms of Art. 3c, Para. 2 of the LMML if applicable.
5. the use of technical means for the prevention of money laundering
6. the system for internal control on the implementation of the obligations provided for in the LMML and the acts of its implementation
7. the rules for the training of the officials within the specialized units under Art. 6, Para. 5 of the LMML
8. the rules for the training of the other employees
9. other requirements depending on the characteristics of the activities of the persons under Art. 3, Paras. 2 and 3 of the LMML.

Art. 18. (1) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to ensure self-sustained training of its employees within the specialized units under Art. 6, Para. 5 of the LMML and the rest of the employees in regard to their activities on the

prevention of money laundering and the implementation of the LMML and the acts for the implementation of the LMML.

(2) The Financial Intelligence Directorate of State Agency for National Security shall provide methodological assistance to the persons under Art. 3, Paras. 2 and 3 of the LMML for the elaboration and the implementation of training programs.

Art. 19. (1) (*amend. SG 37/2008*) The internal rules under Art. 16, Para. 1 of the LMML are endorsed by the Chairperson of State Agency for National Security.

(2) (*amend. SG 37/2008*) Whenever the internal rules under Art. 16, Para. 1 of the LMML do not comply with the LMML or the Rules on Implementation, have not been adopted by a competent organ of the person under Art. 3, Para. 2 and 3, or the measures included are not adequate for the purposes of the Law, the Chairperson of State Agency for National Security shall return the rules to the person under Art. 3, Paras. 2 and 3 of the LMML and provide obligatory instructions for the elimination of the incompliance found.

(3) (*amend. SG 37/2008*) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to eliminate the incompliance within one month subsequent to the reception of the instructions and to re-submit their internal rules to the Chairperson of State Agency for National Security for endorsement.

Art. 20. The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to submit to the Financial Intelligence Directorate of the State Agency for National Security their contacts in writing within 7 days following the reception of the license, permit or certificate for registration or, whenever the respective activity does not fall within a regime requiring licensing or permission or is not subject to registration, within 7 days following the start of business activity.

Art. 21. The specialized unit under Art. 6, Para. 5 of the LMML is headed by an employee of the persons under Art. 3, Paras. 2 and 3 of the LMML having managerial position.

Art. 22. The organs that are entitled to control over the persons under Art. 3, Paras. 2 and 3 through a special law, may cooperate with the Financial Intelligence Directorate of State Agency for National Security for the elaboration of clear criteria for detecting suspicious operations or transactions and clients as well as for the elaboration of measures for the prevention and detection of money laundering in the respective sector.

Art. 23 (new – SG 37/2008) (1) The control bodies of State Agency for National Security shall perform on-site inspections of the persons under Art. 3, paras 2 and 3 in relation their compliance with the measures on prevention the misuse of financial system for the purposes of money laundering and terrorist financing.

(2) The control bodies of the State Agency for National Security shall be the officers from Financial Intelligence Directorate, approved the Chairperson of State Agency for National Security.

(3) The on-site inspections shall be carried out based on written order of the Chairperson of State Agency for National Security or other official pointed by him/her, where the order contains information on the purposes, term and place of the on-site visit, inspected person, as well as name and position of inspecting officers.

(4) By performing the on-site inspections the control bodies under para (2) have powers under the art. 15, para 2, item 1 and 2.

Additional provision

(new SG 108/2007)

§ 1. This Rules implement the provisions of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of ‘politically exposed persons’ and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

Concluding Provisions

§ 2. (former §1, SG 108/2007) The instruction of the Bulgarian National Bank and the Minister of Finance under Art. 16, Para. 2 of the Rules on the Implementation of the Law on Measures against Money Laundering, adopted by Ordinance No. 223 of the Council of Ministers of 1998 (promulg. SG, issue 119 of 1998; amended and complemented Issue 14 of 2000, Issues 16 and 111 of 2001 and Issues 49 and 71 of 2003) shall continue in force until the adoption of a new instruction under Art. 16, Para. 2 of the Rules.

§ 3. (former §2, amended, SG 108/2007) The Chairperson of State Agency for National Security shall issue instructions on the implementation of the Rules.

§ 4. (former §3, SG 108/2007) The Rules are adopted pursuant to § 6 of the Transitory and Concluding Provisions of the LMML.

DECREE № 66 of the Council of Ministers dated 28.03.2008 for amendment and supplementation of legal acts of the Council of Ministers

(SG No. 37/2008 r.)

.....

§ 5. In the Rules on the Implementation of the Law on Measures against Money Laundering adopted by decree № 201 from 2006 (promulgated with SG No. 65/2006; amended and supplemented, SG No. 108/2007) there are made the following amendments and supplements:

.....

11. Everywhere in the Act the words “the Financial Intelligence Agency” shall be replaced with “the Financial Intelligence Directorate of State Agency for National Security”.

ANNEX XXIV Rules and Regulations on the Implementation of the Law on State Agency for National Security (RILSANS)

Article 32d

(1) Financial Intelligence Directorate, hereunder to be referred to as "the Directorate", shall receive, store, explore, analyze and disclose information gathered pursuant to the terms and order specified in the Law on Measures against Money Laundering (LMML), the Law on Measures against Financing of Terrorism (LMFT) and the Law on the State Agency for National Security (LSANS) and observe the implementation of LMML.

(2) The Directorate is the Financial Intelligence Unit (FIU) of the Republic of Bulgaria pursuant to Art. 2, Paras 1 and 3 of the Decision of the EU Council from 17.10.2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information. (OG 271/24.10.2000).

(3) The Directorate has a separate registrar's office and archive as well as a round seal on which shall be written "State Agency for National Security – Financial Intelligence Directorate".

(4) In execution of its duties the Directorate shall receive notifications pursuant to Art. 11 of LMML and Art. 9, Para 3 of LMFT.

(5) The Directorate shall establish, use, control and store its own data pool.

(6) The other structural bodies of the State Agency for National Security shall receive access to the data pool of the Directorate when there is a need for cooperation for prevention of encroachments against national security connected with financing of international terrorism and extremism or with money laundering. This access shall be carried out under an order defined by the Chairperson of the Agency.

(7) Financial Intelligence Directorate shall:

1. Maintain registers of money laundering and financing of terrorism data, a register of cash payments amounting over BGN 30 000 pursuant to Art.11a of LMML, and a register of information submitted by the Customs Agency pursuant to Art.11b of LMML;
2. Exchange information with the security and public order agencies under the terms and order established by LMML and LMFT;
3. Carry out financial intelligence analysis of cases under LMML, collect additional information under the terms and order of Art. 13 of LMML, and draw conclusion whether the initial suspicion of money laundering is confirmed;
4. Forward information on cases to the Prosecutors' Office or to the security or public order agencies, or close the cases pursuant to the conclusion under Item 3;
5. Carry out financial intelligence analysis of cases under the LMFT, collect additional information under the terms and order of Art. 13 of LMML and draw conclusion whether the initial suspicion of financing of terrorism is confirmed;
6. Forward information on cases to the Prosecutors' Office or to the security or public order agencies, or close the cases pursuant to the conclusion under Item 5;
7. Participate in its capacity under Para 2, in the proceedings of the respective committees and organizations at the European Union and the Council of Europe, and other international governmental and non-governmental bodies and organizations involved in the field of counteraction against money laundering and financing of terrorism;
8. Exchange information with the financial intelligence services and other states' bodies competent in that field on cases and suspicion of money laundering and financing of terrorism under the terms and order established under Art.18 of the LMML and Art.14 of the LMFT;

9. Organize, supervise and be in charge for security of use of the protected EGMONT-Group website and of the international exchange of information through this website;
 10. Coordinate the Directorate officials' participation in workshops, seminars and other forms of training;
 11. Assist the competent institutions in harmonizing the Bulgarian legal frame in the field of money laundering counteraction with the European Union acquis;
 12. Elaborate the legal basis on the interaction of the Agency with the financial intelligence units of other states in the field of money laundering counteraction;
 13. Coordinate the interaction of the Agency with other governmental agencies on matters related to free movement of capital, corruption, payoffs in international trade deals and confiscation in relation to the implementation of the measures of counteraction against money laundering and financing of terrorism;
 14. Carry out on-site inspections to persons under Art. 3, Paras 2 and 3 of the LMML on the implementation of the measures against money laundering and the measures against financing of terrorism, as well as where suspicion of money laundering and financing of terrorism exists;
 15. Propose to the Chairperson of the Agency measures for improvement of the organization and activity of the specialized services of the persons under Art. 3, Paras 2 and 3 of the LMML;
 16. Participate in joint inspections with the bodies supervising the activity of persons under Art. 3, Paras 2 and 3 of the LMML;
 17. Organize and carry out seminars, workshops and other forms of training in relation to the implementation of the LMML and LMFT which shall be done on its own or together with the bodies supervising the activity of persons under Art. 3, Paras 2 and 3 of the LMML, and their professional organizations and associations;
 18. Provide methodological assistance to the persons under Art. 3, Paras 2 and 3 of the LMML in the elaboration of their internal rules under Art. 16 of the LMML;
 19. Carry out current and incidental control over implementation of the duties under the LMML and the LMFT and their implementation acts;
 20. Draw up protocols of findings, statements of establishment of administrative infringements for LMML and LMFT and prepare projects for penal decrees;
 21. Present reports on committed infringements, containing infringement analysis and proposals of measures to be undertaken to obviate infringement consequences and to prevent future infringements.
- (8) The notifications under Art. 11 of the LMML and Art. 9 of the LMFT shall be classified for operative-analytical or for information-analytical purposes. Based on the notifications for operative-analytical purposes operative files are opened. Notifications for information-analytical purposes are entered in the database of the Directorate and are used for its own activity and the one of the security and public order services.
- (9) The Director of the Financial Intelligence Directorate, hereunder to be referred to as "the Directorate", shall:
1. Coordinate the interaction of the Directorate with the persons under Art. 3, Paras 2 and 3 of the LMML, the supervising bodies under Art. 3a of the LMML, the Prosecutors' Office and the respective security and public order agencies under Art. 12 of the LMML.
 2. Carry out the interaction of the Directorate with the other structural units of the Agency;
 3. Represent the Directorate before the international organization of the financial intelligence units as well as before the respective structures of the European Union and the Council of Europe;
 4. Coordinate the interaction of the Directorate with the financial intelligence units and the exchange information under Art.18 of the LMML and Art.14 of the LMFT;

5. Open operative files based on notifications on money laundering submitted pursuant to the terms and order specified in LMML and assign the work on them;
6. Open operative files based on notifications on financing of terrorism submitted pursuant to the terms and order of the Law on Measures against Financing of Terrorism (LMFT) and assign the work on them;
7. Constitute the commission for closure and sending to archive of files under Items 5 and 6;
8. Close the files under Items 5 and 6 on a conclusion of the commission under Item 7;
9. Exercise powers ensuing from the LMML, LMFT and the respective rules on their implementation;
10. Prepare the Directorate's annual report of activities and submit it to the Chairperson of the State Agency for National Security.