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

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Report on Fourth Assessment Visit - **ANNEXES**

Anti-Money Laundering and Combating the Financing of Terrorism

CYPRUS

27 September 2011

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- Ministry of Foreign Affairs
- Ministry of Justice and Public Order
- Ministry of Interior (Authority for the registration of Associations and Clubs)
- Law Enforcement Authorities
- Central Bank of Cyprus
- Supervisory Authority for the Cooperative Credit and Saving Banks
- Securities and Exchange Commission
- Supervisory Authority for the Insurance Companies
- District Court of Nicosia
- Public Prosecutors
- Registrar of Companies
- Council of the Cyprus Bar Association (Supervisory Authority for Lawyers)
- Council of the Institute of Certified Public Accountants – Supervisory Authority for Accountants/Auditors
- Association of Commercial Banks
- Association of International Banks
- Cyprus Financial Services Firms Association
- Insurance Association
- STEP (Society of Trust and Estate Practitioners)
- Representatives of the banking sector
- Real Estate agents
- Dealers in precious metals and stones
- Representatives of transfer service companies

ANNEX 3 – COPIES OF KEY LAWS, REGULATIONS AND OTHER MEASURES

3.1 THE PREVENTION AND SUPPRESSION OF MONEY LAUNDERING AND TERRORIST FINANCING LAWS OF 2007 (188(I)/2007) and 2010 (58 (I)/2010)

Law No. 188(I)/2007

THE PREVENTION AND SUPPRESSION OF MONEY LAUNDERING AND TERRORIST FINANCING LAW OF 2007

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A LAW WHICH CONSOLIDATES AND REVISES THE PREVENTION AND SUPPRESSION OF MONEY LAUNDERING ACTIVITIES

PART I - INTRODUCTORY PROVISIONS

1. This Law may be cited as the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007.

2.-(1) For the purposes of this Law, unless the context otherwise requires-

Interpretation.

"Advisory Authority" means the Advisory Authority for Combating Money Laundering and Terrorist Financing which is established under section 56;

"Asset Recovery Office" means the asset recovery office as it is defined in the Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

"Attorney-General" means the Attorney-General of the Republic;

“beneficial owner” means the natural person or natural persons, who ultimately own or control the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) In the case of corporate entities:

(i) the natural person or natural persons, who ultimately own or control a legal entity through direct or indirect ownership or control of a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, a percentage of 10% plus one share be deemed sufficient to meet this criterion;

(ii) the natural person or natural persons, who otherwise exercise control over the management of a legal entity.

(b) In the case of legal entities, such as foundations and legal arrangements, such as trusts, which administer and distribute funds:

(i) Where the future beneficiaries have already been determined, the natural person or natural persons who is the beneficiary of 10% or

more of the property of a legal arrangements or entity;

(ii) Where the individuals that benefit from the legal arrangement or entity have not yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) The natural person or natural persons who exercise control over 10% or more of the property of a legal arrangement or entity.

"bonds" includes shares, debentures and other securities issued by a legal person irrespective of whether they constitute a charge on the property of the said legal person;

“business relationship” means a business, professional or commercial relationship which is connected with the professional activities of persons engaged in financial and other business activities in accordance with this section and which is expected, at the time when the contact is established, to have an element of duration.

“countries of the European Economic Area” means Member State of the European Union or other contracting state which is a party to the agreement for the European Economic Area signed in Porto on the 2nd of May 1992 and was adjusted by the Protocol signed in Bruxelles on the 17th of May 1993, as amended.

"civil proceedings" means any proceedings of a civil nature which are not of a criminal nature;

"conclusion of criminal proceedings" with its cognate expressions means-

(a) the withdrawal of a charge under section 91 of the Criminal Procedure Law;

Cap. 155.
93 of 1972
2 of 1975
12 of 1975
41 of 1978
162 of 1989
142 of 1991
9(I) of 1992
10(I) of 1996
89(I) of 1997
54(I) of 1998.

(b) the entering of nolle prosequi under section 154 of the Criminal Procedure

Law;

(c) the acquittal of the accused by the court of first instance or on appeal by the Supreme Court;

(d) pardon by the President of the Republic;

(e) sentencing for a prescribed offence without the issue of a confiscation order;

(f) the full compliance with a confiscation order either by paying the amount due or by serving the term of imprisonment in lieu of payment of the amount due;

"court" means an assize court or a district court in the exercise of its criminal jurisdiction and for the purposes of section 38 (Procedure for the enforcement of foreign orders) has the meaning ascribed to it in Part IV of this Law;

"criminal proceedings" means any criminal proceedings within the meaning ascribed thereto in the Courts of Justice Law;

14 of 1960
50 of 1962
11 of 1963
8 of 1969
40 of 1970
58 of 1972
1 of 1980
35 of 1982
29 of 1983
91 of 1983
16 of 1984
51 of 1984
83 of 1984
93 of 1984
18 of 1985
71 of 1985
89 of 1985
96 of 1986
317 of 1987
49 of 1988
64 of 1990
136 of 1991
149 of 1991
237 of 1991

42(I) of 1992
43(I) of 1992
102(I) of 1992
26(I) of 1993
82(I) of 1995
102(I) of 1996
4(I) of 1997
53(I) of 1997
90(I) of 1997
27(I) of 1998
53(I) of 1998.

“credit institution” means every credit institution within the meaning of section 4 (1) of the Directive 2006/48/EC of the European Parliament and of the Council of 14th June 2006 on the taking up and pursuit of the business of credit institutions.

“customer” means a person aiming to conclude a business relationship or conduct a single operation with another person engaged in financial or other business activities in or from the Republic.

"dividend" includes interest, any kind of income derived from securities and any income derived from the distribution of profits of a unit trust;

"drug trafficking offence" means an offence committed in contravention-

(a) of sections 4, 5, 5A, 6, 7, 7A, 9, 10, 12, 20, 21, 22, 25 and 26 of the Narcotic Drugs and Psychotropic Substances Law;

29 of 1977
67 of 1983
20(I) of 1992.
5(I) of 2000
4(I) of 2001
9(I) of 2003
146(I) of 2005.

(b) of sections 100 of the Customs and Excise Law;

82 of 1967
57 of 1969
4 of 1971
45 of 1973
12 of 1977
104 of 1987

98 of 1989
5 of 1991.
2(a) of 41(I)
of 1998.

(c) of sections 20 (c) and 20(d) of the Criminal Code in connection with the commission of any of the offences referred to in paragraphs (a) and (b) above;

Cap. 154.
3 of 1962
43 of 1963
41 of 1964
69 of 1964
70 of 1965
5 of 1967
58 of 1967
44 of 1972
92 of 1972
29 of 1973
59 of 1974
3 of 1975
13 of 1979
10 of 1981
46 of 1982
86 of 1983
186 of 1986
111 of 1989
236 of 1991
6(I) of 1994
3(I) of 1996
99(I) of 1996
36(I) of 1997
40(I) of 1998
45(I) of 1998
15(I) of 1999
37(I) of 1999
38(I) of 1999
129(I) of 1999
30(I) of 2000
43(I) of 2000
77(I) of 2000
162(I) of 2000
169 (I) of 2000.

(d) of section 370 of the Criminal Code in connection with the commission of any of the offences referred to in paragraph (a) and (b) above;

(e) of section 371 of the Criminal Code in connection with the commission of any of the offences referred to in paragraph (a) above;

"E.U. Directive" means the Directive 2005/60/EC of the European Parliament and 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.

"Financial business" includes the following:

(a) Acceptance of deposits by the public.

(b) Lending money to the public.

(c) Finance leasing, including hire purchase financing.

(d) Money transmission services.

(e) Issue and administration of means of payment such as credit cards, travellers' cheques, bankers' drafts and electronic money.

(f) Guarantees and commitments.

(g) Trading in one's own account or on account of another person in-

(i) Stocks or securities including cheques, bills of exchange, bonds, certificates of deposits;

(ii) foreign exchange;

(iii) financial futures and options;

(iv) exchange and interest rate instruments;

(v) transferable instruments.

(h) Participation in share issues and the provision of related services.

(i) Consultancy services to enterprises concerning their capital structure, industrial strategy and related issues and consultancy services as well as services in the areas of mergers and acquisitions of businesses.

(j) Money broking;

(k) Investment services, including dealing in investments, managing investments, giving investment advice and establishing and operating collective investment schemes. For the purposes of this section, the term “investments” includes long-term insurance contracts, whether or not associated with investment schemes.

(l) Safe custody services.

(m) Custody and trustee services in relation to stocks.

(n) Any of the services and activities-

(i) which are defined in Part I and III of the third Annex of the Investment Services and Activities and Regulated Markets Law which are from time to time in force and which are provided in relation to financial instruments listed in Part III of the same Annex.

(ii) which are defined in sections 41 and 100 of the Open-Ended Undertaking for Collective Investment in Transferable Securities and Related Issues Law.

(o) Agent for the conclusion of insurance policies.

(p) Without prejudice to the generality of paragraphs (d) and (e), any of the services determined in the Annex of the Payment Services Law, as it stands. **128(I)/2009 128(I)/2010**

"government stocks" includes development bonds, short term government bonds without interest, saving bonds and any other security issued in the name of a specific person but does not include a saving bond or any other security which is not issued to the bearer;

"immovable ownership or property" has the same meaning as in the Immovable Property (Tenure, Registration and Valuation) Law; Cap. 224.
A3 of 1960
78 of 1965
10 of 1966
75 of 1968
51 of 1971
2 of 1978
16 of 1980
23 of 1982

68 of 1984
82 of 1984
86 of 1985
189 of 1986
12 of 1987
74 of 1988
117 of 1988
43 of 1990
65 of 1990
30(I) of 1992
90(I) of 1992
6(I) of 1993
58(I) of 1994
40(I) of 1996
31(I) of 1998.

"instrumentalities" means any property used or intended to be used, in any manner, wholly or in part, to commit a prescribed offence;

"laundering offences" (or money laundering offences as known internationally) means the offences referred to in section 4;

"movable property or movables" means any property which is not immovable;

“other activities” includes the following:

(a) Exercise of professional activities by auditors, external accountants and tax advisors, including transactions for the account of their customers in the context of carrying out financial business

(b) Exercise of professional activities on behalf of independent lawyers, with the exception of privileged information, when they participate, whether-

(i) by assisting in the planning or execution of transactions for their clients concerning the-

(aa) buying and selling of real property or business entities;

(bb) managing of client money, securities or other assets;

(cc) opening or management of bank, saving or securities accounts;

(dd) organisation of contributions necessary for the creation,

operation or management of companies;

(ee) creation, operation or management of trusts, companies or similar structures.

(ii) by acting on behalf and for the account of their clients in any financial or real estate transaction.

(c) Dealing in real estate transactions, conducted by real estate Agents, according to the provisions of the Real Estate Agents, according to the provisions of the Real Estate Agents Law, which are from time to time in force.

(d) Trading in goods such as precious stones or metals, wherever payment is made in cash and in an amount of €15.000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked.

(e) The following trust services and company services to third parties:

(i) forming companies or other legal persons;

(ii) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership or a similar position in relation to other legal persons;

(iii) providing a registered office, business address, correspondence or administrative address and other related services for a company, a partnership or any other legal person or arrangement;

(iv) acting as or arranging for another person to act as a trustee of an express trust or a similar legal arrangement;

(v) acting as or arranging for another person to act as a nominee shareholder for another person;

“person” means natural or legal person.

“politically exposed persons” means the natural persons who have their place of residence in another European Union Member State or in third counties and who are or have been entrusted with prominent public functions and their immediate family members or persons known to be close associates of such persons.

"predicate offence" means the offences referred to in section 5;

"prescribed offences" means the offences referred to in section 3;

“proceeds” means any kind of property or economic benefit which has been generated directly or indirectly from the commission of a predicate offence.

"property" means movable and immovable property **whether situated in the Republic of Cyprus or abroad.**

"Republic" means the Republic of Cyprus;

"Supervisory Authorities" means the authorities established under section 59;

“Shell bank” means a credit institution or an institution engaged in equivalent activities incorporated in a jurisdiction which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group.

“single operation” means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of financial or other business.

“Terrorist financing offences” means the offences defined in section 4 of the International Convention for Combating Terrorist Financing (Ratification and other provisions) Law No. 18(III/2005.

“Trust” has the same meaning given to this term by the Trustees Law, Cap. 193 and includes trust.

"Unit" means the Unit for Combating Money Laundering established under section 54;

"unit trusts" means any trust established for the purpose or having the effect of providing for persons having funds available for investment facilities the right of participation as beneficiaries under the trust in any profits or income arising from the acquisition, management or disposal of any property whatsoever;

(2) The words and phrases set out in the first column are interpreted in the sections of this Law set out in the second column:

Appeal	37
Charging order	15
Company	21
Confiscation order	8

External order	37
Family of the accused	49
Financial position of the accused	49
Freezing order	32
Information	44
Interference with property	14
Making a gift	13
Order for sale of bonds	18
Order for the disclosure of information	45
Pecuniary penalty	8(2)
Preferential debts	13
Privileged information	44
Proceeds of prescribed offence	7
Prohibited gift	13
Realizable property	13
Restraint order	14
Value of gift	13
Value of property	13

(3) References in this Law to offences include offences committed before the commencement of this Law, but the courts have no obligation to exercise any of the powers conferred on them by this Law in connection with a criminal case for the commission of a prescribed offence instituted before the commencement of this Law.

2(b) of 41(I) of 1998.

Prescribed offences.

3. This Law shall have effect in relation to the offences referred to below and which for the purposes of this Law shall be referred to as prescribed offences:

(a) laundering offences;

(b) predicate offences.

Laundering offences.

4.-(1) Every person who-

(a) knows or b) at the material time ought to have known that any kind of property constitutes proceeds from the commission of a predicate offence, carries out the following activities:

(i) converts or transfers or removes such property, for the purpose of concealing or disguising its illicit origin or of assisting in any way any person who is involved in the commission of the predicate offence to

carry out any of the above actions or acts in any other way in order to evade the legal consequences of his actions;

(ii) conceals or disguises the true nature, the source, location, disposition, movement of and rights in relation to, property or ownership of this property;

(iii) acquires, possesses or uses such property;

(iv) participates in, associates, co-operates, conspires to commit, or attempts to commit and aids and abets and provides counselling or advice for the commission of any of the offences referred to above;

(v) provides information in relation to investigations that are carried out for laundering offences for the purpose of enabling the person who acquired a benefit from the commission of a predicate offence to retain the proceeds or the control of the proceeds from the commission of the said offence,

commits an offence punishable by fourteen years' imprisonment or by a pecuniary penalty of up to Euro 500.000 or by both of these penalties in the case of (a) above and by five years' imprisonment or by a pecuniary penalty of up to Euro 50.000 or by both in the case of (b) above.

(2) For the purposes of subsection (1)-

(a) it shall not matter whether the predicate offence is subject to the jurisdiction of the Cyprus Courts or not;

(b) a laundering offence may be committed by the offenders of a predicate offence as well;

(c) the knowledge, intention or purpose which are required as elements of the offences referred to in subsection (1) may be inferred from objective and factual circumstances.

5. Predicate offences are:

Predicate offences.

(a) All criminal offences punishable with imprisonment exceeding one year, as a result of which proceeds have been derived which may constitute the subject of a money laundering offence as defined by section 4.

(b) Financing of Terrorism offences as these are specified in Article 4 of the

Financing of Terrorism (Ratification and other provisions) Laws of 2001 and 2005, as well as the collection of funds for the financing of persons or organisations associated with terrorism.

(c) Drug Trafficking offences, as these are specified in section 2 of this law.

PART II - CONFISCATION ORDERS, TEMPORARY ORDERS AND OTHER MEASURES

A. Confiscation Orders

Inquiry in order to determine whether the accused acquired proceeds.

6.-(1) A Court which has convicted a person for a prescribed offence shall, before sentencing, proceed with an inquiry in order to determine whether the accused acquired any proceeds from the commission of a predicate offence, by applying the procedure set out in this Part of the Law or the procedure referred to in Part VI.

(2) For the procedure set out in this Part to be applied, the Attorney General shall so decide by submitting a relevant application to the Court. The Court may make a confiscation order if the procedure under this Part is applied or impose a corresponding pecuniary penalty if the procedure under Part VI is applied.

Assessing the proceeds from the commission of a predicate offence.

7.-(1) For the purposes of this Law-

(a) all payments which have been made to the accused or to any other person at any time before or after the commencement of this Law in connection with the Commission of a predicate offence are deemed to be proceeds of the accused from the commission of a predicate offence irrespective of whether this has been committed by the accused himself or another person.

(b) the value of the proceeds acquired by the accused from the commission of a predicate offence is the aggregate value of payments or other rewards made to him or the product of a predicate offence, or proceeds as this term is defined in section 2 of this Law.

(2) The Court may, for the purpose of determining whether the accused has acquired proceeds from the commission of a predicate offence and of assessing the value of these

proceeds, assume, unless the contrary is proved under the circumstances of a case, that-

(a) any property acquired by the accused after committing the said offence or transferred into his name at any time during the last six years prior to the commencement of criminal proceedings against him, was acquired by him as early as the court considers that it has been so, constitutes proceeds, payment or reward from the commission of a predicate offence.

(b) any expenditure incurred by the accused during the above period was met out of payments or rewards made to him in connection with a predicate offence committed by him;

(c) for the purpose of valuing such property, he received the property free of any charge or any interest of any other persons in it.

(3) The provisions of subsection (2) shall not apply if-

(a) it is proved that they do not apply to the accused; or

(b) the court considers that there would be a serious risk of injustice against the accused, if they were to apply.

(4) Where the court decides not to apply the provisions of subsection (2), it shall set out the reasons for taking such a decision.

(5) For the purposes of assessing the value of the proceeds acquired by the accused from the commission of a predicate offence, if a confiscation order had previously been made against him, the court shall not take into account any of his proceeds from the commission of a predicate offence that are shown to the court to have been taken into account in determining the amount referred to in the said order.

Confiscation order.

8.-(1) Where the court, after the conduct of an inquiry under this Part, determines that the accused has acquired proceeds, it shall, before sentencing him for the offence for which he has been convicted or for offences which the court can take into consideration in sentencing-

(a) make a confiscation order for the recovery of the amount of proceeds in accordance with section 9 as assessed and determined under section 7;

(b) make an order for the confiscation of instrumentalities;

and shall, thereafter, impose any of the penalties which it has the competence to impose.

(2) The making of a confiscation order is not affected by any provision in any other law limiting the power of the court in the imposition of pecuniary penalties.

Procedure for enforcing a confiscation order.
Table.
Cap.155.

9.-(1) Without prejudice to the power of the court mentioned in sections 17 to 19, the effect of a confiscation order shall be the same as the effect of imposing a pecuniary penalty and the Table in section 128 of the Criminal Procedure Law shall be replaced for the purposes of this Law by the following:

TABLE

First column	Second column
An amount not exceeding 100 euro	7 days
An amount exceeding 100 euro but not exceeding 200 euro	14 days
An amount exceeding 200 euro but not exceeding 1000 euro	30 days
An amount exceeding 1000 euro but not exceeding 2000 euro	60 days
An amount exceeding 2000 euro but not exceeding 4000 euro	90 days
An amount exceeding 4000 euro but not exceeding 10000 euro	6 months
An amount exceeding 10000 euro but not exceeding 20000 euro	9 months
An amount exceeding 20000 euro but not exceeding 40000 euro	12 months
An amount exceeding 40000 euro but not exceeding 100000 euro	18 months
An amount exceeding 100000 euro but not exceeding 200000 euro	2 years
An amount exceeding 200000 euro but not exceeding 500000 euro	3 years
An amount exceeding 500000 euro but not exceeding two million euro	5 years
An amount exceeding two million euro	10 years

(2) The provisions of subsection (1) of this section shall also apply where a confiscation order is made under section 28 (Confiscation order where the accused has died or

absconded) and the defendant had absconded and subsequently appeared.

Procedure for enforcing an order for the confiscation of instrumentalities.

10. The enforcement of an order for the confiscation of means shall be effected by forfeiture by following instructions that may be given by the court according to the kind of instrumentality.

Procedure to issue a confiscation order.

11.-(1) The prosecution, together with the application of the Attorney General for an inquiry under section 6 (Inquiry in order to determine whether the accused acquired proceeds) or under sections 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) or within such a time limit as the court may direct, submits a statement of allegations in which facts and particulars are set out in relation to the inquiry for the determination of whether the accused has acquired proceeds from the commission of a predicate offence or to an assessment of the value of the proceeds and, if the accused, in accordance with the procedure prescribed in this section, admits the correctness of the content of the said statement or of a part thereof, the court for the purposes of such inquiry and assessment may treat such an admission as conclusive proof of the facts and particulars to which it relates.

(2) Following the submission by the prosecution of the statement of facts and particulars under subsection (1), the court, if satisfied that a copy of it has been served on the accused, calls upon him to declare whether he admits any of the allegations contained in the statement and to submit a statement in relation to those of the allegations he does not admit (hereinafter to be referred as a "statement in rebuttal") in which he shall indicate the particulars and the reasons on which he intends to rely both in rebutting the allegation of the prosecution and in determining the amount that may be received from his realizable property. The statement in rebuttal is submitted within such a period of time as the court may direct or within three days from the service of the statement of facts and particulars on the accused by the prosecution.

(3) Failure of the accused to comply with any of the directions of the court shall be treated for the purposes of this section as an admission of all the facts and particulars contained in the statement of facts and particulars.

(4) Where in the statement of rebuttal allegations are included which are relevant to determining the amount that may be realized at the time the confiscation order is made and the prosecution accepts all or some of these allegations or a part thereof, the court may treat such acceptance on the part of the prosecution, for the purposes of such determination, as conclusive proof of the allegations to which it relates.

(5) The acceptance of allegations either by the prosecution or by the accused is made

orally before the court unless the court otherwise directs.

(6) The admission made by the accused for the purposes of this section shall not be admissible as evidence in any other criminal proceedings.

(7) The court may set a date for the conduct of the inquiry and adjourn it whenever it appears to the court necessary to do so.

(8) The court delivers a reasoned decision on all matters of the inquiry.

Amount to be recovered under a confiscation order.

12.-(1) Subject to the provisions of subsection (2), the amount to be recovered under a confiscation order shall be the amount which the court assesses to be representative of the value of the proceeds of the accused from the commission of a predicate offence.

(2) If the court is satisfied that the amount that may be realised at the time the confiscation order is made is less than the amount the court has assessed to be representative of the value of the proceeds of the accused from the commission of a predicate offence, the amount to be recovered under the confiscation order shall be the amount which, in the opinion of the court, might in fact be so secured from the realizable property. In such a case, the order also mentions the amount which ought to have been recovered as the amount representing the proceeds of the accused from the commission of a predicate offence.

(3) Where the court comes to the conclusion that the amount which may be recovered from the realizable property of the accused is less than the amount which ought to have been recovered, it may make an order for the cancellation of this difference or for postponement of its recovery if such an order is, in the opinion of the court, just and expedient having regard to the reasons giving rise to this difference.

Realizable property and preferential debts and prohibited gifts.

13.-(1) In this Law, subject to the provisions of subsection (2), "realizable property" means-

(a) any property held by the accused **whether situated in the Republic of Cyprus or abroad;** and

(b) any property held by another person to whom the accused has directly or indirectly made a gift prohibited by this Law **whether situated in the Republic of Cyprus or abroad.**

(2) Property is not realizable if such property is subject to forfeiture by virtue of an

order of the court made in criminal proceedings.

(3) For the purposes of sections 11 (Statement of facts and particulars) and 12 (Amount to be recovered under a confiscation order), the amount that may be realized, at the time a confiscation order is made, is made up of-

(a) the total value of all realizable property held by the accused at the time the order is made;

(b) plus the total value, at the time the order is made, of all gifts prohibited by this Law;

(c) less, the total of obligations which in accordance with subsection (6) below have priority at the time the order is made.

(4) Subject to the following provisions of this section, the value of property, other than cash, is-

(a) the market value of the property, when such property belongs absolutely to one person;

(b) when another person has an interest in such property, the market value of the property less the amount required to pay off the interest of the other person and to discharge any encumbrance, other than an encumbrance based on a charging order.

(5) Subject to the provisions of this section, reference in this Law to the value of a gift means the value of the property in the open market at the time the confiscation order is made or at the time the gift is made, if at that time the value of this property was higher than its value at the time the order was made.

(6) For the purposes of subsection (3) above the obligations of the accused that have priority over other obligations, are:

(a) the obligations for the payment of pecuniary penalties imposed before the confiscation order was made or for other amounts due by virtue of order of the court made before the confiscation order was made;

(b) his obligation for the payment of amounts which would have been included among the preferential debts of the accused, if at the time the confiscation order was made he was declared bankrupt or, in the case of a company, a winding up order was made;

(c) any other bona fide claim against the accused to which the court considers appropriate to grant priority on such terms as the court under the circumstances of

the case deems just;

and "Preferential debts" in this subsection means:

(i) in relation to bankruptcy, the debts to be paid in priority under section 38 of the Bankruptcy Law or any other law, as if the date on which the confiscation order was made was the date on which the receiving order of the company was made;

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49 of 1985
197 of 1986.

(ii) in relation to the winding up of a company, the debts to be paid in priority, under section 300 of the Companies Law or any other law, as if the date the confiscation order was made was the date the winding up order was made;

(iii) in relation both to the bankruptcy of a natural person and the winding up of a company, the claims mentioned in paragraph (c) of subsection (6) above.

(7) Gifts, including gifts made before the commencement of this Law, which are prohibited gifts under this Law are-

(a) those made by the accused at any time during the last six years prior to the institution of criminal proceedings against him; ~~and~~ **or**

(b) those made by the accused at any time and relate to property-

(i) received by the accused in connection with a predicate offence committed by him or any other person; or

(ii) which in whole or in part, directly or indirectly, represent property received by the accused in connection with a predicate offence committed by him or by another person or

(c) Those made by the accused after the institution of criminal proceedings against him.

(8) For the purposes of this Law the accused is to be treated as making a gift where he transfers property to another directly or indirectly for a consideration the value of which is significantly less than the actual value of the property at the time of transfer. In such a case, the preceding provisions of this section shall apply as if the accused has made a gift of that part of the property which by comparison to the total value of the property represents the proportion of the difference between the value of the consideration he accepted for the transfer of the property and the actual value of the property at the time of transfer.

B. Interim Orders

14.-(1) The court may make a restraint order where-

Restraint order, discharge or variation of a restraint order and appointment of a receiver.

(a) criminal proceedings have been instituted and have not been concluded or are about to be instituted in the Republic against a person for the commission of a predicate offence, or an application by the Attorney General has been made under sections 28 (Confiscation order where accused has died or absconded), 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) of this Law; or

(b) the Unit possesses information which creates a reasonable suspicion that a person may be charged with the commission of a laundering offence; and

(c) the court is satisfied that there is a reasonable ground to believe that-

(i) where an application under section 36 is submitted, the provisions of subsection (3) of the same section are fulfilled; and

(ii) the person mentioned in paragraphs (a) and (b) above has benefited from the commission of a predicate offence.

(2) A restraint order made under subsection (1) prohibits transactions in any way in realizable property. The prohibition shall be subject to such conditions and exceptions as may be specified in the order.

(3) A restraint order may apply-

(a) to all realizable property held by a specific person whether the property is described in the order or not; and

(b) to realizable property held by a specific person which was transferred to him after the order was made.

(4) This section shall not apply in relation to any property which is subject to a charging order made under section 15 (Charging order).

(5) A restraint order-

(a) may be made following an ex parte application by the Attorney-General; and

(b) shall provide for service of notice to all persons affected by the order.

(6) A restraint order-

(a) may be discharged or varied in relation to the property concerned;

(b) shall be discharged when the criminal proceedings against the accused for the offences with which he is charged are concluded;

(c) shall be discharged if an application under section 35 (Reconsideration of a case) or section 36 (Re-assessment of proceeds) is not submitted within a reasonable, in the opinion of the court, period of time.

(7) The court may at any time after the making of a restraint order, appoint a receiver-

(a) to take possession of any realizable property and place it under his custody; and

(b) to manage or otherwise deal with the said property, in accordance with the directions of the court.

(8) The court may, on appointing a receiver, impose such conditions as it considers necessary and may direct any person in possession of the property in respect of which the receiver was appointed to give possession of it to the receiver.

(9) For the purposes of this section the expression "dealing with property", without prejudice to its generality, includes-

(a) making a payment towards a debt with a view to reducing the same; and

(b) removing or transporting the property out of the Republic.

(10) Where the court has made a restraint order the realizable property may be seized for the purpose of preventing its transportation or removal out of the Republic.

(11) Property seized under subsection (10) above shall be subject to the instructions of the court.

(12) The court shall not exercise the powers conferred on it under this section-

(a) if it is satisfied that the promotion of a procedure or application is delayed without any reasonable ground, or

(b) if the Attorney-General declares that he does not intend to promote the said

procedure or application.

15.-(1) The court has the power to make a charging order before or after a confiscation order is made but a charging order shall only be made before a confiscation order is made where-

Charging order, discharge or variation of a charging order.

(a) criminal proceedings have been instituted and have not been completed or are about to be instituted in the Republic against a person for the commission of a predicate offence, or an application by the Attorney-General has been made under sections 28 (Confiscation order where accused has died or absconded), 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) of this Law; or

(b) the Unit possesses information which creates a reasonable suspicion that a person may be accused of the commission of a laundering offence; and

(c) the court is satisfied that there is a reasonable ground to believe that-

(i) where an application under section 36 is submitted (Re-assessment of proceeds), the provisions of subsection (3) of the same section are satisfied; and

(ii) the person mentioned in paragraphs (a) and (b) above has benefited from the commission of a predicate offence.

(2) An order made under subsection (1) shall be called a charging order and, notwithstanding the provisions of other laws, it shall create a charge on the realizable property specified in the order, with the purpose of securing payment to the Republic-

(a) of an amount equal to the value of the property charged, where a confiscation order has not been made; and

(b) in any other case, of an amount not exceeding the amount payable under the confiscation order.

(3) A charging order is made following an ex parte application by the Attorney General.

(4) Subject to subsection (6) below, a charge may be imposed by a charging order only on-

(a) any interest the accused has in realizable property either of the kind mentioned in subsection (5) or under a trust;

(b) any interest in realizable property held by any other person either of the kind mentioned in subsection (5) or under a trust and to whom the accused has made a gift prohibited under this Law.

(5) Subject to the provisions of subsection (12), the kinds of assets referred to in subsection (4) above are:

(a) immovable property;

(b) the following bonds:

(i) government stocks,

(ii) bonds of any legal body incorporated in the Republic;

(iii) bonds of any legal body incorporated outside the Republic being stocks registered in a register kept at any place within the Republic;

(c) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Republic;

(d) funds in court.

(6) Where a court makes a charging order on any interest in any asset of the kind mentioned in paragraphs (b) and (c) of subsection (5) above, it may order that the charge be extended so as to cover any interest on dividend or on interest payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and in any case shall make an order discharging the charging order if the proceedings for the offence have been concluded or the amount of the payment which is secured by the charge is paid into court or if the applications under sections 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) are not submitted within a reasonable, in the opinion of the court, period of time.

(8) A charging order may be made either without conditions or subject to conditions as to the service of a notification to any person holding an interest in the property to which the order relates or as to the time when the charge is to become enforceable or as to other matters.

(9) The making of a charging order, in respect of the assets in paragraphs (b), (c), and (d) of subsection (5) above, has all or some of the following effects which the court may specify, subject to such conditions and directions as it may consider necessary or supplementary to the effect or effects so specified:

(a) the creation of a charge in favour of the Republic in the property for which the order is made by the payment of the amount mentioned in subsection (1) with priority of the interest of the Republic as against any other debt or obligation of the accused which has not previously been the subject of a charging order made in respect of the same assets, or as against any other charges not created prior to the making of the order in any legal way;

(b) the prohibition of transfers, sales, payments or other dealings in respect of the subject matter of the order, without prejudice to the enforcement of court decisions or orders made before the making of the order;

(c) the prohibition of payment of dividends to the debtor in respect of the subject matter of the order;

(d) in the case of a unit trust, the prohibition of any acquisition of the units or any dealing in connection with the units by any natural or legal person which performs functions under the trust.

After the service of the order to any person under this subsection, a duty is created for such person to comply with the order and further, if such person keeps any record in respect of the registration of a transfer or any other dealings in relation to the subject matter of the order, to enter into such record all the registrations or amendments which are consequential to the making of the order.

(10) A charging order made in respect of immovable property is deposited with the District Lands Office of the district where the property affected is situated and thereafter the provisions of sections 57, 60 and 61 of the Civil Procedure Law are applied with the necessary adjustments as if-

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11 of 1965
161 of 1989
228 of 1989.

(a) the charging order was a judgement of the Court for debt; and

(b) the depositing of the order constituted registration of a judgement of the court for debt.

(11) Every order of the court varying or discharging a charging order on immovable property is deposited with the District Lands Office of the district where the property affected is situated and the District Lands Officer amends or deletes accordingly the relevant entry in the register kept under section 60 of the Civil Procedure Law.

(12) (a) The Council of Ministers may by Regulations amend subsection (5) by adding or removing assets which, in its opinion, ought to have been added or deleted, provided that in the case of addition of new assets such addition does not entail any other amendments of the Law.

(b) Regulations made under this subsection are laid before the House of Representatives for approval and following that the provisions of subsection (2) of section 3 of the Laying before the House of Representatives Regulations issued under the authority of a Law, Law of 1989 apply.

99 of 1989
227 of 1990
27(I) of 1992.

(13) The court shall not exercise the powers conferred on it under this section-

(a) if it is satisfied that the promotion of a procedure or application is delayed without any reasonable ground; or

(b) if the Attorney-General declares that he does not intend to promote the said procedure or application.

Cancellation of restraint and charging orders.

16.-(1) The court may make an order discharging orders made under sections 14 (Restraint order) and 15 (Charging order) before the making of a confiscation order, if the contemplated criminal proceedings have not commenced within a reasonable period of time or within the period of time specified by the court in making the order.

(2) When the powers under section 14 and 15 are exercised before the commencement of the criminal proceedings, then-

(a) the reference to the accused made in this Law shall be interpreted as a reference to the person mentioned in section 14(1)(a) and section 15(1)(a);

(b) the reference to realizable property made in this Law shall be interpreted as if criminal proceedings against the person mentioned in section 14(1)(a) or in section 15(1)(a) for the commission of a predicate offence were commenced immediately before the making of an order under sections 14 (Restraint order) and 15 (Charging order).

C. Other measures

Appointment of a receiver following the issue of a confiscation

17.-(1) After a confiscation order is made for which there was no appeal and which remains unenforced, the court may on application by the prosecution exercise the following powers:

order.

(a) appoint a receiver for the realization of the property;

(b) empower the receiver so appointed or a receiver appointed under subsection (7) of section 14 or under other provisions which relate to the making of charging orders-

(i) to enforce any charge imposed under section 15 on realizable property or on interest or dividend payable in respect of such property; and

(ii) subject to such conditions or exceptions as the court thinks appropriate to take possession of any other realizable property not affected by a charge;

(c) to order any person having possession of realizable property to give possession of it to any such receiver;

(d) to empower any such receiver to realize realizable property in such manner as the court may direct;

(e) to order any person holding an interest in realizable property to make such payment to the receiver in respect of any interest held by the accused, or, as the case may be, the recipient of a prohibited gift, and then the court may, after the payment is made, order the transfer, grant or extinction of any interest in the property.

(2) Paragraphs (c), (d) and (e) of subsection (1) above do not apply to property affected by a charge created under section 15 (Charging order).

(3) The court shall not exercise the powers conferred upon it by paragraphs (b) (i), (d) and (e) of subsection (1), unless satisfied that a reasonable opportunity has been given to the persons holding an interest in the property to make representations to the court.

(4) A receiver appointed under this section has the same powers, to the extent to which they do not contradict the provisions of this Law, as if he were appointed for the purposes of sale, disposition or realization of assets charged with a charging order for the satisfaction of a civil debt under the Charging Orders Law.

31(I) of 1992.

Order for sale of bonds.

18.-(1) Subject to the provisions of subsection (4), where the subject matter of a charging order is the property mentioned in paragraphs (b) and (c) of subsection (5) of section 15 (Charging order), the disposal, sale or realization of such property can only be effected by an order of the court made on the application of the prosecution or of a receiver

appointed under section 17 (Appointment of receiver) and which is called an order for sale of bonds.

(2) The court, when making an order for sale of bonds, may impose such conditions as it may consider necessary for safeguarding the interests of any person having an interest in the sale of the said bonds.

(3) The court, before making an order for the sale of bonds, secures the views of all interested persons including the views of the Registrar of Companies and Official Receiver, as well as the views of the directors of companies or other legal persons, with a view to ascertaining the interests in the property under a charge which might be affected by its sale, realization or disposition. For this purpose, the court may give such directions as it considers in the circumstances proper and necessary.

(4) An order for the sale of bonds can only be made after the making of a confiscation order.

(5) Where the subject-matter of a charging order is shares in a company, their sale is only effected by public auction, unless the court otherwise directs and, subsequently, the provisions of the Charging Orders Law shall apply as if the charging order were made for a civil debt under that Law.

31(I) of 1992.

Application of proceeds from the realization of property.

19.-(1) The sums specified in subsection (2) which are in the hands of a receiver, whether appointed under section 14 (Restraint order) or 17 (Appointment of a receiver) or with a view to enforcing a charging order, shall be applied on behalf of the accused in accordance with the provisions of subsection (4), towards the satisfaction of the amount due under the confiscation order and such amount is reduced accordingly after the deductions of the sums specified in subsection (3).

(2) The sums applied under subsection (1) are:

(a) the proceeds of the enforcement of any charge imposed under section 15 (Charging order);

(b) the proceeds of the realization of property under section 14 or 17 other than by enforcement of a charge;

(c) any other sums belonging to the accused.

(3) Irrespective of the provisions of section 126 of the Criminal Procedure Law, the sums which are deducted from the sums specified in subsection (2), before the reduction of the amount due under a confiscation order, are:

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(a) the remuneration and expenses of the receiver;

(b) any sum paid by the prosecution under section 24(2) (Receiver. Supplementary provisions);

(c) payments effected by order of the court.

(4) The sums specified in subsection (2) are applied as follows:

(a) the sums specified in subsection (3) are paid in the order in which they are enumerated in the said subsection, unless the court otherwise directs;

(b) any balance shall be treated as if it were a fine and is applied for the satisfaction of the amount payable under the confiscation order;

(c) if after the amount payable under the confiscation order has been fully paid there is any balance, it is distributed among the persons who had a right over the property which has been realized in such proportions as the court may direct, after giving a reasonable opportunity to such persons to make representations to the court.

General principles in exercising certain powers.

20. The following basic principles apply to the powers conferred on the court under sections 15 (Charging order) and 19 (Application of proceeds from the realization of property) or on a receiver appointed under sections 14 (Restraint order) and 17 (Appointment of a receiver) or in pursuance of a charging order:

(a) in the case of realizable property held by a person to whom the accused has directly or indirectly made a prohibited gift, the power is exercised with a view to realizing no more than the value of the gift;

(b) the powers shall be exercised with a view to allowing any person other than the accused or the recipient of any prohibited gift, to retain or recover the value of any property belonging to him;

(c) in exercising those powers, no account shall be taken of any obligations of the accused or of the recipient of any prohibited gift which conflict with the obligation to satisfy the confiscation order;

(d) subject to the above principles, the power shall be exercised with a view to satisfying the amount due under a confiscation order by recovering the current value of the realizable property.

Variation of a confiscation

21.-(1) If on any application by the accused in respect of a confiscation order or of the receiver appointed under section 17 (Appointment of a receiver), or on the application for

the making of a charging order, the court is satisfied that the realizable property is inadequate for the payment of any amount remaining to be recovered under the confiscation order, it may, subject to subsection (2), vary the confiscation order: order.

(a) by substituting for the amount to be recovered under the confiscation order such lesser amount as the court considers just; and

(b) by substituting for the terms of imprisonment prescribed by section 126 of the Criminal Procedure Law and section 9 (Procedure for enforcing a confiscation order. Table) of this Law in respect of the amount to be recovered under the order, a shorter period corresponding, in accordance with the above provisions, to the lesser amount which will be recovered. Cap.155.

(2) For the purposes of subsection (1) above:

(a) in the case of realizable property held by a person who has been adjudged bankrupt, the amount of that property which could be distributed among the creditors of the bankrupt shall be treated as property which cannot be recovered, but:

(b) any inadequacy in the realizable property which appears to the court to be attributable wholly or partly to anything done by the accused for the purpose of preserving from any risk of realization under this Law any property held by a person to whom the accused had directly or indirectly made a prohibited gift shall not be treated as property which cannot be recovered.

(3) The application for variation of the confiscation order is made in writing and is supported by a sworn statement in verification of the facts on which it is based and such application is served on the prosecution and on other affected persons as the court may direct.

(4) For the purposes of this section "court" means the court which made the confiscation order or any other court of similar jurisdiction.

22.-(1) Where a person holding realizable property is adjudged bankrupt, for the purposes of the Bankruptcy Law the following are excluded from the bankrupt's estate- Bankruptcy of the accused. Cap.5 49 of 1985 197 of 1986.

(a) property which is the subject of a restraint order made before the order adjudging him bankrupt; and

(b) any proceeds of property realized by virtue of sections 14(6), 17(1)(d) and 17(1)(e) being in the hands of a receiver appointed under section 14 (Restraint order) or 17

(Appointment of a receiver).

(2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 14 to 18 or on a receiver appointed for the purposes of those sections shall not be exercised in relation to any property of the bankrupt which, under section 41 of the Bankruptcy Law, is subject to distribution among his creditors.

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(3) Subsection (1) above does not affect the enforcement of a charging order made before the making of a bankruptcy order or made in respect of property which was subject to a restraint order when the order adjudging him bankrupt was made.

(4) Nothing in the Bankruptcy Law shall be taken as restricting in any way the exercise of the powers referred to in subsection (2).

(5) Where the Official Receiver acts as a provisional receiver under sections 9 and 10 of the Bankruptcy Law and the property of the debtor is subject to a restraint order, such property shall be administered according to the directions of the court without prejudice to a lien for any expenses, including the remuneration of the receiver, incurred in respect of such property.

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(6) Where a person is adjudged bankrupt and has directly or indirectly made a prohibited gift, the provisions of section 46 of the Bankruptcy Law-

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(a) shall not apply in respect of the making of the gift if-

(i) the gift was made at any time when criminal proceedings for the commission of a predicate offence had been instituted against him and not concluded;

(ii) the gift was made at the time when an application against him, under sections 28 (Confiscation order where the accused has died or absconded) 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds), was pending; or

(iii) the property of the person to whom the gift was made is subject to a restraint or charging order, but

(b) shall apply after the conclusion of the criminal proceedings for the commission of a predicate offence, provided account is taken of any realizations under this Law of property held by the person to whom the gift was made.

Winding up of a company

23.-(1) Where realizable property is held by a company in respect of which an order for winding up was made or a resolution has been passed by the company for a voluntary

winding up, the functions of the liquidator or provisional liquidator shall not be exercised in relation to-

holding realizable property.

(a) property subject to a restraint order made before the relevant date, as specified in subsection (4);

(b) any proceeds of property realized by virtue of sections 14(6), 17(1)(d) or 17(1)(e) which are in the hands of a receiver appointed under section 14 (Restraint order) or 17 (Appointment of a receiver):

Provided that out of such property any expenses, including the remuneration of the liquidator or provisional liquidator, properly incurred in the winding up in respect of the property, shall be payable.

(2) In the case of a company for which a winding up order was made or a resolution has been passed by the company for its voluntary winding up, the powers conferred on the court under sections 14 to 18 or on a receiver appointed under the said sections shall not be exercised in relation to any realizable property held by the company in relation to which the liquidator could exercise his functions if by such exercise-

(a) he is prevented from exercising those functions for the purpose of distribution to the company's creditors of any property held by the company; or

(b) he is prevented from paying out any expenses, including the remuneration of the liquidator or any provisional liquidator, properly incurred in the winding up of the company in respect of the said property:

Provided that nothing in the Companies Law shall be taken as restricting in any way the exercise of these powers.

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9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997.

(3) Subsection (2) above does not affect the enforcement of a charging order made before the relevant date or in relation to property which was the subject of a restraint order at the relevant date, as such date is defined in subsection (4).

(4) For the purposes of this section:

"company" means a company which is wound up on the basis of the provisions of the Companies Law;

"relevant date" means-

(a) the date on which the resolution for the voluntary winding up of the company has been passed in the cases where-

(i) no winding up order has been made; or

(ii) a winding up order was made, but before the filing of the petition for the winding up of the company by the court, such resolution was passed by the company;

(b) in any other case where such an order has been made, the date of the making of the order.

Liability and remuneration of the receiver.

24.-(1) A receiver appointed under section 14 or 17 or in pursuance of a charging order shall not be liable to any person in respect of any loss or damage resulting from any action of his in relation to property of this person which was not realizable, provided that the said receiver-

(a) would have been entitled to take such action if such property was realizable;

(b) believed or had reasonable grounds for believing that he was entitled to take such action; and

(c) the loss or damage was not caused by his negligence.

(2) If any amounts due in respect of the remuneration or expenses of a receiver appointed for the purposes of this Law, remain unpaid by reason of the fact that there are no available amounts for the payment of such remuneration and expenses in accordance with section 19(3), then such unpaid amounts are paid by the Republic.

Compensation.

25.-(1) According to the provisions of this section, the court may order compensation to be paid to any person who had realizable property, in the case where the criminal proceedings which were instituted against him for the commission of a predicate offence-

(a) did not result in a conviction; or

(b) resulted in a conviction but such conviction was quashed on appeal and no

conviction for any other predicate offence was substituted.

(2) The claim for compensation is made by action.

(3) The court orders compensation under section 25(1) above if it is satisfied that-

(a) there has been serious default on the part of a person participating in the investigation or prosecution of the offence or offences concerned and that but for that default, the proceedings would not have been instituted or continued, and

(b) the plaintiff has suffered substantial loss in consequence of anything done in relation to his property by virtue of any order of the court under sections 14 to 18 both inclusive.

(4) The amount of compensation shall be such as the court considers just taking into account all the circumstances of the case.

(5) The provisions of this section shall not apply where the court makes a confiscation order under section 28.

Special defences for persons assisting another for the commission of laundering offences and financing of terrorism offences.

26.-(1) In criminal proceedings against a person in relation to the provision of assistance to another in the commission of a laundering offence in contravention of the provisions of section 4 (Laundering offences), it shall constitute a defence for the accused if he proves that he intended to disclose to the Unit his suspicion or belief, or the facts on which he bases his suspicion or belief, in respect of the agreement or arrangement and that his failure to do so was based on reasonable grounds.

(2) Where a person discloses to the Unit his suspicion or belief that any funds or investments are derived from or used in connection with a predicate offence or any matter on which such a suspicion or belief is based-

(a) the bona fide disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract; and does not result in any kind of responsibility for the said person and

(b) if he does any act in contravention of section 4 (Laundering offences) and the disclosure is related to the act concerned, this person shall not commit the offence of assisting another to commit a laundering offence under the said section, if the following conditions are satisfied:

(i) the said act was done with the consent of the police officer or Unit after the aforesaid disclosure; or

(ii) if the act was done before the disclosure, the disclosure was made on his initiative and without delay as soon as it was reasonable for him to make such disclosure.

(c) The non-execution or the delay in the execution of an order by the said persons upon instructions of the Unit, with regard to sums or investments referred to above, shall not constitute violation of any contractual or other obligation on the said persons or/and his/his employers.

(3) Where a person is, at the material time, an employee of another person whose activities are supervised by one of the authorities established under section 59, subsections (1) and (2) above shall apply in respect of disclosures or intended disclosures to the competent person as referred to in section 69 and in accordance with the procedure the employer wishes to establish for the purposes of such disclosures, and these disclosures shall have the same effect as disclosures or intended disclosures the Unit.

Other offences in connection with laundering and financing of terrorism offences.

27.-(1) A person who-

(a) knows or reasonably suspects that another person is engaged in laundering or financing of terrorism offences, and

(b) the information on which that knowledge or reasonable suspicion is based, comes to his attention in the course of his trade, profession, business or employment,

shall commit an offence if he does not disclose the said information to the Unit as soon as is reasonably practicable after it comes to his attention.

(2) It shall not constitute an offence for an advocate to fail to disclose any privileged information which has come to his attention.

(3) No criminal proceedings shall be brought against a person for the commission of the offences referred to in subsection (1), without the express approval of the Attorney General.

(4) An offence under this section shall be punishable by imprisonment not exceeding

five years or by a pecuniary penalty not exceeding five thousand euro or by both of these penalties.

Confiscation order where the accused has died or absconded.

28.-(1) Subject to the provisions of subsection (3) and upon the application of the Attorney-General, the court which has convicted a person for the commission of a predicate offence may make a confiscation order under section 8 (Confiscation order) against an accused who has died or absconded.

(2) The Attorney-General, together with his application under subsection (1), or within such a time limit as the Court may direct, shall submit a statement of allegations which sets out facts and particulars relevant to the inquiry for the determination of whether the accused has acquired any proceeds from the commission of a predicate offence or to the assessment of the said proceeds.

(3) The court shall not make a confiscation order under subsection (1) unless-

(a) it is satisfied that the Attorney-General has taken reasonable steps to contact him; and

(b) any person who is likely to be affected by the making of a confiscation order by the court, has been given the opportunity to appear before the court and make representations.

(4) Where the court has made a confiscation order under this section and the accused subsequently appears before the court for the purpose of imposition of a penalty on him in relation to the same offence, subsection (1) of section 8 (Confiscation order) of this Law shall not apply so far as his appearance before the Court is in respect of the same offence.

Power to set aside a confiscation order where the accused who had absconded returns.

29.-(1) This section shall apply where the court has made a confiscation order under section 28 (Confiscation order where the accused has died or absconded) in respect of an accused who had absconded and subsequently returned.

(2) The court, upon an application by the accused and after hearing the views of the Attorney-General, may set aside the confiscation order if it considers expedient and just to do so.

Variation of a confiscation order made under section

30.-(1) This section shall apply where the court has made a confiscation order under section 28 in respect of an accused who had absconded and subsequently returned.

28.

(2) Where the accused claims that-

(a) the value of the proceeds from the commission of a predicate offence in respect of the period for which the assessment had been made; or

(b) the amount which could have been realized at the time the confiscation order was made was smaller than the amount of the confiscation order,

he may submit an application to the court for the consideration of the above claims.

(3) Where the court in view of the evidence submitted before it, accepts the allegation of the accused-

(a) it shall make a new assessment under section 7 (Assessment of proceeds from the commission of a predicate offence); and

(b) may, if it considers just after taking into consideration all the circumstances of the case, vary the amount of the confiscation order.

5 of 41(I) of 1998.

Prohibition of publicizing information.

31.-(1) Where proceedings are being carried out before a Court for-

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(a) the issue of a warrant of arrest, under the Criminal Procedure Law, against a person for whom there is evidence that he has committed a prescribed offence under section 3; or

(b) the making of interim orders under this Law against a person for whom there is evidence that he has committed a prescribed offence, provided that no criminal proceedings for the commission of such offence have been instituted in the Republic against this person,

the court may order that the proceedings be conducted in the absence of representatives of the Press and other mass media or other persons not directly interested in or affected by the proceedings and to prohibit the publication of any information in relation to the said proceeding.

(2) Any person who publishes information in contravention of the directions of the court under subsection (1), shall commit an offence punishable by one year's imprisonment or by a pecuniary penalty of two thousand euro (2000) or by both of these penalties.

(3) No criminal proceedings shall be instituted by virtue of this section without the express approval of the Attorney General.

D. Freezing and confiscation orders of property
Against an absent suspect

Freezing order of property against an absent suspect.

32.-(1) Subject to the provisions of subsection (2) and upon the application of the Attorney General, a Court may make an order for the freezing of property of a suspect who is outside the jurisdiction of the Republic or has died.

(2) The court shall make a freezing order under subsection (1), if satisfied by affidavit or other evidence that-

(a) there is prima facie evidence against the suspect for the commission of a prescribed offence; and

(b) the property of the suspect may be converted or transferred or removed outside the jurisdiction of the Republic for the purpose of concealing or disguising its illicit origin.

(3) The freezing order shall have effect for six months but the court may extend its validity for up to a period of one year if reasonable grounds concur.

Order of confiscation of property against an absent suspect.

33.-(1) Subject to the provisions of subsection (2) and upon the application of the Attorney-General, a court may make an order for confiscation of property against a suspect who is outside the jurisdiction of the Republic or has died.

(2) The court shall make the confiscation order under subsection (1) if the suspect does not appear before the court during the validity of the freezing order made under section 32 (Freezing order of property against an absent suspect) and if it is satisfied that;

(a) The prosecution has taken reasonable steps to contact him; and

(b) any person who is likely to be affected by the making of a confiscation order has been given the opportunity to make representations, if he so wishes, before the court in respect of the making of the order.

(3) Where the court has made a confiscation order under this section and the suspect is subsequently brought before the court in respect of a prescribed offence for which a confiscation order has been made, Part II of this Law shall not apply in respect of the said

offence, but the provisions of Part III shall apply mutatis mutandis.

Compensation paid to an absent suspect against whom an order for the freezing or confiscation of his property was made.

34.-(1) This section shall apply where-

(a) the court has made a freezing order under section 32 (Freezing order of property against an absent suspect) or a confiscation order under section 33 (Confiscation of property order against an absent suspect) against a suspect who was outside the jurisdiction of the Republic; and

(b) the suspect is subsequently put on trial for the same offence and acquitted.

(2) The court which acquits the defendant shall set aside the freezing or confiscation order.

(3) Upon an action made by the person who had property, the court may order compensation to be paid to this person if satisfied that the person concerned has suffered loss as a result of the making of the freezing or confiscation order under section 32 or 33, as the case may be.

(4) The amount of the compensation shall be such as the court considers just having taken into account all the circumstances of the case.

PART III - RECONSIDERATION AND
REVISION OF CONFISCATION ORDERS

Reconsideration of a case.

35.-(1) Where-

(a) Because of lack of evidence, the Court-

(i) did not make an inquiry under section 6 (Inquiry in order to determine whether the accused acquired proceeds); or

(ii) made an inquiry under section 6 but it was not ascertained whether the accused acquired proceeds from the commission of a predicate offence; and

(b) the Attorney General-

(i) has secured evidence which was not available on the date of conviction of the accused; and

(ii) believes that this evidence would have led the court to determine that the defendant had benefited from the commission of a predicate offence if an inquiry under section 6 was made on the date of conviction of the accused,

the Attorney General may ask the court to consider the evidence he has secured in accordance with subsection (b) of this section.

(2) The court shall make a confiscation order under section 8 (Confiscation order) if, having considered the evidence given under section 6 and bearing in mind all the circumstances of the case, it considers it expedient to do so.

(3) For the purposes of this section and where the court has decided to proceed with an inquiry under this section, the provisions of this Law which would have applied if the inquiry were made on the date of conviction of the accused, shall apply mutatis mutandis.

(4) No application shall be considered by the court under this section if it is made after the end of the period of six years beginning with the date of conviction.

(5) This section shall not apply where the court has imposed a penalty under Part VI.

Re-assessment of proceeds.

36.-(1) Where the Attorney-General is of the opinion that the real value of the proceeds of the accused from the commission of a predicate offence was greater than their assessed value, the Attorney General may apply to the court for the consideration of the evidence on which he based his opinion.

(2) For the purposes of subsection (1)-

"assessed value" means the value of the proceeds of the accused from the commission of a predicate offence as assessed by the court under section 7 of this Law;

"real value" means the value of the proceeds of the accused from a predicate offence which was committed-

(a) in the period to which the assessment of section 7 refers; or

(b) in any earlier period.

(3) The court if-

(a) having considered the evidence given under subsection (1); and

(b) having been satisfied that the real value of the proceeds of the accused is greater than their assessed value, (because their real value was greater than the assessed amount or because their value increased subsequently),

it may make a fresh assessment of the amount which must be recovered from the accused under section 8 (Confiscation order).

(4) The court may take into account any payment or other reward received by the accused on or after the date of the assessment under section 7 (Assessing the proceeds from the commission of a predicate offence), if the Attorney-General shows that the said payment or reward was received by the accused in connection with the commission of a predicate offence:

Provided that for the purposes of this subsection, the court shall not make the assumptions required by section 7.

(5) Where, as a result of the new assessment required above, the amount to be recovered exceeds the amount that had been assessed under section 7 the court-

(a) may substitute for the amount to be recovered under the confiscation order such greater amount as it considers just, and

(b) where the court replaces the amount of the order, it shall also replace the terms of imprisonment prescribed by section 128 of the Criminal Procedure Law and by section 9 of this Law.

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(6) No application shall be considered by the court under this section if it is made after the end of the period of six years beginning with the date of conviction.

(7) For the purposes of this Part, "the date of conviction" means-

(a) the date on which the accused was convicted; or

(b) the date of the last conviction where the accused appeared for the imposition of a sentence in respect of more than one conviction, and those convictions were not all made on the same date.

PART IV - INTERNATIONAL CO-OPERATION

Interpretation of principal terms.

37. For the purposes of this Part:

"appeal" for the purposes of subsection 3(a) of section 38 (Procedure for the enforcement of foreign orders) shall include any proceedings the object of which is the setting aside of a judgement of the court or the retrial of the case or the stay of its execution;

"Convention" means- 2 of 25(I) of 1997.

(a) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was ratified by the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Ratification) Law; 49 of 1990.

(b) the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and Financing of Terrorism which was ratified by the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and Financing of Terrorism (Ratification) Law.

(c) The United Nations Convention Against Transnational Crime; and

(d) The Treaty on Mutual Legal Assistance in Penal Matters between Cyprus and USA, which has been ratified by the Treaty between the Government of the Republic of Cyprus and the Government of the U.S.A. on Mutual Legal Assistance in Criminal Matters (Ratification) Law.

(e) The United Nations Convention against Corruption which was ratified with the United Nations Convention against Corruption (Ratification) Law" **25(III)/2008**

"court" means the President or a Senior District Judge of the District Court of Nicosia;

"foreign country" means a country which at the time of submitting an application for the execution of a foreign order is a Contracting Party to the Convention;

"foreign order" means an order made by a court of a foreign country, which is made for the purposes of the Conventions or legislation enacted for the purpose of implementing the Convention**s** and shall include-

(a) Orders for the confiscation of proceeds and instrumentalities as these are defined in the Convention**s**;

(b) restraint orders and orders for the seizure of property made temporarily for the

purposes of future confiscation of proceeds and instrumentalities;

(c) any order which the Council of Ministers may, by notification published in the Official Gazette of the Republic, wish to include in the term "foreign order".

Procedure for the enforcement of external orders.

38.-(1) The request for enforcement shall be submitted by or on behalf of a foreign country to the Ministry of Justice and Public Order which, if satisfied that the request comes from a foreign country and concerns a foreign order within the meaning of this Part, shall thereafter transmit the request to the Unit which submits it to the court, **if the Unit considers that the requirements of this law are met.**

(2) Subject to the provisions of subsection (3), the court, after a request of a foreign country is transmitted to it, shall register the foreign order for the purpose of its enforcement.

(3) The court shall register an external order, if satisfied that-

(a) At the time of registration the external order was in force and enforceable and no appeal is pending against the said order;

(b) where the external order was made in the absence of the accused **or of any person affected by the order**, the accused **or any person affected by the order** received notice of the proceedings in time to enable him to present his case and state his views;

(c) the enforcement of the order would not be contrary to the interests of justice of the Republic;

(d) the grounds for refusal of co-operation mentioned in the International Conventions or Bilateral do not concur

Transmission to a foreign country of an order issued on the basis of the provisions of this law.

38.A. Any order issued, on the basis of the provisions of this law by a Court of the Republic of Cyprus following an application of the Attorney-General, which relates to property situated aboard, it is transmitted by the Unit for execution to the competent authorities of the foreign country, through the Ministry of Justice and Public Order.

Effect of registration.

39.-(1) Subject to the provisions of subsection (2) of this section, a foreign order registered by virtue of section 38 (Procedure for the enforcement of foreign orders) shall become enforceable as if the order had been made by a competent court of the Republic under this Law.

(2) The enforcement of the order may be subject to a term of the foreign country that the penalty of imprisonment or other deprivation of liberty, in case there is compliance with the order, shall not be imposed.

(3) Where the foreign order concerns the confiscation of proceeds or property, the proceeds or property may, after the enforcement of the said order, be distributed among the competent authorities of the foreign country and the Republic of Cyprus.

7 of 41(I) of 1998.

Cancellation of registration.

40. The court shall cancel the registration of a foreign order if it appears to the court that the order has been complied with-

(a) by the payment of the amount due under the order; or

(b) by the imprisonment of the person against whom the order was made for the reason that he did not comply therewith; or

(c) in any other way that may be provided for under the legislation of a foreign country.

External order shall be binding.

41.-(1) A foreign order may be amended or revised only by a court or any other competent authority of the foreign country which made the order.

(2) The court, when exercising the powers conferred upon it by section 39 (Effect of registration) as well as other powers in respect of the execution of a foreign order, shall be bound by the findings as to the facts in so far as they are stated in the conviction or decision of a court of the foreign country or in so far as such conviction or judicial decision is implicitly based on them.

Amount of an order.

42.-(1) Where in the foreign order there is a reference to a sum of money to be received in the currency of another country, this amount shall be converted into the currency of the Republic at the rate of exchange ruling at the time the request for registration was made.

(2) Under no circumstances shall the total value of the confiscated property exceed the sum of money to be paid which is referred to in the foreign order.

Implementation of the provisions of this law in foreign orders.

43.-(1) Sections 14 to 23 both inclusive shall also apply in cases of foreign orders subject to any amendments or limitations that the Council of Ministers may wish to prescribe by regulations made under this Law.

(2) The Council of Ministers may include in the Regulations any other provision it considers necessary for the better implementation of this Part and in particular anything relating-

(a) to the proof of any matter or thing;

(b) to the circumstances which in any foreign country may be considered as constituting the commencement or conclusion of procedures for the making of an external order.

(3) Where on the request of or on behalf of a foreign country the court is satisfied that proceedings have been instituted but not concluded in this country during which a foreign order may be made, the court shall make a restraint or charging order by applying sections 14 and 15 of this Law.

PART IV A
CO-OPERATION WITH MEMBER STATES

43.A. For the purposes of this Part:

Interpretation of terms.

"Certificate" means, in relation to a freezing order, the certificate specified in the Framework Decision 2003/577/JHA and in relation to a confiscation order, the certificate specified in the Framework Decision 2006/783/JHA, as they successively stand."

"Council Decision 2003/577/JHA" means the Council Framework Decision 2003/577/JHA of 22 July 2003, on the execution in the European Union of orders freezing property or evidence;

"Council Decision 2006/783/JHA" means the Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscations orders;

"confiscation order" means a final penalty or measure imposed by a Court in the issuing state, following proceedings in relation to a criminal offence or offences, resulting in a definitive deprivation of property;

"Court" means the President or a Senior District Judge of the District Court of Nicosia;

"evidence" means objects, documents or data which could be produced as evidence in criminal proceedings, in relation to a prescribed offence;

"freezing order" means any measure taken by a competent judicial authority in the issuing state, in order provisionally to prevent the destruction, transformation, moving, transfer or disposal of property that could be subject to confiscation or evidence;

"issuing state" means the Member State where the judicial authority or Court of which as defined in the national law of the issuing state, has issued validated or in any way confirmed a freezing order or confiscation order in the framework of criminal proceedings.

"member state" means a Member state of the European Union.

"property" means property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents and instruments evidencing title to or interest in such property, which according to the competent judicial authority in the issuing state:

(i) is the proceeds of a prescribed offence, or equivalent to the full value or part of the value of such proceeds, or

(ii) constitutes the instrumentalities of such offence;

Transmission to a member state of an order issued on the basis of the provisions of this law.

43.B. Any order issued, in accordance with the provisions of this law, by a Court of the Republic of Cyprus following an application by the Attorney-General, which relates to property situated in a member state, is transmitted by the Unit for execution directly to the competent authorities of the said member state, accompanied by the certificate signed by the Unit.

Procedure for the enforcement of freezing or confiscation orders within the Republic.

43.C. (1) Any request for execution as regards freezing order or confiscation order is submitted directly to the Unit, which, if it considers that the requirements of this Part are met, submits it to the Court as soon as possible for registration and enforcement and informs as soon as possible the competent authority of the issuing state.

(2) The Unit does not submit a confiscation order to the Court for registration, unless at the time of the application for execution the said confiscation order is in force and enforceable and no appeal is pending against the order.

It is provided that, for the purposes of this section, the term "appeal" shall include any proceedings the object of which is the setting aside of a judgment of the court or the retrial of the case or the stay of its execution.

(3) Any request for execution transmitted to the Unit in accordance with subjection (1) of the section, is accompanied by the certificate which is acceptable both in Greek and in English.

(4) Subject to the provisions of this Part, the Court, following the submission by the Unit of the application for execution in accordance with subsection (1) of this section,

registers the freezing order or the confiscation order for the purposes of its execution.

43.D. (1) In case the Unit receives two or more requests for enforcement of confiscation orders which:

Multiple requests for the enforcement of confiscation orders.

(a) relate to an amount of money and which have been issued against the same person, and the said person does not have sufficient means in the Republic of Cyprus so as to enable all the orders to be executed, or

(b) relate to the same specific item of property,

then the Unit decides, according to the law in force, which confiscation orders are to executed:

It is provided that for taking the above decision, the Unit may take into account, among others, the existence of frozen assets, the relative seriousness and the place of the commission of the offence which each confiscation order relates, the dates of the respective orders and the dates of transmission of the respective orders.

43.E. A freezing order may not be enforced, if the Unit or the Court consider that:-

Reasons for non-enforcement of a freezing order.

(a) the certificate is not produced or is incomplete or manifestly does not correspond to the freezing order;

(b) there is immunity or privilege which makes it impossible to execute the freezing order;

(c) the execution of the freezing order infringes the *ne bis in idem* principle;

(d) the freezing order relates to an act which under the law of the Republic does not constitute an offence which permits freezing.

43.F. A confiscation Order may not be enforced, if the Unit or the Court consider that:-

Reasons for non-enforcement of a confiscation order.

(a) the certificate is not produced or is incomplete or manifestly does not correspond to the confiscation order;

(b) there is immunity or privilege which makes it impossible to execute the confiscation order;

(c) the execution of the confiscation order infringes *the ne bis in idem* principle;

(d) the confiscation order relates to an act which under the law of the Republic does

not constitute an offence which permits confiscation;

(e) the rights of any interested party, including bona fide third parties, under the law of the Republic of Cyprus, make it impossible to execute the confiscation order, including the case where this is the result of the application of legal remedies in accordance with the law of the Republic of Cyprus;

(f) according to the certificate, the person concerned did not appear personally and was not represented by a legal counselor in the proceedings resulting in the confiscation order, unless the certificate states that the person was informed personally or via his legal representative, in accordance with the law of the issuing state, or that the person has indicated that he does not contest the confiscation order; or

(g) the confiscation order relates to criminal offences which are regarded as having been committed wholly or partly within the territory of the Republic of Cyprus or outside the territory of the issuing state.

Deadline for the production or completion of the certificate.

43.G. The Court or the Unit may, in the case the certificate is not produced or is incomplete, specify a deadline for its presentation, completion or correction or accept an equivalent document.

Notification of the decision refusing execution or impossibility to execute.

43.H. (1) In case of a decision to refuse execution of a freezing order or confiscation order, the Unit shall notify forthwith and in writing the competent judicial authorities of the issuing state.

(2) In case the freezing order or confiscation order is in practice impossible to be executed because-

(a) in the case of a confiscation order, the property has already been confiscated or has disappeared or has been destroyed or cannot be found in the location indicated in the certificate or the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing state or

(b) in case of a freezing order the property or evidence have disappeared, or have been destroyed, or cannot be found in the location indicated in the certificate which accompanies the application for execution, or the location of the property or evidence has not been indicated in a sufficiently precise manner, even after consultation with the issuing state,

the Unit notifies forthwith the competent judicial authorities of the issuing state.

43. I. (1) The execution of a freezing order may be postponed by the Court or the Unit in the following instances:

Reasons for postponement of execution of a freezing order.

(a) where its execution might damage an ongoing criminal investigation, for such time as it deems reasonable;

(b) where the property or evidence concerned have already been subjected to a freezing order in criminal proceedings pending in the Republic of Cyprus or in a foreign country or in a member state and until that freezing order is lifted:

It is provided that for the purposes of this paragraph, the term "foreign country" has the meaning given to this term by section 37 of this law.

(c) in case of an order freezing property in criminal proceedings with a view to its subsequent confiscation, when that property is already subject to an order made in the course of other criminal proceedings in the Republic and until that order is lifted.

(2) The Unit submits forthwith to the competent authority in the issuing state a written report on the postponement of the execution of the freezing order, including the grounds for postponement and, if possible, the expected duration of the postponement.

(3) As soon as the ground for postponement has ceased to exist, the Unit shall forthwith take the necessary measures for the execution of the freezing order and informs in writing the competent authority in the issuing state.

43.J. (1) The execution of a confiscation order may be postponed by the Court or the Unit, in the following instances:

Reasons for postponement of execution of a confiscation order.

(a) where the confiscation order concerns an amount of money and is considered that there is a risk that the total value derived from its execution may exceed the amount specified in the confiscation order, because of simultaneous execution of the confiscation order in more than one member state;

(b) where legal measures have been taken against the said order;

(c) where the execution of the confiscation order might damage an ongoing criminal investigation or proceedings, until such time as it deems reasonable;

(d) where it is considered necessary to have the confiscation order or parts thereof translated, for the time necessary to be translated; or

(e) where criminal proceedings have already been initiated in the Republic for the

property concerned.

(2) The Unit, for the duration of the postponement, takes all the measures it would have taken in a similar domestic case, so as to assure that the property to which the confiscation order relates, remains available for the purpose of the execution of the confiscation order.

(3) The Unit submits immediately to the competent authority of the issuing state a written report on the postponement of the execution of the confiscation order, including the grounds for postponement and, if possible, the expected duration of the postponement.

(4) As soon as the ground for postponement has ceased to exist, the Unit shall forthwith take the necessary measures for the execution of the confiscation order and informs in writing the competent authority of the issuing state.

43. H.A. (1) Any freezing order or any confiscation order registered by virtue of the provisions of section 43C, shall become enforceable as if the order had been made by a competent court of the Republic under this Law.

Effect of registration.

(2) The Unit notifies in writing without delay the competent authority of the issuing state on the execution of the freezing order or the confiscation order.

(3) Where the freezing order relates to the freezing of evidence, shall remain valid, until the transfer of the said evidence to the issuing state.

(4) Money which has been obtained from the execution of a confiscation order shall be disposed of by the Republic as follows:

(a) if the amount obtained from the execution of the confiscation order is below EUR10,000 or the equivalent to that amount in a different currency, the amount shall accrue to the Republic;

(b) in all other cases, the Republic transfers to the issuing state 50% of the amount and the remaining balance is deposited to the state budget of the Republic.

(5) Property other than money, which has been obtained from the execution of the confiscation order shall be disposed of as follows:

(a) the said property is sold and the proceeds of the sale shall be disposed of in accordance with paragraph (4) of this section, or

(b) where the said property is not possible to be sold, the property may be disposed of in another way in accordance with the existing law.

(6) The value of the confiscated property must not exceed the maximum amount specified in the confiscation order.

(7) Notwithstanding the provisions of paragraph (5), the Republic is not required to sell or return to the issuing state specific items covered by the confiscation order to be executed, when these constitute cultural objects forming part of its national heritage:

It is provided that, for the purposes of this section, the term "cultural object" has the meaning given to this term under paragraph 1 section 2 of the Directive 93/7/EEC of the Council, of 15 March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State.

43.H.B. The Unit takes the necessary measures for the termination of execution of the confiscation order as soon as it is informed in writing by the competent authority of the issuing state of any decision or measure, as a result of which the order ceases to be enforceable or is withdrawn for any reason.	**Termination of execution of a confiscation order.**
43.H.C. The Court shall cancel the registration of a freezing order or a confiscation order if it appears to the Court that the order has been complied with- **(a) by the payment of the amount due under the freezing order or the confiscation order; or** **(b) in any other way that may be provided for under the legislation of the issuing state.**	**Cancellation of registration.**
43.H. D. (1) A freezing order or a confiscation order may be amended or revised only by a Court or any other competent authority of the issuing state. **(2) The court, when exercising the powers conferred upon it by section 43.H.A., as well as other powers in respect of the execution of a freezing order or confiscation order, shall be bound by the findings as to the facts in so far as they are stated in the conviction or decision of a court or judicial authority of the issuing state or in so far as such conviction or judicial decision is implicitly based on them.**	**Freezing or confiscation orders shall be binding.**
43. H. E. Where in the freezing order or confiscation order there is a reference to a sum of money to be received in the currency of another country, this amount shall be converted into the currency of the Republic at the rate of exchange ruling at the time the request for registration was made.	**Currency of freezing order or confiscation order.**
43.H.F. (1) Sections 14 to 23 both inclusive shall also apply in cases of freezing orders or confiscation orders.	**Implementation of the provisions of this law in**

(2) Where, on the request of or on behalf of the issuing state, the court is satisfied that proceedings have been instituted but not concluded in this country during which a freezing order or a confiscation order may be made, the court shall make a restraint or charging order by applying sections 14 and 15 of this Law. **freezing orders and confiscation orders.**

43.H.G. If the Republic is responsible for injury caused to any affected person due to the execution of a freezing order or a confiscation order, it requests from the issuing state to reimburse to the Republic any sums paid in damages except if, and to the extent that, the injury is exclusively due to the contact of the Republic. **Reimbursement of paid sums.**

PART V - ORDERS FOR THE DISCLOSURE OF INFORMATION

44. For the purposes of this Part- Interpretation of terms.

"information" means any kind of oral or written communication and includes information contained in a computer;

"privileged information" means-

(a) a communication between an advocate and a client for the purposes of obtaining professional legal advice or professional legal services in relation to legal proceedings whether these have started or not, which would in any legal proceedings be protected from disclosure by virtue of the privilege of confidentiality under the law in force at the relevant time;

Provided that a communication between an advocate and a client for the purposes of committing a prescribed offence shall not constitute privileged information;

(b) any other information which is not admissible in court for the protection of the public interest under the law in force at the relevant time.

45.-(1) Without prejudice to the provisions of other laws, in relation to the receipt of information or documents in the course of investigating the possible commission of offences, for the purposes of inquiry in relation to prescribed offences or in relation to inquiry for the determination of proceeds or instrumentalities, the court may, on the application of the investigator of the case, make an order for disclosure under the provisions of this Part. Order for disclosure.

(2) For the purposes of this section, inquiry shall also include an inquiry conducted abroad and investigator of the case in respect of investigation conducted abroad shall include any investigator under the provisions of any relevant law of the Republic who

cooperates with the investigator of the case.

(3) Any person to whom an order of disclosure is addressed under section 46 (Conditions for the making of an order for disclosure), shall have an obligation to notify forthwith the investigator about any subsequent change in the information that has already been given under this section.

Conditions for the making of an order for disclosure.

46.-(1) The court before which an application for the making of an order for disclosure is submitted, may, if satisfied that the conditions of subsection (2) are fulfilled, make an order called order for disclosure, addressed to the person who appears to the court to be in possession of the information to which the application relates, calling upon the said person to disclose or produce the said information to the investigator or any other person specified in the order within seven days or within such a longer or shorter period of time as the court may specify in the order if it considers expedient under the circumstances.

(2) The conditions referred to in subsection (1) are that:

(a) there is a reasonable ground for suspecting that a specified person has committed or has benefited from the commission of a prescribed offence;

(b) there is reasonable ground for suspecting that the information to which the application relates is likely to be, whether by itself or together with other information, of substantial value to the investigations for the purposes of which the application for disclosure has been submitted;

(c) the information does not fall within the category of privileged information;

(d) there is a reasonable ground for believing that it is in the public interest that the information should be produced or disclosed, having regard to:

(i) the benefit likely to result for the investigation from the disclosure or provision of the said information; and

(ii) the circumstances under which the person in possession of the information holds it.

(3) The order for disclosure-

(a) may also be made in relation to information which is in the possession of a government officer;

(b) shall have effect despite any obligation for secrecy or other restriction upon the disclosure of information imposed by law or otherwise;

(c) shall not confer any right for production or disclosure of information which is privileged.

(d) It is served only to the person who has in his possession the information referred to in the application.

47. Where the required information is contained in a computer-

Information contained in a computer.

(a) if the order directs the disclosure of such information, the order shall be enforced by the disclosure of this information in a visible and legible form;

(b) if the order directs the handing over of the information to the investigator or other person, the order shall be enforced by the handing over of the information to the investigator in a form which is visible, legible and portable.

48. Any person who discloses that, information or other relevant material regarding knowledge or suspicion for money laundering have been submitted to the Unit or makes a disclosure which may impede or prejudice the interrogation and investigation carried out in respect of prescribed offences or the ascertainment of proceeds, knowing or suspecting that the said interrogation and investigation are taking place, shall be guilty of an offence punishable by imprisonment not exceeding five years;

Offences in relation to the disclosure of information.

It is provided that, in case where a person exercising the professional activity of auditor or external accountant or legal professional, attempts to prevent a customer from getting involved in illegal activity, this shall not constitute a disclosure of information in the meaning ascribed to this section.

49.-(1) Without prejudice to the provisions of section 48 of this Law, persons engaged in financial business according to section 2 of this Law, may disclose to other persons belonging to the same group and are operating in countries of the European Economic Area or third countries which, according to a decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing, they have been designated as imposing procedures and measures for preventing money laundering and Financing of Terrorism equivalent to those laid down by the EU Directive, that information has been submitted to the Unit by virtue of section 27 of this Law or that the Unit conducts or will probably conduct investigations for money laundering or terrorist financing offences.

Exception from the restriction on the disclosure of information.

It is provided that, for the purposes of this section "group" means a group of companies which consists by the parent company, subsidiary companies as well as entities in which the parent company or its subsidiaries own directly or indirectly at least 20% of the voting right or the share capital of the company. The terms parent and subsidiary

companies have the meaning ascribed to them by the International Financial Reporting Standards issued by the International Accounting Standards Board.

(2) Without prejudice to the provisions of section 48, persons acting in the exercise of their professional activities as auditors, external accountants, independent legal professionals, may disclose to other persons who perform their professional activities within the same legal person or network which operates in countries of the European Economic Area or third countries which according to the decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing, have been designated as countries which impose procedures and measures for preventing money laundering and terrorist financing, equivalent to those laid down by the EU Directive, information forwarded to the Unit by virtue of section 27 of this law, or that the Unit conducts or will probably conduct inquiries for money laundering or terrorist financing offences. A "network" means the larger structure to which the person belongs and which shares common ownership, management or compliance control.

(3) Persons referred to in paragraph (1) and (2) above may exchange between them information related to the same customer and the same transaction involving two or more persons provided that they are situated in countries of the European Economic Area or third countries which according to the decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing have been designated as countries which impose procedures and measures for preventing money laundering and terrorist financing equivalent to those laid down by the EU Directive and that the persons who exchange between them the information belong to the same business sector. The information exchanged is used exclusively for the purposes of the prevention of money laundering and terrorist financing.

(4) The disclosure or the exchange of information according to paragraphs (1), (2) and (3) above, shall not be treated as a breach of any contractual or other legal restriction on the disclosure of information.

(5) The disclosure to the competent Supervisory Authorities from persons engaged in financial business and other business activities that information has been forwarded to the Unit, by virtue of section 27 of this law, or that the Unit conducts or will probably conduct investigations for money laundering and terrorist financing offences, does not constitute breach of any contractual or other legal restriction on the disclosure of information.

PART VI - SUMMARY INQUIRY

Conduct of a summary inquiry.

50.-(1) The procedure of inquiry followed under this section, called summary inquiry, shall relate to the cases where the kind or amount of the benefit may be more easily determined by an evaluation of the financial position of the accused and his family.

(2) For the purposes of this Part-

"financial position of the accused" shall include the income of the accused derived from any source and all the movable and immovable property which he had or acquired in the last six years before his conviction;

"family of the accused" shall include his father, mother, spouse and descendants.

(3) The inquiry referred to in this Part shall be conducted upon the application of the Attorney-General where the court which has convicted a person of the commission of a predicate offence believes that there are reasonable grounds to conduct an inquiry for the purpose of imposing an appropriate pecuniary penalty in respect of the proceeds which the accused might have acquired from the commission of the offence.

Procedure to be followed.

51. The summary inquiry shall be conducted under section 6 (Inquiry in order to determine whether the accused acquired proceeds) and in accordance with the following provisions:

(a) the court shall call upon the accused to give particulars of any matter relevant to the imposition of the penalty including the financial position of the accused and his family. The particulars must be supported by receipts, titles and other documents verifying their correctness;

(b) the examination of the accused is conducted by the court through which questions are submitted by the prosecution and by the advocate of the accused. The court, if it considers expedient, may allow the cross-examination and re-examination of the accused by the prosecution and by the advocate of the accused respectively;

(c) the accused may after the conclusion of his examination by the court call witnesses and adduce any evidence in support of his allegations following which the prosecution may call witnesses and adduce evidence in rebuttal;

(d) the witnesses called to give evidence under subsection (c) above shall be cross-examined and re-examined as if they were witnesses testifying in criminal proceedings;

(e) if at the conclusion of the inquiry the accused fails to give sufficient and satisfactory explanations regarding the manner in which he acquired the various assets owned by him or his family and regarding any other matter relevant to section 7 (Assessing the proceeds from the commission of a predicate offence), the court may proceed on the assumption that:

(i) any property of his or part thereof acquired at any time during the last six years prior to the institution of criminal proceedings and for which no satisfactory explanations were given or which were not supported by

satisfactory evidence, has been acquired with proceeds from the commission of a predicate offence;

(ii) any property of his family or part thereof for which no sufficient or satisfactory explanations were given and which has been transferred at any time during the last six years prior to the institution of proceedings against him was the subject of a gift which was made by the accused for the purpose of avoiding the consequences of the Law.

(f) the court, after having determined that the accused benefited from the commission of a predicate offence and subject to subsection (3) of section 49 (Conduct of summary inquiry), may impose a pecuniary penalty without prejudice to the power of the court to impose any other additional penalty;

(g) the court, in assessing the fine to be imposed, takes into account the benefit the accused had from the commission of a predicate offence as such benefit was determined in an inquiry under this section;

(h) the court may, for the purpose of making an inquiry under this section, make any order in order to compel the accused or any other person to attend and to testify or to produce anything relevant to the inquiry.

False statements.

52. A person called as a witness before the court in relation to an inquiry carried out under this Part and who knowingly gives false or inaccurate information shall commit an offence punishable by four years imprisonment.

Enforcing a pecuniary penalty.

53.-(1) The court for the purpose of enforcing a pecuniary penalty may, if it considers expedient, appoint a receiver who shall have the same functions as if he were appointed under section 17 (Appointment of a receiver).

(2) Subject to subsection (1), the provisions of section 9 (Procedure for enforcing a confiscation order. Table) shall apply for the enforcement of a pecuniary penalty as if the reference made in that section to a confiscation order were a reference to a pecuniary penalty imposed after an inquiry had been conducted under this Part.

(3) Notwithstanding the provisions of any other law regarding the manner of enforcement of orders for the payment of pecuniary penalties, an inquiry conducted by the court for the purposes of this Part shall also be deemed to be an inquiry conducted under section 119 of the Criminal Procedure Law and the court shall not impose a pecuniary penalty which in the light of the findings of the inquiry cannot be collected either from the property of the accused or by setting aside transfers and gifts of property to members of his family.

PART VII

UNIT FOR COMBATING MONEY LAUNDERING OFFENCES, ADVISORY AUTHORITY FOR COMBATING MONEY LAUNDERING OFFENCES

54.-(1) A Unit for Combating Money Laundering Offences (hereinafter called "Unit") shall be established and shall be composed of representatives of the Attorney-General, the Chief of Police and the Director of the Department of Customs and Excise who shall be appointed by the Attorney-General, the Chief of Police and the Director of the Department of Customs and Excise, respectively.

Composition of the Unit for Combating Money Laundering Offences.

(2) The members of the Unit shall be appointed by detachment and by name and the duration of their appointment shall be at least three years.

(3) The members of the Unit shall be deemed to be investigators by virtue of section 4 of the Criminal Procedure Law.

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(4) The Unit is presided by a representative of the Attorney-General of the Republic.

(5) Without prejudice to the remaining provisions of the present section, operational posts may be created for the needs of the Unit, under the Law Office of the Republic.

55.-(1) The Unit, inter alia, shall-

Functions of the Unit.

(a) be responsible for the gathering, classification, evaluation and analysis of information relevant to laundering offences and terrorist financing;

(b) conduct investigations whenever there are reasonable grounds for believing that a laundering offence and a terrorist financing offence has been committed;

(c) co-operate with the corresponding Units abroad, **as well as with Asset Recovery Offices,** for the purposes of investigation of laundering offences and terrorist financing offences by the exchange of information and by other relevant ways of co-operation.

9 of 41(I) of 1998.

(d) issue directives for the better exercise of its functions.

9 of 41(I) of 1998.

(e) issue instructions to persons engaged in financial and other business activities for the suspension or non-execution of a transaction, whenever there is reasonable suspicion that the transaction is connected with money laundering or terrorist financing.

(f) inform persons engaged in financial or other business activities on the results of the investigation of the reports submitted to the Unit, in accordance with sections 27 and 69 of this Law.

(2) For purposes of subsection (1)

(a) members of the Unit, upon the making of a judicial order, may enter any premises including premises of a financial institution; and

(b) the Unit may, upon a relevant application to the court, secure an order for the disclosure of information.

Composition of Advisory Authority.

56.-(1) The Council of Ministers shall establish an Advisory Authority for Combating Money Laundering Offences and terrorist financing offences which shall be composed of a representative of-

(a) The Unit for Combating Money Laundering;

(b) The Central Bank of Cyprus;

(c) all other Supervisory Authorities of the financial sector;

(d) the Ministry of Finance;

(e) the Customs Department;

(f) the Ministry of Foreign Affairs;

(g) the Customs Department;

(h) the Cyprus Police;

(i) the Department of Registrar of Companies and Official Receiver;

(j) the Association of International Banks;

(ja) the Association of Commercial Banks;

(jb) the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus and other professional bodies which the Council of Ministers may prescribe.

(jc) any other organisation or service the Council of Ministers may prescribe.

(2) The Advisory Authority shall be presided by the Attorney General of the Republic or the Head of the Unit for Combating Money Laundering as his representative.

(3) The Advisory Authority shall be in quorum where at least five members are present at the meeting.

57. The Advisory Authority shall-

Powers of the Advisory Authority.

(a) inform the Council of Ministers of any measures taken and the general policy applied against money laundering and terrorist financing offences;

(b) advise the Council of Ministers about additional measures which, in its opinion, should be taken for the better implementation of this Law;

(c) promote the Republic internationally as a country which complies with all the conventions, resolutions and decisions of international bodies in respect of combating laundering and terrorist financing offences.

(d) (i) Designates the third countries outside the European Economic Area which impose procedures and take measures for preventing money laundering and terrorist financing equivalent to those laid down by the EU Directive

(ii) For this purpose it applies the relevant decisions of the European Commission, according to Article 40 (4) of the EU Directive.

(iii) Notifies the competent Supervisory Authorities of its decision with the purpose of further notification of the said decision to the persons falling under their supervision.

PART VIII
SPECIAL PROVISIONS IN RESPECT OF
FINANCIAL AND OTHER BUSINESS ACTIVITIES

58. Any person carrying on financial or other business activities, is obliged to apply adequate and appropriate systems and procedures in relation to the following:

Procedures for preventing Money Laundering and Terrorist Financing.

- customer identification and customer due diligence, in accordance with the provisions of sections 60-66 of this Law;

- record-keeping in accordance with provisions of section 68 of this Law;

- internal reporting and reporting to MOKAS, in accordance with the provisions of section 69 of this Law;

- internal control, risk assessment and risk management in order to prevent money laundering and terrorist financing;

- detailed examination of each transaction which by its nature may be considered to be particularly vulnerable to be associated with money laundering offences or terrorist financing and in particular complex or unusually large transactions and all other unusual patterns of transactions which have no apparent economic or visible lawful purpose.

- informing their employees in relation to:

  (i) The systems and procedures in accordance with paragraphs (a) to (e) of this section
  (ii) the present Law
  (iii) the Directives issued by the competent Supervisory Authority according to section 59 (4) of this Law and
  (iv) the European Union's Directives on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

- ongoing training of their employees in the recognition and handling of transactions and activities which may be related to money laundering or terrorist financing.

Supervisory Authorities.

59.-(1) Supervisory Authorities, in relation to financial business are-

(a) The Central Bank of Cyprus-

(i) for banks, including branches of banks which hold an operational license granted by a competent authority of a member state, in relation to activities determined by the Banking Law;

(ii) for electronic money institutions, including branches and agents of electronic money institutions, which hold a relevant operational license granted by a competent authority of a member state, in relation to the activities determined by the Electronic Money Institutions Law, as it stands, for which supervisory responsibilities have been assigned to the Central Bank;

86(I) of 2004.

(iii) for payment institutions, including branches and agents of payment institutions, which hold a relevant operational license granted by a competent authority of a member state, in relation to the activities determined by the Payment Services Law, as it stands, for which supervisory responsibilities have been assigned to the Central Bank;

(iv) for the persons supervised by the Central Bank , in relation to the activities determined by the Central Bank of Cyprus Law or any other law and for which the Central Bank exercises supervision.

(b) The Authority for the Supervision and Development of Cooperative Societies in relation to the activities determined by the Co-Operative Societies laws of 1985-2007;

(c) The Securities and Exchange Commission:

(i) regarding the services and activities that are provided by the Investment Firms as these are defined in the Investment Services and Activities and Regulated Markets Law, as amended and

(ii) regarding the services and activities that are provided by the Management Companies and Investment Companies as these are defined in the Open-Ended Undertaking for Collective Investment in Transferable Securities (UCITS) and Related Issues Law, as amended.

(d) The Insurance Commissioner in relation to the activities determined by the Law on Insurance Services and other related Issues 2002-2005.

(2) Supervisory Authorities in relation to other business activities are:

(a) The Council of the Institute of Certified Public Accountants of Cyprus, for the professional activities of auditors and external accountants **and tax advisors, as well as companies carrying the said activities;**

(b) The Council of the Cyprus Bar Association for the professional activities of independent legal professionals, as determined in this law;

(c) The Unit for Combating Money Laundering, for the professional activities of Real Estate Agents and of Dealers in precious metals and stones, as determined in this law.

(3) In relation to persons carrying out financial or other business in accordance with section 2 of this law, other than those referred to in paragraphs (1) and (2), the Supervisory Authority is designated by the Council of Ministers.

(4) A Supervisory Authority, for the purpose of preventing money laundering and terrorist financing and for the purposes of this law, issues directives to persons falling under its supervision, which are binding and obligatory as to their application for the persons they are addressed to:

It is provided that, the directives issued by a Supervisory Authority determine the details and specify the way of applying the provisions of this Part by the supervised persons and require the assumption and implementation of procedures and systems for the effective prevention of the risks of committing or attempting the commission of money laundering or financing of terrorism offences.

(5) The Supervisory Authorities monitor, assess and supervise the implementation of this Part of the Law and of the directives issued in accordance with paragraph (4) by the persons falling under their supervision.

(6) (a) The Supervisory Authority may take all or any of the following measures in cases where a person falling under its supervision fails to comply with the provisions of this Part of the Law or with the Directives issued by the competent Supervisory Authority in accordance with paragraph (4) of this section or the EC Regulation no. 1781/2006 of the European Parliament and the Council of 15th November 2006:

(i) To require the supervised person to take such measures within a specified time frame as may be set by the Supervisory Authority in order to remedy the situation;

(ii) To impose an administrative fine of up to €200.000 having first given the opportunity to the supervised person to be heard, and in the case the failure continues, to impose an administrative fine of up to €1.000 for each day the failure continues;

(iii) To amend or suspend or revoke the license of operation of the supervised person.

It is provided that, the competent Supervisory Authority may at its discretion publicize the imposition of the administrative fine.

(b) Independent legal professional or auditor or external accountant who fails to comply with the provisions of this section and the directives issued by the Competent Supervisory Authority in accordance with paragraph (4) of this section, is referred by the competent Supervisory Authority to the competent Disciplinary Board which will decide accordingly.

(7) Where a Supervisory Authority-

(a) possesses information, and

(b) is of the opinion that any person subject to its supervision is engaged in money laundering or terrorist financing offences,

it transmits, as soon as possible, the information to the Unit.

(8) The Supervisory Authorities in relation to financial business, may exchange information with the Unit, within the framework of their obligations, emanating from this Law.

Application of customer due diligence and identification procedures.

60. Persons engaged in financial and other business apply customer identification procedures and customer due diligence measures in the following cases:

(a) When establishing a business relationship;

(b) When carrying out occasional transactions amounting to EURO 15,000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

(c) When there is a suspicion of money laundering or terrorist financing, regardless of the amount of the transaction;

(d) When there are doubts about the veracity or adequacy of previously customer identification data.

Ways of application of customer due diligence and identification procedures.

61.-(1) Customer identification procedures and customer due diligence measures shall comprise:

(a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;

(b) identifying the beneficial owner and taking risk-based and adequate measures to verify the identity on the basis of documents, data or information obtained from a reliable and independent source so that the person carrying on in financial or other business knows who the beneficial owner is; as regards legal persons, trusts and similar legal arrangements, taking risk based and adequate measures to understand

the ownership and control structure of the customer;

(c) obtaining information on the purpose and intended nature of the business relationship;

(d) Conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the information and data in the possession of the person engaged in financial or other business in relation to the customer, the business and risk profile, including where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date.

(2) Persons engaged in financial or other business activities apply each of the customer due diligence measures and identification procedures set out in paragraph (1) above, but may determine the extent of such measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction. Persons engaged in financial or other business activities must be able to demonstrate to the competent Supervisory Authorities that the extent of the measures is appropriate in view of the risks of the use of their services for the purposes of money laundering and terrorist financing.

(3) For the purposes of the provisions relating to identification procedures and customer due diligence requirements, proof of identity is satisfactory if-

(a) It is reasonable possible to establish that the customer is the persons he claims to be; and

(b) The person who examines the evidence is satisfied, in accordance with the procedures followed under this Law, that the customer is actually the person he claims to be.

When to apply customer due diligence and identification procedures.

62.-(1) The verification of the identity of the customer and the beneficial owner is performed before the establishment of a business relationship or the carrying out of the transaction.

(2) By way of derogation from paragraph (1), the verification of the identity of the customer and the beneficial owner may be completed during the establishment of a business relationship if this is necessary not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing occurring. In such situations these procedures shall be completed as soon as practicable after the initial contact.

(3) By way of derogation from paragraphs (1) and (2), in relation to life insurance

business, the verification of the identity of the beneficiary under the policy may take place after the business relationship has been established. In that case, verification shall take place at or before the time of payout or at or before the time the beneficiary intends to exercise rights vested under the policy.

(4) In cases where the person engaged in financial or other business activities is unable to comply with sub-paragraphs (a) to (c) of paragraph (1) of section 61, it may not carry out a transaction through a bank account, establish a business relationship or carry out the transaction, or must terminate the business relationship and shall consider making a report to the Unit in accordance with sections 27 and 69 of this law.

(5) Independent legal professionals, auditors and external accountants are not obliged to apply paragraph (4) above, in situations where they are acting in the course of ascertaining the legal position of their client or performing their task of defending or representing that client in judicial proceedings, including advice on instituting or avoiding proceedings.

(6) Identification procedures and customer due diligence requirements must be applied not only to all new customers but also to existing customers at appropriate times, depending on the level of risk of being involved in money laundering or financing of terrorism offences.

Simplified customer due diligence and identification procedures.

63.-(1) Persons engaged in financial or other business activities may, **in the cases referred to in paragraphs (a), (b) and (d) of section 60, not apply the due diligence procedures referred to in** section 61 and in paragraph (1) of section 62 in respect of the following customers:

(a) Credit or financial institution covered by the EU Directive.

(b) Credit or financial institution carrying out one or more of the financial business activities as these are defined in section 2 of this law and which is situated in a country outside the European Economic Area, which:

(i) in accordance with a decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing, imposes requirements equivalent to those laid down by the EU Directive and

(ii) it is under supervision for compliance with those requirements.

(c) Listed companies whose securities are admitted to trading on a regulated market in a country of the European Economic Area or in a third country which is subject to disclosure requirements consistent with community legislation;

(d) Domestic public authorities of countries of the European Economic Area.

It is provided that, in cases mentioned in paragraphs (a) to (d) of this section, persons engaged in financial or other business activities have to gather sufficient information to establish if the customer qualifies for an exemption as mentioned in these paragraphs.

(2) In the cases referred to in paragraphs (a), (b) and (d) of section 60, it is not required to apply the due diligence procedures referred to in section 61 and in paragraph (1) of sections 62 in respect of:

(a) life insurance policies where the annual premium is no more than euro 1,000 or the singe premium is not more than euro 2,500;

(b) insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral;

(c) a pension or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme;

(d) electronic money, as defined by section 2 of the Electronic Money Institution Law,

(i) if the device cannot be recharged, the maximum amount stored in the device is no more than euro 150; or

(ii) if the device can be recharged, a limit of euro 2,500 is imposed on the total amount transacted in a calendar year, except when an amount of euro 1,000 or more is redeemed in the same calendar year by the bearer.

Enhanced due diligence measures.

64.-(1) Persons engaged in financial or other business activities apply the following enhanced customer due diligence measures, in addition to the measures referred to in sections 60, 61 and 62 in the following situations:

(a) Where the customer has not been physically present for identification purposes, apply one or more of the following measures:

(i) Obtain additional documents, data or information for verifying customer's identity;

(ii) take supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by a credit or financial institution covered by the EU Directive.

(iii) Ensure that the first payment of the operations is carried out through an account opened in the customer's name with a credit institution which operates in a country within the European Economic Area.

(b) In respect of cross-frontier correspondent banking relationships with credit institutions-customers from third countries, it is required to:

(i) Gather sufficient information about the credit institution-customer to understand fully the nature of the business and the activities of the customer and to assess, from publicly available information, the reputation of the institution and the quality of its supervision;

(ii)Assess the systems and procedures applied by the credit institution-customer for the prevention of money laundering and terrorist financing;

(iii)Obtain approval from senior management before entering into correspondent bank account relationship;

(iv)Document the respective responsibilities of the person engaged in financial or other business activities and of the credit institution-customer.

(v) With respect to payable-through accounts, must be ensured that the credit institution-customer has verified the identity of its customers and performed ongoing due diligence on the customers having direct access to the correspondent bank accounts and that it is able to provide relevant customer's due diligence data to the correspondent institution, upon request.

(c) In respect of transactions or business relationships with politically exposed persons residing in a country within the European Economic Area or a third country, it is required from persons engaged in financial or other business activities to:

(i) have appropriate risk-based procedures to determine whether the customer is a politically exposed person;

(ii) have senior management approval for establishing business relationships with such customers;

(iii) take adequate measures to establish the source of wealth and source of funds that are involved in the business relationship or transaction;

(iv) conduct enhanced ongoing monitoring of the business relationship.

(2) Enhanced customer due diligence measures must be taken in all other instances which due to their nature entail a higher risk of money laundering or terrorist financing.

65.-(1) Persons engaged in financial or other business activities, take reasonable measures for collecting adequate documents, data or information for establishing and verifying the identity of the third person on whose behalf the customer is acting;

Transactions on behalf of another person.

It is provided that, in such a case it has to be established that the customer is duly authorised by the third person for this purpose.

(2) For customers which are companies or legal entities it must be verified that the natural person who appears to act on behalf of the customer is properly authorised for this purpose and his identity must be established and verified.

66.-(1) (a) Persons who possess a license to carry banking business in accordance with the provisions of the Banking Law of 1997 or the Cooperative Societies Law of 1985 are prohibited to enter into or continue any business relationship with a shell bank.

Prohibition from cooperating with a shell bank or keeping anonymous accounts.

(b) Persons referred to in paragraph (a) above have to take the necessary measures to ensure that they are not engaged in or continue correspondent banking relations with a bank which is known to permit its accounts to be used by a shell bank.

(2) It is prohibited for persons engaged in financial or other business activities to open or maintain anonymous or numbered accounts or accounts in names other than those stated in official identity documents.

(3) Persons carrying financial or other business activities have to pay special attention to every threat or danger for money laundering or terrorist financing which may result from products or transactions which may favour anonymity, shall take measures, if needed, to prevent their use for such activities **and to apply to the extent possible reasonable measures and procedures to face the dangers arising from technological developments and new financial products.**

67.-(1) Persons engaged in financial or other business activities in accordance with section 60 of this law may rely on third parties for applying the requirements laid down in sub-paragraphs (a), (b) and (c) of paragraph (1) section 61 of this Law in respect of customers identification procedures and customer due diligence measures:

Performance by third parties.

It is provided that, the ultimate responsibility for meeting those requirements shall remain with the person who is engaged in the financial or other business activities and who relies on the third party.

(2) (a) For the purposes of this section, third party means credit institution or financial institution or auditors or independent legal professionals or person providing to third parties trust and company services included in paragraph (e) of the definition of the term "other business activities", falling under the EU Directive and which:

(i) they are subject to mandatory professional registration, recognised by law; and

(ii) they subject to supervision regarding their compliance with the requirements of the EU Directive;

(b) Third party for the purposes of this section may be any other person who is engaged in financial or other business as defined in section 2 of this Law, or accountants or independent legal professionals or persons providing to third parties trust and company services as included in paragraph (e) of the definition of the term "other business activities" and who operate in countries outside the European Economic Area and which according to a decision of the Advisory Authority for Combating Money Laundering and Financing of Terrorism, have been determined that they impose equivalent procedures and measures for the prevention of money laundering and terrorist financing to those laid down by the EU Directive.

It is provided that the abovementioned third persons have to fulfil the requirements set out in subparagraph (i) and (ii) of paragraph (a) of this section.

(c) the terms financial institutions and persons engaged in financial business activities, for the purposes of this section, do not include-

(i) payment institution, as this is defined in section 2 of the Payment Services Law, when the activity carried out by the Payment Institution falls under point 6 of the annex to the Payment Services Law,

(ii) currency exchange office, and

(iii) persons which have been granted a licence by the Central Bank of Cyprus for the establishment and operation of a money transfer business, before the Payment Services Law came into force and they continue to hold the said license.

(3) Persons engaged in financial or other business activities must request from the third party to:

(a) make immediately available data, information and documents obtained as a result of the application of the procedures establishing identity and customers due diligence measures in accordance with sub-paragraphs (a), (b) and (c) of paragraph (1) of section 61 and

(b) forward immediately to them, copies of these documents and relevant information on the identity of customer or the beneficial owner which the third party collected when applying the above procedures and measures.

Record keeping.

68.-(1) Persons engaged in financial or other business activities are required to keep records for a period of at least five years of the following documents:

(a) Copies of the evidential material of the customer identity.

(b) relevant evidential material and details of all business relations and transactions, including documents for recording transactions in the accounting books and

(c) relevant documents of correspondence with the customers and other persons with whom they keep a business relation.

(2) The five year period is calculated following the carrying out of the transactions or the end of the business relationship.

(3) Persons engaged in financial or other business activities shall ensure that all the documents referred to in paragraph (1) above are made available rapidly and without delay to the Unit and the competent Supervisory Authorities for the purpose of discharging the duties imposed on them by this law.

Due diligence and customer identification procedures and record keeping for countries outside the European Economic

68.A.-(1) Persons engaged in financial business activities apply in their branches and subsidiary companies established in third countries outside the European Economic Area, measures and procedures for due diligence, customer identification and record keeping, equivalent to those provided for in this Part and in the directives issued by the competent Supervisory Authorities in relation to financial business activities;

It is provided that, in the event that the measures and procedures required by the law and the Directives of the Supervisory Authority of the third country differ from those provided for in this Part and in the directives of the

competent Supervisory Authority in the Republic, then the branch and/or the subsidiary company established in the third country, applies the stricter requirements of the two;

Area.

It is further provided that, in the event that the legislation of the third country does not allow the application of equivalent measures as provided above, the person engaged in financial business activities which maintains a branch and/or a subsidiary company in the third country, is required-

(i) to inform immediately the competent Supervisory Authority, and

(ii) to take additional measures in order to face the risk of money laundering or terrorist financing.

(2) Persons engaged in financial business activities notify their branches and subsidiary companies established in third countries, of the policy and procedures they apply according to section 58 for the prevention of money laundering and terrorist financing offences.

Timely response to the enquiries of the Unit or the Supervisory Authorities.

68.B. Persons engaged in financial business activities apply systems and procedures which make possible the timely response to enquiries of the Unit or the competent Supervisory Authority as to whether they keep or have kept during the last five (5) years a business relationship with specific persons and the type of this business relationship.

Offence of providing false or misleading evidence or information and false or forged documents.

68.C. In the event that a the customer of a person engaged in financial or other business activities, or a person who is authorised to act on behalf of the customer, or a third person according to paragraph (a) of subsection (2) of section 67, on whom the person engaged in financial or other business activities relies for the performance of the procedures for customer identification and due diligence measures, knowingly provides false or misleading evidence or information for the identity of the customer or of the ultimate beneficial owner or provides false or forged identification documents, is guilty of the offence and, in case of conviction, is subject to imprisonment not exceeding 2 years or to a pecuniary penalty of up to €100.000 or to both of these penalties.

Definition of coordinator in a financial business group.

68.D.-(1) Irrespective of the provisions of section 68.A, every financial group appoints a manager from a company of the group which was incorporated in the Republic and commands the biggest amount of total assets from all the companies of the group which have been incorporated in the Republic as a coordinator, for ensuring the implementation by all the companies of the financial group, including their branches abroad, which are engaged in

financial business activities, of adequate and appropriate systems and procedures for the effective prevention of money laundering and terrorist financing offences.

(2) For the purposes of this section-

(a) the term "financial group" means a financial group which includes at least two (2) companies engaged in financial business activities and is composed of a parent company, incorporated in the Republic and one or more subsidiary companies incorporated in the Republic and/or outside the Republic and does not include a parent company established in the Republic, which is not engaged in financial business activities with one or more subsidiary companies established exclusively outside the Republic and

(b) the terms "parent company" and "subsidiary company" have the meaning ascribed to these terms in section 148 of the Companies Law.

69.-(1) Persons engaged in financial or other business activities apply the following internal reporting procedures:

Internal procedures and reporting to MOKAS.

(a) Appoint a person as a money laundering compliance officer to whom a report is to be made about any information or other matter which comes to the attention of the person handling financial or other business activities and which, in the opinion of the person handling that business, proves or crates suspicion that another person is engaged in a money laundering offence or terrorist financing.

(b) requiring that, any such report to be considered in the light of all other relevant information by the money laundering compliance officer, for the purpose of determining whether or not the information or other matter contained in the report proves this fact or creates such a suspicion.

(c) allowing the money laundering compliance officer in accordance with paragraph (b) above to have direct and timely access to other information, data and documents which may be of assistance to him and which is available to the person engaged in financial or other business activities.

(d) Securing that the information or other matter contained in the report is transmitted to the Unit when the person who has considered the report under the above procedures, ascertains or has reasonable suspicions that another person is engaged in money laundering or terrorist financing or that the transaction may be connected to such activities.

It is provided that, the obligation to report to the Unit includes also the attempt to execute such suspicious transactions.

70. Persons engaged in financial and other business activities refrain from carrying out transactions which they know or suspect to be related with money laundering or terrorist financing before they inform the Unit of their suspicion in accordance with sections 27 and 69 of this law;

Refrain from carrying out suspicious transactions before informing the Unit.

It is provided that, if it is impossible to refrain from carrying out the transaction or is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation, the persons engaged in financial or other business activities, must inform the Unit immediately afterwards.

71. The non-execution or the delay in execution of any transaction for the account of a customer, by a person engaged in financial or other business activities shall not constitute breach of any contractual or other obligation of the said person towards its customer if it is due to-

Non-execution or delay in executing transaction for the account of a customer by a person engaged in financial or other business activities.

(a) the non provision of sufficient details or information for-

(i) the nature and the economic or commercial purpose of the transaction, and/or

(ii) the parties involved, as required by the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds, or

(b) the knowledge that the money held to the credit of the account or the transaction, may be connected with money laundering or terrorist financing offences or with the commission of other criminal offence.

PART IX - MISCELLANEOUS PROVISIONS

72. Upon the making of any order under this Law, in instances where no other express provision is made in this Law, the relevant provisions of the Civil Procedure Law and the Civil Procedure Rules apply, with the exemption of the provisions of section 9 of the Civil Procedure Law which relates to orders obtained ex-parte.

Application of civil proceedings.

It is provided that, a Court which adjudicates applications for the making of any order under this law, shall apply the standard of proof applicable in these proceedings.

73.-(1) The court may make an order setting aside any prohibited gift with a view to enforcing a confiscation order or a pecuniary penalty.

Setting aside of gifts.

(2) The court, before making the order for the setting aside of the gift, shall afford the person in possession of the property which constitutes the subject-matter of the gift the opportunity to express his views and to give reasons why the setting aside of the gift should not be ordered.

(3) Where the person in possession of the subject-matter of the gift is a minor, the opportunity mentioned in subsection (2) shall be afforded to his guardian.

(4) The court may order that any property, after the setting aside of the gift in pursuance of the provisions of subsection (1), be registered provisionally for the purposes of enforcement of any order of the court in the name of the receiver or other person specified in the order.

(5) Any property which is the subject-matter of an order under subsection (1) shall be disposed in accordance with the directions of the court.

(6) For the purposes of this section the provisions of subsection (8) of section 13 shall apply.

74. Notwithstanding the provisions of any other Law, a prescribed offence shall constitute an offence for the purposes of extradition of fugitives under the relevant law.

Extradition of a person who has committed a prescribed offence.

75. Service of an order made under this Law to a supervisory authority shall be deemed as service to all the persons who are subject to the control of the supervisory authority:

Service of orders.

It is provided that, the supervisory authority shall be obliged to notify forthwith all the persons subject to its supervision about the order made under this Law.

76.-(1) The competent Supervisory Authorities, the Unit, the Ministry of Justice and Public Order, the Police, the Customs and Excise Department, have to maintain comprehensive statistics on matters related to their competences.

Statistical Data.

(2) Such statistics shall as a minimum cover the suspicious transaction reports made to the Unit, the inspections made by the Supervisory Authorities, the administrative penalties and the disciplinary sanctions imposed by the Supervisory Authorities, the number of cases investigated, the number of criminal prosecutions,

the number of convictions and the assets frozen, seized or confiscated.

Rules of Court.

77.-(1) The Supreme Court may make rules for the better implementation of the provisions of this Law.

(2) Until rules of court are made, the courts shall apply the existing rules of court according to the nature of the proceedings with such variations or modifications as are considered necessary.

Repeal and reservation.

78.-(1) Upon the enactment of this Law, the Prevention and Suppression of Money Laundering Activities Laws of 1996-2004 shall be repealed due to the revision of its provisions and their inclusion in this Law, without prejudice to any act or action that was done or instituted under the repealed Law.

(2) Any proceedings that were instituted under the repealed Law, shall continue on the basis of the provisions of this Law.

Date of enforcement of the present law.

79. This Law will come into force on 1st January 2008.

3.2 A LAW TO RATIFY THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, INCLUDING SUPPLEMENTARY PROVISIONS FOR THE IMMEDIATE IMPLEMENTATION OF THE CONVENTION (No. 29 (III) of 2001)

The House of Representatives enacts as follows:

1. This Law may be cited as the International Convention for the Suppression of the Financing of Terrorism (Ratification and Other Provisions) Law of 2001.

Short title.

2. In this Law, unless the context otherwise requires -

Interpretation.

"Convention" means the International Convention for the Suppression of the Financing of Terrorism agreed on 10 January, 2000 of which the original text in English is cited in Part I of the Table and its Greek translation in Part II: Provided that in case of conflict between the two texts the English original one shall prevail;

Table. Part I. Table. Part II

"Republic" means the Republic of Cyprus.

3. The Convention, signed by the Republic of Cyprus following the Council of Ministers' Decision No. 52.963 dated 4 January 2001, is ratified by this Law and implemented according to the following provisions.

Ratification of Convention.

4.-(1) The offences referred to in article 2 of the Convention are punishable by imprisonment up to fifteen years or with a fine of one million Cyprus pounds or both such imprisonment and fine:
Provided that in any criminal procedure in relation to any of the fore-mentioned offences, the Court may, following a request on behalf of the prosecution, issue an order, temporary, restrictive or imperative, that could be issued by virtue of the provisions of any Law.

Offences and penalties.

(2) A temporary Court order is issued following a submission of an ex parte application supported by an affidavit, which must cite all substantive facts, in the prosecution's disposal at the time of the application. The Court, should it accept the application, sets the date to bring the application and the order before it. The further procedure is regulated, mutatis mutandis, by the Civil Procedure Rules in force at the time.

5.-(1) A legal person of any nature is subjected to the same criminal and civil liability in case where any person, in charge of the administration or control of the said legal person, commits under the said capacity an offence in violation of the Convention.

Liability of Legal person.

(2) By virtue of any Law, a competent Authority to register, operate or control a legal person, as cited in subSection (1), may, in addition to any other power to impose sanctions against the said legal person, order its crossing out of the relevant registry or the postponement of its operation for any time period it would consider necessary under the circumstances. The consequences of such crossing out are governed, mutatis mutandis, by the

provisions of the Law, by virtue of which the registration had been made.

6. During the trial of the offence, under article 2 of the Convention and under Section 4 of this Law, it does not constitute a defence or a mitigating factor that the offence was motivated by political, idealistic, racial, national, religious or other relevant reasons.	Excluding certain defenses.
7.-(1) Notwithstanding the provisions of Section 5 of the Criminal Code, the Courts of the Republic have the jurisdiction to hear and try any offence committed in violation of article 2 of the Convention and Section 4 of this Law, under the conditions, referred to in paragraphs 1 and 2 of article 7 of the Convention.	Jurisdiction of Courts of the Republic, Cap. 154 3 of 1962 43 of 1963 41 of 1964 69 of 1964 70 of 1965 5 of 1967 58 of 1967 44 of 1972 92 of 1972 29 of 1973 59 of 1974 3 of 1975 13 of 1979 10 of 1981 46 of 1982 186 of 1986 111 of 1989 236 of 1991
(2) The implementation of subSection (1) is subjected to the provisions and interpretations of subSections (2) and (3) of Section 5 of the Criminal Code.	6(I) of 1994 3 (I) of 1996 36 (I) of 1997 40 (I) of 1998 45 (I) of 1998 15 (I) of 1999 37 (I) of 1999 38 (I) of 1999 129 (I) of 1999 30 (I) of 2000 43 (I) of 2000 77 (I) of 2000 162 (I) of 2000 169 (I) of 2000 181 (I) of 2000 27 (I) of 2001.
8. Acts that constitute offences by virtue of article 2 of the Convention and Section 4 of this Law or acts that constitute a violation of article 2 of the Convention, are considered, even if the courts of the Republic do not have jurisdiction to try them, as predicate offences as if included in Section 5 of the Prevention and Suppression of Money Laundering Activities Law, and for the purposes of freezing or confiscating property or proceeds, the relevant provisions of this Law shall be implemented.	Confiscation Freezing and other court orders. 61 (I) of 1996 25 (I) of 1997

41 (I) of 1998
120 (I) of 1999
152 (I) of 2000.

Competency for the combating of financing terrorism.

9. Without prejudice to the provisions of any other Law, the main competency for combating the financing of terrorism, according to the provisions of the Convention of this Law, is appointed to the Unit for Combating Money laundering Offences which sets up a Special Department for this purpose.

No obligation to issue or provide legal assistance for certain reasons.

10. No provisions of this Law shall be interpreted as imposing upon the Republic of Cyprus the obligation to issue or provide mutual legal assistance, if the Republic of Cyprus has substantive reasons to believe that the request for extradition for offences referred to in article 2 of the Convention or for mutual legal assistance in relation to these offences was done with the aim to criminally prosecute or punish a person due to race, religion, nationality, origin, political beliefs or legal, according to international law, claims of collective rights or that compliance to the request would crate damage to the position held by such person for any of the reasons fore-mentioned.

Creation of Special Fund.

11.-(1) A Special Fund is set to which pecuniary amounts will be deposited that will be confiscated by virtue of the provisions of the Laws referred to in Section 8 of this law. The pecuniary amounts will be provided for compensation to the victims, or if they have died, to the families of the victims of the offences referred to in article 2, paragraph 1, subparagraphs (a) and (b) of the Convention.

(2) Compensation from the Fund will be provided according to regulations to persons, to which it is not possible to provide compensation from the offender either because they are unknown or because they are not alive or within the domain of the Republic or for any other reasons.

(3) To this Fund it is possible to deposit donations by the Republic or by any other persons or Organisation.

(4) Notwithstanding the provisions of subSections (1) and (2), the Republic of Cyprus can enter into agreements with other state members to the Convention in relation to the distribution between them of property and proceeds that have been confiscated. In such a case the Republic of Cyprus will deposit its own share to the Fund.

Precautionary measures at financial and economic sector.

12. For purposes of implementation of article 18 (1) of the Convention the relevant Sections of the Prevention and Suppression of Money Laundering Activities Law, shall be implemented and Specifically Part VIII, Sections 57 to 67.

Issue of Regulations.

13.-(1) The Council of Ministers may make Regulations for the better implementation of the Convention and this Law.

(2) Despite the generality of subSection (1) it is possible to regulate by Regulations all or any of the issues referred to in paragraph 4 of article 8 of the Convention.

Note: This Law was enacted on 30.11.2001 with Law No. 29(III) of 2001 and amended on 22.7.2005 with Law No. 18(III) of 2003.

/nomosxedia/29 (III) of 2001

3.3 A LAW PROVIDING FOR INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS (Number 23 (I) of 2001)

The House of Representatives enacts as follows:

Short title.

1. This Law may be cited as the International Co-operation in Criminal Matters Law of 2001.

Interpretation

2. In this Law, unless the context otherwise requires-

"*Competent authority of the Republic*" means the Minister of Justice and Public Order,

"*Court*" means any Court of the Republic of Cyprus or Court of a foreign country competent to try criminal cases,

"*document of procedure*" means any document served by virtue of this Law,

"*evidence*" means statements, documents and elements of law of any kind which could be presented before the Court of Law for the purposes of procedure and "document" has the meaning attributed to it nder the Evidence Law and includes any form of modern way of recording acts, contracts and declarations which are admissible before the Court where they will be presented.

"*foreign country*" means a country which falls in the field of application of this Law and includes any ship or aircraft registered in such country, and reference to a "foreign country" is also regarded as a reference to the International Criminal Court which was established with the signing of the Final Act on 17.7.1998 in Rome.

"*prosecution authority*" means the Attorney General of the Republic, the Chief of Police, the Director of the Custom's Department, members of the Unit for the Suppression of Money Laundering Offences and any other Authority or person who is entitle to make inquiries and persecutions (expulsions) in the Republic and any such authority of a foreign country with relevant competencies,

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93 of 1972
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12 of 1975
41 of 1978
162 of 1989
142 of 1991
9 of 1992
10(I) of 1996

"*procedure*" means the criminal procedure as this term is interpreted in the Criminal Procedure Law,

"*Republic*" means the Republic of Cyprus,

"*written request*" means the official request (letter of request/letter rogatory) submitted from one country to another for law co-operation in matters covered by the provisions of this Law

	89(I) of 1997 54(I) of 1998 96 (I) of 1998
3.-(1) This Section shall be applied in cases where the competent authority of the Republic receives a petition from a competent authority of a foreign country to serve to a person in the Republic- (a) A writ of summons or a document of procedure, with which the person to whom it is addressed, is requested to appear as a defendant or as a witness in a procedure in the said foreign country, or (b) a decision or a document which includes the Court decision of a foreign country (2) The service of documents mentioned in Section (1) shall be executed by the Police or other process server properly authorized by the competent authority of the Republic. (3) A document of procedure which shall be served by virtue of this Section shall be accompanied by— (a) An indication that the person to whom the document is served is entitled to ask for advice as to the probable consequences of non-compliance with it by virtue of the law of the foreign country, (b) an indication that by virtue of the law of the foreign country, he may not be offered the same rights and privileges under the capacity of a witness like these offered by virtue of the laws of the Republic. ( ) (4) When the policeman or other authorised process server serves by virtue of this Section, any writ of summons or other document of procedure, he shall inform the competent authority of the Republic about the way and time of service and he shall deliver to it a document of service signed by the person who has received the said document. In case of failure of service, he shall inform the competent authority of the Republic for this, stating also the reasons for such failure. (5 (5) Service of document mentioned in paragraph (a) of Section (1) shall not impose an obligation, by virtue of any law of the Republic, to the person who has received it, to comply with it.	Service of documents of procedure of a foreign country in the Republic
4 (1) In accordance with the arrangements made by a competent authority of the Republic, a person being in a foreign country may be served with: (a) Summons to accused (b) Summons to witness in order to appear before the Court of the Republic. (2) Service of documents of procedure under this Section shall not impose an obligation of compliance by virtue of any law of the Republic and therefore omission to comply shall not constitute contempt of court and shall not give reason to compel the person to whom the service was made, to comply with it. (3) The provisions of Section (2) shall not affect the subsequent service to the said person in the Republic of any document of procedure (having all the consequences of non-compliance).	Service to a foreign country of documents of procedure of the Republic
5.—(1) The Court before which a procedure is pending before it, may, after a petition or with its own initiative, issue a letter of request whereby the assistance of a foreign country is asked for the evidence described in that letter to be secured outside	Evidence from a foreign

the Republic, (2) A petition by virtue of Section (1) shall be submitted either by the prosecution authority or by the defendant to the Court of the Republic before which a procedure is pending. (3) The Court shall issue the letter of request if— (a) It has reasons to believe that the offence has been committed, and (b) it has been convinced that the evidence is needed for the purposes of procedure.	country for use in the Republic when a procedure is pending before the Court
6. During the stage of the criminal investigation, the prosecution authority may issue a letter of request whereby the assistance of a foreign country is asked for the evidence described in that letter to be secured outside the Republic.	Evidence from a foreign country for use in the Republic during the criminal investigation
7. The letter of request issued under Sections 5 and 6 shall be forwarded to the competent authority of the Republic, which shall send it either directly to the competent authority of the foreign country to which it is addressed or through the diplomatic route, according to the procedure specified in each case.	Forwarding of letter of request
8.—(1) Subject to the provisions of Section (4) and notwithstanding the provisions of any other law, the evidence secured under the letter of request issued by virtue of Sections 5 and 6, shall be admissible before the Court which has issued the request or the Court before which the proceedings shall commence. (2) The evidence secured by virtue of the letter of request shall not be used for any other purpose other than one mentioned in the letter of request, unless the competent authority of the foreign country which has secured such evidence gives its consent. (3) Whatever has been secured as evidence by virtue of a letter of request shall be .returned to the competent authority of the foreign country, if it so requests, when it is not needed anymore for the purposes for which such evidence was secured in the beginning or regarding which consent for the use was given, unless the said authority notifies that it does not desire the return of the said evidence. (4) The Court may, during the exercise of its discretionary power, exclude any evidence or part thereof, which was secured by virtue of a letter of request after taking into consideration the following: (a) Whether the opportunity has been given to challenge the statement, by questioning the witnesses, and (b) whether, according to the domestic law, the litigants were allowed to be represented during the taking of the evidence.	Use of evidence received in the foreign country

9.—(1) This Section shall be applied in cases where the competent authority of the Republic receives from— (a) the Court or other prosecution authority of a foreign country, or (b) any other authority of a foreign country which satisfies it that it has competence to submit written requests to secure evidence, of a kind with which this Section is dealing with, written request of assistance to secure evidence in the Republic in relation to the procedure which has begun before the Court of a foreign country or in relation to a criminal investigation which is carried out in the said country. (2) The competent authority of the Republic when satisfied that- (a) An offence has been committed contrary to the provisions of the law of the said foreign country, and (b) the procedure has begun or an investigation is carried out for that offence in the said country, could- (i) ask from the Supreme Court of the Republic to authorize a district judge, if the procedure has begun before the Court of the foreign country, or (ii) to authorize the prosecution authority of the Republic if an investigation is carried out in the foreign country, the execution of the request, according to the manner prescribed therein, unless that manner is contrary to the Constitution or other international convention on human rights satisfied by the Republic: Provided that upon application during the execution of the request a judge or an investigator of the foreign country named in the request, as well as the lawyer of the interogated person can be present and take part therein. (3) The competent authority of the Republic can deny to exercise its powers mentioned in Section (2) if it ascertains that the request concerns an offence of a financial nature in relation to which the procedure has not yet begun, unless it is satisfied that the act which constitutes the offence would constitute an offence of a similar nature if committed within the Republic. (4) For the purposes of ascertaining the issues mentioned in paragraphs (a) and (b) of Section (1) , the competent authority of the Republic shall consider as adequate evidence a declaration by the competent authorities of the foreign country, included in the written request. (5)(a) In case where the execution of the written request to secure evidence is assigned to District Judge, he shall have all the powers provided in the Rules of Procedure and the practice of procedure of the Supreme Court concerning the examination and cross-examination of witnesses, before the Court. (b) The Court assigned by the execution of the written request to secure evidence- (i) can hear evidence on oath, (ii) shall not compel a witness to give evidence which may incriminate him, (iii) subject to the provisions of subparagraph (ii), it shall not compel a witness to testify if this may be harmful for the security of the Republic in accordance with a certification issued for this purpose by the Minister of Foreign Affaira in agreement with the Minister of Defence. For the purposes of this Section "evidence on oath" includes evidence given, after permission by the Court, on official affirmation. (6) In case where the execution of the written request to secure evidence is assigned to the Chief of Police, he shall be considered to have, for this purpose, all the powers given to an investigator by virtue of Part II of the Criminal Procedure Law, except those concerning the arrest. (7) In case where the execution of the request to secure evidence , is assigned to the	Evidence for the use outside the Republic

Director of the Customs, he shall be considered to have, for such execution, all the powers given by the Customs and Excise Law.	
(8) In case where the execution of a written request to secure evidence is assigned to other prosecution authority of the Republic, it shall be considered to have, during the execution of the request, all the powers given by law, by virtue of which that authority was constituted. (9) In case where during the taking of evidence by virtue of Sections (6), (7) and (8) an investigator of a foreign country is present and takes part, he shall be considered, for the purposes of taking evidence, as an investigator , as this tem is interpreted by Section 4 of the Criminal Procedure Law. (10) If for the purposes of full compliance with the written request to secure evidence it is required that any evidence is accompanied by an affidavit, certificate or other document confirming the authenticity thereof, the competent authority of the Republic shall take all the necessary measures to secure these confirmatory documents for the purpose to be sent to the requesting authority.	82 of 1967 57 of 1969 4 of 1971 45 of 1973 12 of 1977 104 of 1987 98 of 1989 5 of 1991 77(I)of 1998 14(I) of 1999
10- (1) Evidence taken by virtue of Section 9 shall be given to the competent authority of the Republic in order to be sent to Court or to the prosecution authority of the foreign country which has submitted the request. (2) According to the details of the request, the original or a copy of a document or in case of an object, the object itself or a description or a photograph thereof, shall be sent to the said requesting Court or prosecution authority.	Forwarding of evidence
11- (1) Any costs incur to the competent authority of the Republic during the application of the Provisions of this Law shall be paid by the Republic or upon a relevant agreement, by the foreign country which submits the written request. (2) Amounts seized or constituting an asset from the sale of property seized shall be deposited at the Treasury or shall be distributed between the competent authorities of the foreign country and the Republic, upon relevant greement between them.	Cost and disposal of seized property
12 -(1) Subject to the provisions of Section (2), the competent authority of the Republic may, upon request of a foreign country, issue a warrant by virtue of which the transportation of any person who is under legal detention in the Republic to another country is permitted- (a) for the purpose of testifying as a witness in a criminal case which is tried in this country, or (b) to be identified or with this presence there to help in the carrying out of the trial of the criminal case or in the carrying out of the interrogation in relation to the committing of a crime. (2) A warrant shall not be issued by virtue of Section (1) unless the person who is under a legal detention consents for his transportation in the said country. The consent shall be given either by the same person who is under legal detention, or by any other appropriate person , if due to physical or psychiatric cause or due to his age, it shall not be possible or appropriate to give his consent: Provided that after the issue of the warrant the revocation of his consent shall not be permitted. (3) The warrant issued by virtue of Section (1) , shall authorize- (a) The transportation of the person being under legal detention to a place in the Republic from where he shall depart and his delivery to the representative of the competent authority of the foreign country which has submitted the request, and (b) his return to the Republic and his delivery by the representative of the	Transportation from the Republic of convict for the purposes of evidence outside the Republic

competent authority of the foreign country to the place where he was kept under detention according to the penalty imposed on him. (4) A person in relation to whom a warrant was issued by virtue of this Section, shall be considered as being under legal detention for the whole duration of his transportation from or to a place of his detention in the Republic or in a Cypriot ship or aircraft. (5) If the person in relation to whom a warrant was issued by virtue of this Section escapes or is illegally outside the place of detention in the Republic, he shall be under arrest without warrant by the person authorized to transport him to any place or by any policeman.	
13 -(1) In cases where - (a) Summons to witness has been issued for a criminal case tried in the Republic, which is addressed to a person who is under legal detention in a foreign country, or (b) the competent authority of the Republic has reasons to believe that the person who is under detention in a foreign country shall have to be identified in the Republic or that his presence in the Republic shall facilitate the procedure or the carrying out of the interrogation in relation to the committing of the offence, the competent authority of the Republic shall submit a request in the said foreign country for the transportation of the person who is under legal detention in the Republic for one of the reasons mentioned above. (2) If the competent authorities of the foreign country where the said person is under legal detention agree to make all the necessary arrangements for his transportation in the Republic for one of the reasons mentioned in Section (1) , the competent authority of the Republic shall issue a warrant authorizing- (a) the transportation and detention of the person under legal detention in a place within the territory of the Republic , as specified in the warrant, and (b) his return in the foreign country from where he was transported.	Transportation of convict from a foreign country to testify in the Republic
(3) A warrant for his transportation in the Republic for the purposes mentioned in Section (1) shall not be issued by virtue of this Section without the consent of the person who is under legal detention. (4) The provisions of subSections (4) and (5) of Section 12 shall be in force in the case of a warrant issued by virtue of this Section. (5) The provisions of the Aliens and Immigrations Law shall not be applied in the case of an alien who enters the Republic by virtue of a warrant issued under this Section, provided that the warrant continues to be in force.	Cap. 105 2 of 1972 54 of 1976 50 of 1988 197 of 1989 100(I) of 1996 43(I) of 1997 14(I) of 1998
(6) A person who is transported in the Republic for the purposes of this Section shall not be under arrest and shall not be brought before justice for any offence, for which the courts of the Republic have jurisdiction, and which he might have committed before his transportation , and with no legal documents of any kind he shall be served.	
14 -(1) Subject to the provisions of the Constitution and of any other law, the competent authority of the Republic may authorize the passing through the territory of the Republic, of a person who is under legal detention in a foreign country for the purpose to transport him to other foreign country which has asked for his personal appearance for the purposes of interrogation, persecution or proceedings. (2) During his passing through the Republic, the person mentioned in Section (1) shall be detained in a detention place for a period of twenty four hours. This period may be extended up to eight days, provided that a court order is secured for this purpose, when special reasons exist. (3) The provisions of this Section shall not be applied in cases where the person	Passing of convicts

mentioned in subSection (1) is a citizen of the Republic.	
15 -(1) The provisions of the Law shall be applied in relation to requests from or to: (a) All the countries of the EuropeanUnion, (b) All the specified Commonwealth countries, (c) All the countries with which the Republic has signed a bilateral Convention or is committed by a multilateral International Convention for cooperation in matters of criminal procedure, (d) all the other countries which accept cooperation under the standard terms of mutual cooperation which shall be specified by the Minister with a notification published in the Official Gazette of the Republic. (2) For the purposes of this Section, "specified Commonwealth countries" means any Commonwealth country specified by the Council of Ministers, by virtue of an order published in the Official Gazette, as a country with which it may cooperate regarding matters covered by the provisions of this Law. (3) The provisions of this Section shall not affect the cooperation with countries not being within the field of application and which shall be achieved through the diplomacy.	Field of application of this Law
16. The Council of Ministers may issue Regulations for the better application of this Law which shall be laid before the House of Representatives for approval.	Regulations

3.4 THE BANKING LAWS OF 1997 TO 2009

UNOFFICIAL CONSOLIDATION AND TRANSLATION OF LAWS 66(I) OF 1997, 74(I) OF 1999, 94(I) OF 2000, 119(I) OF 2003, 4(I) OF 2004, 151(I) OF 2004, 231(I) OF 2004, 235(I) OF 2004, 20(I) OF 2005, 80(I) OF 2008, 100(I) OF 2009 AND 123(I) OF 2009.

This translation and consolidation of laws is not official. It has been prepared by the Central Bank of Cyprus to assist users and it comprises the grouping of the text of the basic law and of the amendments to the law in one consolidated, but unofficial document and its subsequent translation into the English language, to serve as a reference tool. The Central Bank of Cyprus is not responsible as to its content.

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THE BANKING LAW

PART I
Preliminary

Short title.
66(I) of 1997
74(I) of 1999
94(I) of 2000
119(I) of 2003
4(I) of 2004
151(I) of 2004
231(I) of 2004
235(I) of 2004
20(I) of 2005
80(I) of 2008
100(I) of 2009.

1. This Law may be cited as the Banking Laws of 1997 to (No.2) 2009.

Interpretation.

2. (1) In this Law, unless the context otherwise requires -

"Ancillary services undertaking" means an undertaking the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more banks;

Cap. 113 "approved auditor" means a person qualified under

9 of 1968 76 of 1977 17 of 1979 105 of 1985 198 of 1986 19 of 1990 41(I) of 1994 15(I) of 1995 21(I) of 1997 82(I) of 1999 149(I) of 1999 2(I) of 2000 135(I) of 2000 151(I) of 2000 76(I) of 2001 70(I) of 2003 167(I) of 2003 92(I) of 2004 24(I) of 2005 129(I) of 2005 130(I) of 2005 198(I) of 2006 124(I) of 2006 70(I) of 2007 71(I) of 2007 131(I) of 2007 186(I) of 2007.		section 155 of the Companies Law to be an auditor of a company other than an exempt private company and who is expressly authorised for this purpose by the Central Bank;
200(I) of 2004.	"asset management company"	means a management company as defined in section 41 of the Open Ended Type Collective Investment Organisations (U.C.I.T.S.) Law, as well as an undertaking having its registered office in a third country and which would require authorisation in accordance with the provisions of section 43 of the said Law if it had its registered office in another member-state;
	"associate company"	means a company in which a bank holds directly or indirectly through related companies not less than twenty per cent (20%) or more of the voting rights or of the company's capital or where the parent or other company of the group exercises over the company significant influence or where the companies are or have been arranged under a single administration or have administrative,

	management or other bodies the majority of each body consisting mainly of the same persons.
"bank"	means a body corporate licensed to carry on banking business under the provisions of this Law;
"banking business"	means business carried on in the Republic or abroad from within the Republic consisting of lending of funds acquired from the assumption of obligations to the public, in the form of deposits, securities or other evidence of debt;
"books or records"	means accounts, securities, deeds, forms and documents however produced and includes "books or records" stored in a computer;
"branch"	means a place of business of a bank, at which banking business or the business of accepting deposits is carried on;
"business of accepting deposits"	means the business of accepting deposits from the public in the Republic or the business of accepting deposits in the Republic from abroad;
"Central Bank"	means the Central Bank of Cyprus;
"chief executive"	means a person who either alone or jointly with others is responsible under the immediate authority of the board of directors for the conduct of the business of a bank, and in the case of a bank other than a bank incorporated in the Republic, includes a person who either alone or jointly with others is responsible for the conduct of the business of the bank in the Republic or the conduct of the business of the bank abroad from within the Republic;
"close links"	means a situation in which two or more natural or legal persons are linked in any of the following ways: (a) participation in the form of

	ownership, direct or by means of control, of 20% or more of the voting rights or capital of an undertaking; (b) means of control; or (c) the fact that both or all natural or legal persons are permanently linked to one and the same third person by a means of control relationship;
"Commission"	means the Commission of the European Communities;
"competent authorities"	means the national authorities which are empowered by law or regulation to supervise credit institutions;
"computer"	means any electronic device for storing and processing information;
"control"	means in relation to a company: (a) beneficial ownership by a person of its share capital or of its holding company which carries ten per cent or more of the voting power at any general meeting of the company or its holding company, or (b) ability by a person to determine in any manner the election of a majority of the directors of the company or of its holding company;
'credit institution' -	means (a) a business whose activity consists of accepting deposits or other repayable funds from the public and the lending of funds for own account and which possesses a banking licence from the competent authority of a member state or of a third country and includes – (i) a bank, and (ii) a cooperative credit institution, as such term is defined in the Cooperative Companies Law, or

68 of 1987 190 of 1989 8 of 1992 22(I) of 1992 140(I) of 1999 140(I) of 2000 171(I) of 2000 8(I) of 2001 123(I) of 2003 124(I) of 2003 144(I) of 2003 5(I) of 2004 170(I) of 2004 230(I) of 2004 23(I) of 2005 49(I) of 2005 76(I) of 2005 29(I) of 2007 37(I) of 2007 177(I) of 2007.		(b) an electronic money institution
14(I) of 1993 32(I) of 1993 91(I) of 1994 45(I) of 1995 74(I) of 1995 50(I) of 1996 16(I) of 1997 62(I) of 1997 71(I) of 1997 83(I) of 1997 29(I) of 1998 137(I) of 1999 19(I) of 2000 20(I) of 2000 39(I) of 2000 42(I) of 2000 49(I) of 2000 50(I) of 2000 136(I) of 2000 137(I) of 2000 141(I) of 2000 142(I) of 2000 175(I) of 2000 9(I) of 2001 37(I) of 2001 43(I) of 2001 66(I) of 2001 79(I) of 2001 80(I) of 2001	“Cyprus Stock Exchange”	herein after referred to as ‘C.S.E.’, means the stock exchange which was formed pursuant to section 3 of the Cyprus Stock Exchange Laws of 1993 to (No.4) 2002.

81(I) of 2001 82(I) of 2001 105(I) of 2001 119(I) of 2001 120(I) of 2001 1(I) of 2002 87(I) of 2002 147(I) of 2002 162(I) of 2002 184(I) of 2003 205(I) of 2004 43(I) of 2005 99(I) of 2005 115(I) of 2005 93(I) of 2006 28(I) of 2007.		
	"deposit"	means a sum of money paid or received on terms : (a) under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it, but (b) which are not related to the sale or the supply of property or the provision of services or to the issue of debentures or shares;
Official Gazette of E.E.: L 177, 30.06.2006, page 1. L87, 28.03.2007, page 9.	“Directive 2006/48/EC”	means the European Union act entitled ‘Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast)’ as amended by Directive 2007/18/EC of the European Parliament and of the Council as regards the exclusion or inclusion of certain institutions from its scope of application and the treatment of exposures to multilateral development banks and as it may further be amended or replaced.
	"director"	means a person occupying the position of director of a bank or a person empowered to carry out

	substantially the same functions in relation to the management of the bank as those carried out by a director of a company and includes a person who has control over a bank or its holding company or a person in accordance with whose directions or instructions the directors of the bank or any of them are accustomed to act. However, a person is not deemed to be a director by reason only that the directors act on directions or instructions given by him in his professional capacity;
“electronic money”	means monetary value as represented by a claim on the issuer which is: (i) stored on an electronic device; (ii) issued on receipt of funds of an amount not less in value than the monetary value issued; (iii) accepted as means of payment by undertakings other than the issuer.
“electronic money institution”	means a legal person, other than a bank, which issues means of payment in the form of electronic money;
"EU parent credit institution"	means a parent bank in the Republic which is not a subsidiary of a credit institution authorised in any Member State, or of a financial holding company registered in any Member State;
"EU parent financial holding company"	means a parent financial holding company in the Republic which is not a subsidiary of a credit institution authorised in any Member State or of another financial holding company registered in any Member State;
"EU parent investment firm"	means a parent investment firm in the Republic which is not a subsidiary of another institution authorised in any Member State or of a financial holding company registered in any Member State;

	"financial holding company"	means a financial institution, the subsidiary undertakings of which are either exclusively or mainly credit institutions or financial institutions, at least one of such subsidiaries being a bank, and which is not a mixed financial holding company;
	"financial institution"	means an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the activities listed in paragraphs (a) to (j) of subsection (3) of section 13;
	"financial instrument"	means any contract that gives rise to both a financial asset of one party and a financial liability or equity instrument of another party;
	"holding company" "subsidiary company"	have the meaning assigned to them respectively by section 148 of the Companies Law, and additionally a company shall be deemed to be the subsidiary of another where in the opinion of the Central Bank the latter exercises substantial control over the former;
	"home Member State"	means the Member State in which a bank has been authorised in accordance with the provisions of Directive 2006/48/EC;
	"host Member State"	means the Member State in which a bank has a branch or in which it provides services;
148(I) of 2002 214(I) of 2002 6(I) of 2003 86(I) of 2003 194(I) of 2003 195(I) of 2003 145(I) of 2004 238(I) of 2004.	"investment firm"	herein after referred to as "I.F." has the meaning attributed thereto by the Investment Services Laws of 2002 to (No. 2) of 2004;
	"institution"	means a bank or an electronic money

	institution or an investment firm.
"insurance company"	has the meaning attributed thereto by the Insurance Company Laws of 2002 to (No. 6) of 2004;.
"legal person"	includes a company or any association of persons incorporated either in the Republic or elsewhere;
"licence"	means a licence to carry on banking business issued under this Law;
"liquidator"	shall have the meaning given to this term in Part V of the Companies Law and for the purposes of this Law, the term includes the 'receiver and the 'administrator' within the meaning of sections 334 and 344 of the Companies Law;
"manager"	means the chief executive of a bank and any other person employed by it, who under the immediate authority of a director or of the chief executive exercises managerial functions or is responsible for maintaining accounts or other records of the bank;
"means of control"	means the relationship between a parent and a subsidiary undertaking, in the situations stated in section 148 of the Companies Law, or a similar relationship between any natural or legal person and an undertaking;
"Member State"	means a member-state of the European Union or other state which is party to the Agreement for the European Economic Area, which was signed in Oporto on 2 May 1992, and adapted by the Protocol signed in Brussels on 17 May 1993, as this Agreement may further be amended;
"Minister"	means the Minister of Finance;
"mixed-activity holding company"	means a parent undertaking, other than a financial holding company or a credit institution or a mixed financial holding company, the subsidiaries of

		which include at least one bank;
	“mixed financial holding company”	means a mixed financial holding company as defined in the Central Bank of Cyprus Directive on the supplementary supervision of banks which belong in a financial conglomerate;
	“operational risk”	means the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events, and includes legal risk;
	“parent bank in the Republic”	means a bank which has a bank or a financial institution as a subsidiary or which holds a participation in such an institution, and which is not itself a subsidiary of another bank authorised in the Republic, or of a financial holding company registered in the Republic;
	“parent financial holding company in the Republic”	means a financial holding company which is not itself a subsidiary of a bank authorised in the Republic, or of a financial holding company registered in the Republic;
	“parent investment firm in the Republic”	means an investment firm which has an institution or financial institution as a subsidiary or which holds a participation in one such entity or entities, and which is not itself a subsidiary of another institution authorised in the Republic or of a financial holding company registered in the Republic;
Official Gazette of E.E.: L 344, 285.12.2001, page 13.	‘Regulation (EC) No. 2560/2001’	means the European Union act entitled ‘Regulation (EC) No. 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro’, as amended or replaced.
	"reorganisation measures"	shall mean measures which are intended to preserve or restore the financial situation of a bank and which could affect third parties' pre-

		existing rights, including measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims of creditors or shareholders of the bank, as well as the measures provided for in sections 198 to 202 of the Companies Law;
	"representative office"	means an office from which the interests of the entity to which it belongs are in any way promoted or assisted but at which no banking business or the business of accepting deposits is carried on;
	"third country"	means a State other than a Member State.
	"trading book"	is the portfolio of a bank which consists of all positions in financial instruments and commodities held either with trading intent or in order to hedge other elements of the trading book and which are either free of any restrictive covenants on their tradability or able to be hedged;
Cap. 193.	"Trustee"	has the meaning assigned to this word by the Trustee Law;
	"winding-up"	shall have the meaning given to this term in Part V of the Companies Law;
	"winding-up proceedings"	shall have the meaning given to this term in Part V of the Companies Law.

(2) Reference in this Law of amounts denominated in euro is up to and including 31 December 2007 deemed to refer to pounds, at the prevailing at the time exchange rate.

PART II
Licensing of Banks

No banking business etc except licence.

3.(1) Subject to the provisions of subsections 3(2) and 3(3) below, the provisions of Part IV and subsection 35(1),no person, other than a bank, shall engage in banking business or in the business of accepting deposits.

(2) Subsection (1) above shall not apply to the acceptance of a deposit

by a person specified by the Central Bank subject to conditions and restrictions determined by the Central Bank:

It is provided that an exemption may only be granted to a person which can demonstrate that it was engaging in the business of accepting deposits before the 18th of July, 1997:

It is provided furthermore, that these activities are subject to regulations and controls intended to protect depositors and investors.

It is provided moreover, that the Central Bank may revoke an exemption granted to a specified person or amend or extend or impose any condition.

(3) The Central Bank is empowered to exempt certain transactions from the definition of "deposit" by reference to any factors appearing to it to be appropriate and, in particular, by reference to all or any of the following –

(a) the amount of the deposit

(b) the total liability of the person accepting the deposit to his depositors or to any other creditors

(c) the circumstances in which or the purpose for which the deposit is made

(d) the number of, or the amount involved in, transactions of any particular description carried out by the person accepting the deposit or the frequency with which this person carries out transactions of any particular description.

(4) Whenever the Central Bank has reasonable grounds to believe that any person, other than a bank, is carrying on or holds himself out as carrying on banking business or is engaged in the business of accepting deposits of money from the public, may, by a written notice to such person call upon him, to produce to an authorised officer of the Central Bank, within the period specified in the notice, any books or records specified in the notice to enable such officer to ascertain whether any business has been carried on which is prohibited in accordance with subsection (1).

Licence.

4. (1) (a) Subject to the provisions of section 10A, a bank must obtain authorisation from the Central Bank before the commencement of its activities.

(b)(i) Subject to the provisions of Part IV, authorisation is granted only to a legal person established in the Republic pursuant to the provisions of the Companies Law or of any other Law or to a legal person established in a country other than the Republic pursuant to the corresponding legislation of that country:

(ii) A bank which is registered in the Republic must have its head office in the Republic.

(c) the Central Bank shall not grant authorisation for the taking-up of the business of a bank unless it has been informed of the identities of the shareholders or members, natural or legal persons, that have directly or indirectly control and the percentage of that control.

190(I) of 2007.

For calculating control for the purposes of this paragraph and of paragraphs (d) to (g) of this subsection, the voting rights defined in sections 28, 29 and 30 of the Law providing for transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market of 2007 shall be taken into account as well as the conditions regarding their aggregation which are provided for in sections 34 and 35 of the said Law.

144(I) of 2007.

The Central Bank of Cyprus shall not take into account voting rights or shares which investment firms or credit institutions may hold as a result of providing the underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis included under paragraph 6 of Part I of the Third Annex to the Law which provides for the provision of investment services, the exercise of investment activities, the operation of regulated markets and other related matters of 2007, provided that those rights are, on the one hand, not exercised or otherwise used to intervene in the management of the issuer and, on the other, disposed of within one year of acquisition.

(d) The Central Bank shall not grant authorisation if, taking into account the need to ensure the sound and prudent management of the bank, it is not satisfied as to the suitability of the shareholders or members

(e) Where close links exist between the bank and other natural or legal persons, the Central Bank shall grant authorisation only if those links do not prevent the effective exercise of its supervisory functions.

(f) The Central Bank shall not grant authorisation if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the bank has close links, or difficulties in the enforcement of those laws, regulations or administrative provisions, prevent the effective exercise of its supervisory functions.

(g) The Central Bank shall require banks to provide it with the information it requires, in order to be able to monitor compliance with the conditions referred to in this subsection on a continuous basis.

(2) (a) Applications for authorisation submitted by or on behalf of the applicant shall be accompanied by the memorandum and articles of association or any other incorporation document or determinative for the establishment of a legal person, the programme of operations

setting out, inter alia, the types of business envisaged and the structural organisation of the bank and any other documents and information that the Central Bank may require.

(b) Without prejudice to other general conditions laid down in any other law, the Central Bank shall not grant authorisation when the bank does not possess separate own funds or in cases where initial capital is less than 5 million euro.

(c) For the purposes of paragraph (b), the term "initial capital" comprises of:

(i) The issued and paid up capital of the bank, including ordinary share capital and irredeemable non-cumulative preference shares,

(ii) The share premium arising from the issue of shares of the bank at a premium,

(iii) The reserves of the bank, excluding revaluation reserves, and

(iv) The undistributed profits of prior years, years which have been brought forward and recorded through the profit and loss account, after deducting foreseeable dividends, irrespective of whether they have been declared or not, as well as interim profits provided they have been verified by authorised auditors and it is proved to the satisfaction of the Central Bank that the amount thereof has been evaluated in accordance with the principles set out in the International Financial Reporting Standards and is net of any foreseeable charge or dividend.

(d) Subject to the provisions of the European Union acts in force in the Republic, the Central Bank may define, with the issue of directives, the term "own funds" which is referred to in this Law;

(3) The Central Bank may, under this Law, with an adequately reasoned decision -

(a) grant a licence without any conditions or subject to such conditions as the Central Bank may consider proper to impose; or

(b) refuse to grant a licence.

It is provided that the refusal shall be notified to the applicant within six months from the date of receipt of the application for a bank licence. Should the application be incomplete, a refusal is notified to the applicant within six months of the applicant's sending the information required for a decision. A decision shall, in any case, be taken within a year of the receipt of the application.

(4) Not withstanding the provisions of subsection (3) the Central Bank

may, amend or cancel whenever, either permanently or temporarily, any condition imposed on a licence, or impose any new conditions thereto.

(5) The Central Bank shall not take into consideration the economic need criterion for purposes of granting a licence.

(6) (a) A licensed bank may voluntarily surrender its licence by written notice to the Central Bank.

(b) A surrender shall take effect on the giving of the notice or, if a later date is specified in it, on that date; and where a later date is specified in the notice the bank may by further written notice to the Central Bank substitute an earlier date, not being earlier than that on which the first notice was given.

(c) The surrender of a licence shall be irrevocable unless it is expressed to take effect on a later date and before that date the Central Bank by notice in writing to the bank allows it to be withdrawn.

(7) The policy with respect of the granting of licence is determined by the Central Bank.

(8) "The Central Bank requests the opinion of the competent authority of the other member state before granting the authorisation of a bank which is -";

(i) a subsidiary of a bank authorised in another member state;

(ii) a subsidiary of the parent undertaking of a bank authorised in another member state or

(iii) controlled by the same persons, whether natural or legal, as control a bank authorised in another member state.

(9) The competent authority of a member state involved responsible for the supervision of insurance companies or investment firms the Central Bank shall consult prior to granting an authorisation to a bank which is-

(a) a subsidiary of an insurance company or investment firm authorised in a member state or

(b) a subsidiary of the parent undertaking of an insurance company or investment firm authorised in a member state or

(c) controlled by the same persons, whether natural or legal, as control an insurance company or investment firm authorised in a member state.

(10) The relevant competent authorities referred to in subsections (8) and (9) shall in particular consult each other when assessing the suitability of shareholders, and the reputation and experience of

directors involved in the management of another entity in the same group, they shall inform each other of any information regarding the suitability of shareholders and the reputation and experience of directors, which is of relevance to the other competent authorities involved for the granting of an authorisation, as well as for the ongoing assessment of compliance with licencing conditions.

(11) The name of each bank to which authorisation has been granted shall be entered by the Central Bank in a list. The Central Bank shall disclose every authorisation granted in accordance with this Law and the aforementioned list to the Commission.

Withdrawal of authorisation.

4A. (1) The Central Bank may withdraw the authorisation granted to a bank only where such a bank -

(a) does not make use of the authorisation within one year, expressly renounces the authorisation or has ceased to engage in business for more than six months;

(b) has obtained the authorisation through false statements or any other irregular means;

(c) no longer fulfils the conditions under which authorisation was granted;

(d) no longer possesses sufficient own funds or can no longer be relied on to fulfil its obligations towards its creditors, and in particular no longer provides security for the assets entrusted to it; or

(e) falls within one of the other cases where national law of the Republic provides for withdrawal of authorisation.

(2) Reasons shall be given for any withdrawal of authorisation and those concerned informed thereof by the Central Bank.

(3) Such withdrawal shall be notified to the Commission by the Central Bank.

PART III

Use of the word "Bank" and Advertisements

Restriction of use of the word “bank”.

5. (1) No person, other than a bank, shall use in any language the word "bank" or any grammatical variation thereof of the word "bank" in connection with any trade or business carried on by him unless the Central Bank has granted its prior written approval and subject to any conditions which the Central Bank may consider proper to impose.

(2) For the purposes of exercising their activities, banks may, use the same name throughout the territory of the Community as they use in the Republic. In the event of there being any danger of confusion, the Central Bank may, for the purposes of clarification, require that the name be accompanied by certain explanatory particulars.

Prohibition of advertising for deposits.

6.(1) No person shall advertise, cause or allow to be advertised or assist in the advertising of anything, or issue or cause or allow to be issued or assist in the issuing of any advertisement or make any statement which is calculated or is likely to induce the public to place money on deposit with any person, other than with a bank or a co-operative society established under the Co-operative Societies Law or with the Housing Finance Corporation established under the Housing Finance Corporation Law.

43 of 1980
12 of 1982
34 of 1991.

(2) For the purposes of this section the term "advertisement" includes every form of advertisement or promotion made by publication or display of notices or any means or circulars or other documents or by exhibition of photographs or cinematograph films or by sound broadcasting or television or any other medium of mass communication, and references to the issue of an advertisement shall be construed accordingly.

(3) Nothing in this section shall be construed as prohibiting the importation and ordinary distribution in the Republic of newspapers, periodicals and books of wide circulation abroad, on the sole ground that they contain advertisements soliciting deposits for institutions operating abroad.

(4) A bank registered in a Member State other than the Republic and offers services in the Republic under the provisions of sections 10A and 10B, is allowed to advertise the services it offers through all available means of communication in the Republic, subject to any rules governing the form and the content of such advertising adopted in the interests of the general good.

PART IV

Establishment and closure of branches and Amendment of Constitution

Place of business outside the Republic.

7.(1) Subject to the provisions of section 10C, a bank incorporated in the Republic shall not establish or maintain a branch or a representative office outside the Republic without prior approval of the Central Bank. Such approval may be granted subject to any conditions which the Central Bank may consider proper to impose.

(2) The Central Bank may at any time, by notice in writing, attach to an approval granted under subsection (1) any new conditions, or amend or cancel any conditions so attached, as it may think proper.

(3) Subject to the provisions of section 41(2) the Central Bank may, at any time, by notice in writing, revoke at any time an approval granted under subsection (1) and the operation of the branch or representative office, as the case may be, shall be terminated within such time limit as

may be specified in the notice.

Representative offices of overseas institutions.

8.(1) An institution which is entitled under the laws of another country to carry on business which substantially corresponds to banking business, shall not establish in the Republic a representative office without prior approval of the Central Bank which may grant its approval subject to any conditions which the Central Bank may consider proper to impose.

(2) Notwithstanding the provisions of section 5, a representative office established under the provisions of subsection (1) may have the word "bank" or any grammatical variation thereof as part of its name, provided that this is the name under which the institution to which it belongs carries on business in its country of origin and provided further that this name is used in the Republic in conjunction with the description "Cyprus representative office".

(3) The Central Bank may at any time by notice in writing impose to an approval granted under subsection (1) any new conditions or amend or cancel any conditions already imposed as it may think proper to impose.

(4) The Central Bank may at any time by notice in writing revoke at any time any approval granted under subsection (1) and the operation of the representative office shall be terminated within such time limit as may be specified in the notice.

Termination of activities of a branch.

9. A bank intending to terminate the operation of any of its branches should give to the Central Bank three months prior written notice of its intention to do so, or such shorter prior written notice as the Central Bank may determine.

Changes in Memorandum and Articles of Association.

10.(1) A bank incorporated in the Republic shall furnish to the Central Bank as soon as possible and in any event not later than one month after changing its name or amending its memorandum or articles of association or any other instrument constituting or defining its constitution particulars of the change and or the amendments made.

(2) The Central Bank may object to the change or to the amendments referred to in subsection (1) and in such a case the bank must comply with any direction of the Central Bank on this matter within three months at the latest.

(3) A bank, other than a bank incorporated in the Republic, shall constitution furnish to the Central Bank as soon as possible and in any event not later than three months after changing its name or amending its memorandum or articles of association or any other instrument constituting or defining its particulars of the change and or the amendments made.

Freedom of establishment

10A.-(1) Subject to the provisions of section 10B and of subsections

and provision of services by a bank or electronic money institution or financial institution which is a subsidiary of a bank incorporated in another member state.

(2) and (3) of this section, no granting of authorisation by the Central Bank is required, with regard to the provision of cross-border services or the establishment of a branch from-

(a) an electronic money institution that possesses a licence for the issue of electronic money obtained from another Member State, or

(b) a bank of another Member State or a financial institution of another Member State which is either a subsidiary of a bank or a subsidiary of one or more banks, whose parent has been granted authorisation by the other Member State that includes the performance of activities that are closely associated with the banking business or closely related with such business as set out in paragraphs (a) to (j) of subsection (3) of section 13 or the provision of services or/and the performance of activities set out in Parts A and B of Annex I with regard to the financial instruments set out in Part C of Annex I, if covered by its licence and fulfil the conditions specified in a directive of the Central Bank issued under section 41:

Annex I

The provisions of this subsection are applied by analogy to the subsidiaries of a financial institution.

(2)(a) The competent authority of the home Member State that granted the relevant license to a bank or electronic money institution, or financial institution as defined in subsection (1), wishing to establish a branch within the Republic, communicates to the Central Bank the following information:

(i) the programme of operations setting out, inter alia, the types of business envisaged and the structural organisation of the branch;
(ii) the address of the branch in the Republic from which documents may be obtained;
(iii) the names of those to be responsible for the management of the branch;
(iv) the capital base and capital adequacy ratio of the bank or of the electronic money institution or of the financial institution.

(b) Irrespective of the provisions of subparagraph (iv) of paragraph (a) of subsection (2) of this section, in the case of a financial institution set out in subsection (1), the competent authority of the home Member State shall communicate to the Central Bank the amount of own funds of the financial institution and the sum of consolidated own funds and consolidated capital requirements of the bank which is its parent undertaking.

(c) The competent authority of the home Member State that granted the relevant licence, except in the case which the said authority, taking into consideration the said programme of activities, has reason to doubt the adequacy of the administrative structure or financial position of the bank or of the electronic money institution, communicates the above

information to the Central Bank and notifies accordingly the bank or the electronic money institution within three months from the possession of the above information.

(3) The competent authority of the home Member State that granted the relevant licence in accordance with subsection (1) to a bank or electronic money institution or financial institution, which intends to provide services on a cross border basis by carrying out activities within the territory of the Republic, submits to the Central Bank a notice of its activities, that the said bank or electronic money institution or financial institution intends to carry out on a cross border basis in the territory of the Republic, within one month from the date of receipt of notice of the intention of the said bank or electronic money institution or financial institution to the same competent authority.

(4) On receipt of a communication from the Central Bank, or in the event of the expiry of the period provided for in paragraph (d) of subsection (2) without receipt of any communication from the latter, the branch of the bank or of the electronic money institution or the financial institution may be established and may commence its activities in the Republic.

(5) In the event of a change in any of the particulars communicated pursuant to the provisions of subparagraph (i), (ii) and (iii) of paragraph (a) of subsection (2), a bank or an electronic money institution or a financial institution shall give written notice of the change in question to the competent authorities of the home Member State and the Central Bank, at least one month before making the change so as to enable the competent authority of the home Member State to take action pursuant to the provisions of paragraphs (b) and (c) of subsection (2) and the Central Bank to take a decision pursuant to paragraph (d) of subsection (2).

Responsibilities of the Central Bank as regards branches of banks from a member state

10B.(1) The Central Bank may, for statistical purposes, require that banks or electronic money institutions from member states having branches within the territory of the Republic, shall report periodically on their activities which are carried on within the Republic.

(2) (a) For the supervision of the liquidity of branches of banks from other member states, the Central Bank may require the same information as it requires for that purpose from banks licensed by it.

(b) The Central Bank, as the competent authority of the host Member State, shall retain responsibility in cooperation with the competent authority of the home Member State for the supervision of the liquidity of the branches of banks.

(3) In case where a bank registered in another member state has established more than one place of business in the Republic, those places of business are considered as only one branch.

Establishment and cross

10C.(1) Subject to the provisions of section 7, a bank incorporated in

border provision of services by a bank in a member state

the Republic wishing to establish a branch in a member state notifies to the Central Bank –

(a) the programme of operations setting out, inter alia, the types of business envisaged and the structural organisation of the branch;

(b) the address of the branch in the member state from which documents may be obtained;

(c) the names of the prospective persons to be responsible for the management of the branch;

(d) the capital base and the capital adequacy ratio of the bank

(2) Unless the Central Bank has reasons to doubt the adequacy of the administrative structure or the financial situation of the bank, it shall, within three months of receipt of the information referred to in subsection (1), communicate that information to the competent supervisory authorities of the host member state.

(3) The Central Bank's communication, in accordance with subsection (2), shall also be notified to the bank within three months as provided in subsection (2).

(4) Where, the Central Bank refuses to communicate the information referred to in subsection (1) to the competent supervisory authority of the host member state, it shall give reasons for its refusal to the bank concerned within three months of receipt of all the information in accordance with subsection (1).

(5) Where a bank intends to carry on its activities for the first time by providing cross border services within the territory of a member state without establishing a branch in that state, it shall notify this intention to the Central Bank specifying at the same time the member state and the activities which it intends to carry on.

(6) The Central Bank shall, within one month of receipt of the notification in accordance with subsection (5), send that notification to the competent supervisory authorities of the host member state.

(7) The Central Bank shall inform the Commission of the number and type of cases in which there has been a refusal pursuant to subsection (2) of this section or paragraph (d) of subsection (2) of section 10A or subsection (4) or subsection (5) of section 10A or in the cases in which measures have been taken in accordance with subsection (3) of section 10D.

No compliance with the provisions of this Law by a bank having a branch or providing services in the Republic.

10D.-(1) Where the Central Bank ascertains that a bank, having a branch subject to the provisions of subsection (1) of section 10A or provides services within the Republic subject to the provisions of subsection (1) of section 10A, is not complying with the provisions of this Law, the Central Bank shall require the bank concerned to put an

end to that irregular situation.

(2) If the bank concerned fails to take the necessary steps, the Central Bank, as the competent authority of the host Member State, shall inform the competent authorities of the home Member State accordingly.

(3) If, despite the measures taken by the home Member State or because such measures prove inadequate or are not available in the home Member State, the bank persists in violating the provisions of this Law, the Central Bank may, after informing the competent authorities of the home Member State, take appropriate measures to prevent or to suppress further irregularities and, in so far as is necessary, to prevent that bank from initiating further transactions within the Republic.

(4) The provisions of section 10B of subsections (1) to (3) of this section shall not affect the power of the Central Bank to take appropriate measures to prevent or to punish irregularities committed within the territory of the Republic which are contrary to the provisions of this Law. This shall include the possibility of preventing by the Central Bank of the offending banks from initiating further transactions within the Republic.

(5) Any measure taken pursuant to this section and involving penalties or restrictions on the exercise of the freedom to provide services shall be properly justified and communicated by the Central Bank to the bank concerned.

Take of precautionary measures.

10E. Before following the procedure provided for in section 10D, the Central Bank may, in emergency situations, take any precautionary measures necessary to protect the interests of depositors, investors or others to whom services are provided. The Central Bank shall inform the Commission and the competent authorities of the other Member States concerned of such measures at the earliest opportunity.

Take measures.

10F. The Central Bank, after being informed of the withdrawal of authorisation of a bank by the competent authority of the home Member State of the bank of another Member State, shall take appropriate measures to prevent the bank concerned from initiating further transactions within the territory of the Republic and to safeguard the interests of depositors.

Branches of banks from third countries.

10G.-(1) No provisions shall apply to branches of banks having their head office in a third country when commencing or carrying on their business, which result in more favourable treatment than that accorded to branches of banks having their head office in the Community.

(2) The Central Bank shall notify the Commission and the European Banking Committee of all authorisations for branches granted to banks having their head office in a third country.

PART V

Limitations and Prohibitions on certain Business Activities and Transactions

Limitation on credit facilities.

11.(1) A bank incorporated in the Republic shall not –

(a) permit the total value of exposures granted to any one person to exceed at any time twenty-five per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;

It is provided that the Central Bank may allow exposures in excess of twenty-five per centum of a bank's capital base provided that the excess relates to trading book exposures as defined in a directive issued by the Central Bank on the capital adequacy and is covered by additional capital requirement as prescribed by the Central Bank under section 21 of this Law.

(b) permit the aggregate of all large exposures, as defined in subsection (4), to exceed at any time eight hundred per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;

(c) grant any director any exposure unless the transaction was approved by a resolution of the Board of Directors carried by a majority of two-thirds of the total number of directors of the bank and the director concerned was not present during the discussion of this subject by the Board and did not vote on the resolution. The exposures granted in such cases are granted on the same commercial terms as would apply to a customer for similar exposures in the ordinary course of banking business;

THIS PARAGRAPH APPLIES UP TO 23 JULY 2010 AND FROM 24 JULY 2010 IT IS REPLACED BY THE PARAGRAPH IN BLUE THAT FOLLOWS

(d) subject to the provisions of subsection (1)(a), permit the total value of exposures in respect of all its directors together to exceed at any time forty per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;

WITH EFFECT FROM 24 JULY 2010 PARAGRAPH (d) IS REPLACED BY THE FOLLOWING PARAGRAPH:

(d) subject to the provisions of subsection (1)(a), permit the total value of exposures in respect of all its directors together to exceed at any time twenty per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;

THIS PARAGRAPH APPLIES UP TO 23 JULY 2010 AND FROM 24 JULY 2010 IT IS REPLACED BY THE PARAGRAPH

IN BLUE THAT FOLLOWS

(e) permit the total value of any unsecured exposures, which are granted to all its directors together to exceed at any time five per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time.

WITH EFFECT FROM 24 JULY 2010 PARAGRAPH (e) IS REPLACED BY THE FOLLOWING PARAGRAPH:

(e) permit the total value of any unsecured exposures, which are granted to all its directors together to exceed at any time two per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time.

(1A) If, in an exceptional case, exposures exceed the limits laid down in paragraphs (a), (b), (d) and (e) of subsection (1), that fact shall be reported without delay to the Central Bank which may, where the circumstances warrant it, allow the bank a limited period of time in which to comply with the limits.

(2) In determining compliance with subsection (1) the Central Bank may exempt any exposure from time to time having regard to the exceptionally low risk arising from the exposures concerned provided that such exemptions are not in conflict with European Union acts in force in the Republic.

(3) The Central Bank may determine that -

(a) the interests of two or more persons are so inter-related that they should be considered as one person, whereupon the exposures granted to such persons shall be combined and deemed to be granted in respect of a single person;

(b) the interests of any director are so inter-related with the interests of another person or persons that these persons should be considered as one person whereupon the exposures granted to the director or any such person or persons shall be combined and deemed to be granted to the said director.

(4) For the purposes of this Law -

(a) "exposure" in respect of a person means any loan, advance or overdraft granted to such person, or the granting of any financial leasing including hire purchase financing, or the discount of any bill of which he is either acceptor, or drawer or endorser, or the granting of any financial guarantee or the undertaking of any other financial liability or obligation on behalf of this person or the investment in securities issued by that person, or the undertaking of any commitment to grant any of the above, and includes any of the above in respect of another person secured by the guarantee of this person; it also includes

	any other on balance sheet asset item or off-balance sheet asset item of a bank funded or unfunded in respect of that person
	(b) “large exposure” means an exposure to any one person equal to or greater than 10 per centum of the capital base of a bank;
	(c) “exposure not secured by tangible security” means any exposure other than the one secured by assets, whose value is not less than the exposure amount or that part of the exposure amount which exceeds the value of the asset that constitutes the security. The value is calculated in accordance with a directive issued by the Central Bank under section 41.
Limitations on holdings of immovable property	12.(1) A bank shall not acquire or purchase any immovable property or hold any right therein, save -
	(a) where the property may be currently required for the purpose of conducting its business or for providing recreation facilities to its staff or with the prior written approval of the Central Bank for the purpose of establishing a cultural centre of a non profit making character; or
	(b) where the property is acquired as a result of a process of selling the property in the course of satisfaction of debts due to the bank or is acquired in the course of settlement of debts due to the bank provided that the property shall be disposed of as soon as possible and in any case within three years of its acquisition except where the Central Bank extends the period of three years if it considers that such extension is fully justified on account of exceptional circumstances;
Cap. 109 52 of 1969 55 of 1972 50 of 1990.	It is provided that in the case of a bank other than a bank incorporated in Cyprus the provisions of the Acquisition of Immovable Property (Aliens) Law shall not apply.
Cap. 224. 3 of 1960 78 of 1965 10 of 1966 75 of 1968 51 of 1971 2 of 1978 16 of 1980 23 of 1982 68 of 1984 82 of 1984 86 of 1985 189 of 1986 12 of 1987 74 of 1988 117 of 1988	(2) For the purposes of this section the term "immovable property" has the meaning assigned to it by section 2 of the Immovable Property (Tenure, Registration and Valuation) Law.

43 of 1990
65 of 1990
30(I) of 1992
90(I) of 1992
6(I) of 1993
58(I) of 1994
40(I) of 1996.

Limitations on shareholdings

13.(1) Unless the Central Bank grants its prior written approval and subject to any conditions which the Central Bank may consider proper to impose, a bank shall not acquire or hold directly or indirectly more than ten percent of the share capital of any other company or have control over such company and in the case of a bank incorporated in the Republic the value of any share capital held in any other company shall not exceed fifteen percent (15%) and for all companies in aggregate shall not exceed sixty percent (60%) of the bank's capital base.

(2) Subsection (1) shall not apply where a bank acquires or holds -

(a) any part of the share capital of any company under an underwriting or sub-underwriting contract for a period not exceeding two years from the time of acquisition except where the Central Bank considers proper to extend the period of two years on account of exceptional circumstances;

(b) any holding of share capital in a company which carries out banking business, nominee, executor or trustee functions or predominantly other functions integral to or closely related to banking business, provided that such company is incorporated in the Republic.

(3) For the purposes of subsection 2(b) the following shall constitute functions which are integral to or closely related to banking business -

(a) lending, including, inter alia: consumer credit, mortgage credit, factoring with or without recourse and the financing of commercial transactions (including forfeiting);

(a1) financial leasing, including hire purchase financing;

128(I) of 2009

(b) payment services, as this term is defined in section 2 of the Payment Services Law;

(c) issuing and administering other means of payment, including travellers' cheques and bankers' drafts, insofar as this function is not covered by paragraph (b);

(d) guarantees and commitments;

(e) trading for own account or for account of customers in:

(i) money market instruments including cheques, bills, certificates of deposit etc.;

(ii) foreign exchange;

(iii) financial futures or options;

(iv) exchange and interest-rate instruments;

(v) transferable securities;

(f) participation in securities issues and the provision of services related to such issues;

(g) advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings;

(h) money broking;

(i) portfolio management and advice;

(j)safekeeping and administration of securities;

(k)credit reference services;

(l)safe custody services;

(m) Data processing services;

(n) Insurance brokerage services;

(o) Any other activity which may be specified by the Central Bank.

(4) For purposes of compliance with subsection (1) there shall be excluded any share capital in another company which was acquired by the bank in the course of satisfaction of debts due to it, provided that such share capital is disposed of not later than three years from the time of its acquisition, except where the Central Bank considers proper to extend the period of three years on account of exceptional circumstances.

Prohibition of trading

14.(1) A bank shall not engage, whether on its own account or on a commission basis, in any trading activity or enterprise save in so far as may be necessary in the ordinary course of banking operations for the satisfaction of debts due to the bank.

(2) Nothing in subsection (1) shall be construed as preventing the carrying on of any of the activities referred to in paragraph (b) of subsection (2) and subsection (3) of section 13 and in the services and

Annex I — activities in Annex I of the Law.

Prohibition of dealing in own shares.

15. A bank incorporated in the Republic shall not -

(a) acquire or deal for its own account in its own shares without the prior approval of the Central Bank, which is granted subject to the provisions of the Companies Law with regards to a company's right of redemption or acquisition of its own shares.

(b) grant credit facilities to persons other than the employees of the bank in excess of fifty thousand pounds per person for the purpose of enabling the purchase of its own shares or the shares of its holding company or the shares of any subsidiary of the bank or of its holding company.

Opening of account and client identification records

15A. (1) Each bank is required to obtain from each and everyone of its customers, for the purposes of opening a bank account with it, the customer's identity records, i.e. its name, its address, the number of its official identity card or its passport number and its country of issue.

(2) The information referred to in subsection (1) of this section is obtained from the official identification card or from the passport which the real beneficiary submits:

It is provided that banks are required to ensure that the information referred to above is incorporated in all accounts which are kept by them which have no identification records or which have records which are not in compliance with the true records of the customer.

PART VI

Ownership and Management of Banks

Amalgamation.

16.(1) Notwithstanding the provisions of any other Law-

(a) a bank incorporated in the Republic shall not sell or dispose the whole or part of its business by amalgamation or otherwise, except with the prior written approval of the Central Bank;

(b) a bank, other than a bank incorporated in the Republic, shall not sell or dispose the whole or part of its business in the Republic, by amalgamation or otherwise, except with the prior written approval of the Central Bank.

(2) The approval of the Central Bank under subsection (1) may be granted subject to any conditions which the Central Bank may consider proper to impose.

Limitation on shareholdings in banks

17.-(1)(a)(i) Any natural or legal person (hereinafter referred to as the 'proposed acquirer') or such persons acting in concert, who have taken

a decision to acquire, directly or indirectly, the control of a bank established in the Republic, or have decided to further increase the control in such a bank as a result of which the proportion of the voting rights or of the capital held would reach or exceed the minimum limits of twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%) or so that the bank would become its subsidiary (for the purposes of this section and of sections 17A and 17B referred to as the 'proposed acquisition'), first must notify in writing the Central Bank of Cyprus, stating the size of the intended holding and the relevant information, as referred to in subsection (4) of section 17A; and

(ii) No person can, either alone or through an associate or associates, have directly or indirectly the control of any bank established in the Republic or its parent undertaking, or to increase the control in such a bank as a result of which the proportion of the voting rights or of the capital held would reach or exceed the minimum limits of twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%) or so that the bank would become its subsidiary unless that person obtains the prior written approval of the Central Bank, or the proposed acquisition is, pursuant to the provisions of subsection (6) deemed as approved.

(b) for purposes of paragraph (a) and of subsection (9) the term "associate" in relation to a proposed acquirer' includes -

(i) the spouse or relatives of the first degree of kindred of that person;

(ii) any company of which that person is a director or has control over it;

(iii) any person who is a partner of that person, and in the case where that person is a company -

(A) any director or any person who has control over that company,

(B) any subsidiary of that company, and

(C) any director of any such subsidiary;

(iv) any other person or persons whose interests, in the opinion of the Central Bank, are interdependent with those of that person or of any other person who holds shares:

(2)(a) The Central Bank shall, promptly and in any event within two working days following receipt of the notification, as well as following the possible subsequent receipt of the information referred to in subsection (3), acknowledge receipt thereof in writing to the proposed acquirer.

(b) The Central Bank shall have a maximum of sixty (60) working days as from the date of the written acknowledgement of receipt of the notification and all documents required to be attached to the notification on the basis of the list referred to in subsection (4) of section 17A (hereinafter and for the purposes of this section and of sections 17A and 17B, referred to as the 'assessment period'), to carry out the assessment provided for in subsection (1) of section 17A (hereinafter and for the purposes of this section and of sections 17A and 17B, referred to as 'the assessment').

(c) The Central Bank at the time of acknowledging receipt, shall inform the proposed acquirer of the date of the expiry of the assessment period.

(3)(a) The Central Bank may, during the assessment period, if necessary, and no later than on the fiftieth (50th) working day of the assessment period, request any further information that is necessary to complete the assessment. Such request shall be made in writing and shall specify the additional information needed; and

(b) for the period between the date of request for information by the Central Bank and the receipt of a response thereto by the proposed acquirer, the assessment period shall be interrupted. The interruption shall not exceed twenty (20) working days. Any further requests by the Central Bank for completion or clarification of the information shall be at its discretion but may not result in an interruption of the assessment period.

(4) The Central Bank may extend the interruption referred to in the subparagraph (b) of paragraph (3) up to thirty (30) working days if the proposed acquirer is:

(a) situated or regulated outside the Community; and

(b) a natural or legal person not subject to supervision under the legislation which transposed into the national law of the member states -

OJ L 375, 31.12.1985, p. 3· L76, 19.3.2008, p. 42.

(i) Council Directive 85/611/EEC of 20th December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) Directive as last amended by Directive 2008/18/EC of the European Parliament and of the Council of 11th March 2008 and as it may further be amended or replaced.

OJ L 228, 11.8.1992, p. 1· L81, 20.3.2008, p. 69.

(ii) Council Directive 92/49/EEC of 18th June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and for the amendment of Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) as recently amended by Directive 2008/36/EC of the European Parliament and of the Council of 11th March 2008and as it may further be amended

or replaced.

OJ L 345, 19.12.2002, p. 1. L 76, 19.3.2008, p. 44.

(iii) Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance Directive as recently amended by Directive 2008/19/EC of the European Parliament and of the Council of 11th March 2008 and as it may further be amended or replaced.

OJ L 145, 30.4.2004, p. 1. L 76. 19.3.2008, p. 33

(iv) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments Directive as recently amended by Directive 2008/10/EC of the European Parliament and of the Council of 11th March 2008 and as it may further be amended or replaced.

OJ L 323, 9.12.2005, p. 1. L 81, 20.3.2008, p.71.

(v) Directive 2005/68/EC of the European Parliament and of the Council of 16th November 2005 on reinsurance Directive as recently amended by Directive 2008/37/EC of the European Parliament and of the Council of 11th March 2008 and as it may further be amended or replaced.

(5) If the Central Bank, upon completion of the assessment, decides to oppose the proposed acquisition, it shall, within two (2) working days, and not exceeding the assessment period, inform the proposed acquirer in writing and provide the reasons for that decision. An appropriate statement of the reasons for the decision may be made accessible to the public at the request of the proposed acquirer. The Central Bank may make such disclosure in the absence of a request by the proposed acquirer.

(6) If the Central Bank does not oppose the proposed acquisition within the assessment period in writing, it shall be deemed to be approved.

(7) The Central Bank may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.

(8) Where natural or legal persons fail to comply with the requirement of subsection (1) to notify the Central Bank, the Central Bank may take one or more of the following measures stating the duration of each measure or stating that the measures will stay in force until their revocation by the Central Bank -

(a) suspend the voting rights pertaining to the shares or voting rights that the said shareholders or members of the bank hold;

(b) issue a decree based on which the disposal, the signing of a disposal agreement, the sale, the exchange, the leasing, the transfer, the donation and in general the parting of the shares held will be void;

(c) prohibit the acquisition, either through the issue of bonus shares or through a rights issue, of shares of the bank; or and

(d) prohibition of any payments from the bank which are derived from the shares, except in the case of the winding up of the bank.

(9) Where a natural or legal person which either alone or through an associate or associates acquires, directly or indirectly, control of a bank despite the contrary decision of the Central Bank, the corresponding voting rights are suspended and the Central Bank may take one or more of the measures referred to in paragraphs (b) to (d) of subsection (8).

10(a) Irrespective of the provisions of subsections (8) and (9), where a natural or legal person fails to notify the Central Bank as provided for in subsection (1) or acquires control of a bank despite the contrary decision of the Central Bank, the Governor may impose an administrative fine in accordance with the provisions of section 42.

(b) In the case of a legal person, the Governor may impose the fines provided for in paragraph (a) on those members of the board of directors, or / and managers who were responsible, or negligent, or failed to act, or in their knowledge, the legal person -

(i) violates the requirement to notify the Central Bank, as provided for in subsection (1) or

(ii) acquires control, despite the contrary decision of the Central Bank.

100(I) of 2009

(11) The assessment procedure applied to proposed acquisitions for which notifications referred to subsection (1) have been submitted to the Central Bank prior to the entry into force of the Banking Law (Amendment) of 2009, shall be carried out in accordance with the legal provisions in force at the time of notification.

Assessment of the proposed acquisition

17A. (1) In assessing the notification provided for in section (1) of section 17 and the information referred to in subsection (3) of section 17, the Central Bank shall, in order to ensure the sound and prudent management of the bank in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the bank, appraises the suitability of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following criteria:

(a) The reputation of the proposed acquirer;

(b) the reputation and experience of any person who will direct the business of the bank as a result of the proposed acquisition;

(c) the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the bank in which the acquisition is proposed;

(d) whether the bank will be able to comply and continue to comply with the prudential requirements based on this Law and, where applicable, other laws, notably, the Electronic Money Institutions Law,

86(I) of 2004

Official Gazette
Third Annex (I):
15.12.2006
25.7.2007.

the Central Bank of Cyprus Directive on the supplementary supervision of banks which belong in a financial conglomerate of 2005 and the Central Bank of Cyprus Directive for the calculation of the capital requirements and large exposures of banks 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; and

Law 188(I) of 2007

(e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of The Prevention and Suppression of Money Laundering Activities Law of 2007 is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

(2) The Central Bank may oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in subsection 1 or if the information provided by the proposed acquirer is incomplete.

(3) The Central Bank shall neither impose any prior conditions in respect of the level of holding that must be acquired nor examine the proposed acquisition in terms of the economic needs of the market.

(4) The Central Bank shall make publicly available a list specifying the information that is necessary to carry out the assessment and that must be provided to the central Bank at the time of notification referred to in subsection (1) of section 17. The information required shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition:

The Central Bank shall not require information that is not relevant for a prudential assessment.

(5) Notwithstanding subsections (2), (3) and (4) of section 17, where two or more proposals to acquire or increase qualifying holdings in the same bank have been notified to the central Bank, the latter shall treat the proposed acquirers in a non-discriminatory manner.

Consultation with the relevant competent authorities during the assessment of the proposed acquisition

17B. - (1) The Central Bank when carrying out the assessment, shall work in full consultation with the relevant competent authorities if the proposed acquirer is one of the following:

(a) a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or management company, authorised in another Member State or in a sector other than that in

which the acquisition is proposed;

(b) the parent undertaking of a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or management company, authorised in another Member State or in a sector other than that in which the acquisition is proposed; or

(c) a natural or legal person controlling a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or management company, authorised in another Member State or in a sector other than that in which the acquisition is proposed.

As a competent authority of a Member State, the Central Bank complies with the provisions of paragraph 2 of Article 19b of Directive 2006/48/EC, according to which the competent authorities shall, without undue delay, provide each other with any information which is essential or relevant for the assessment. In this regard, the competent authorities shall communicate to each other upon request all relevant information and shall communicate on their own initiative all essential information. A decision by the competent authority that has authorised the credit institution in which the acquisition is proposed shall indicate any views or reservations expressed by the competent authority responsible for the proposed acquirer.

Notification of disposal of or reduction in control

17C. - (1) Any natural or legal person who has taken a decision to dispose, directly or indirectly, control in a bank must first notify in writing the Central Bank, indicating the size of his intended holding.

(2) Any natural or legal person shall likewise notify the Central Bank if he has taken a decision to reduce his control so that the proportion of the voting rights or of the capital held would fall below twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%) or so that the bank would cease to be his subsidiary.

Notification of the Central Bank on changes in the percentages of holdings in a bank's capital

17D. – (1)(a) Banks shall, on becoming aware of any acquisitions or disposals of holdings in their capital that cause holdings to exceed or fall below one of the thresholds referred to in subsection (1) of section 17 and section 17C, inform accordingly the Central Bank.

(b) Banks shall also, at least once a year, inform the Central Bank of the names of shareholders and members having control and the sizes of such holdings as shown, for example, by the information received at the annual general meetings of shareholders and members or as a result of compliance with the regulations relating to banks listed on regulated markets, as detailed in a directive issued by the Central Bank.

(2) Where the influence exercised by the persons referred to in subsection (1) of section 17 is likely to operate to the detriment of the prudent and sound management of the bank, the Central Bank shall

take any of the measures referred to in paragraphs (a) to (d) of subsection (8) of section 17.

190(I) of 2007.

(3)(a) In determining whether the criteria for a control in the context of sections 17 and 17C and of this Section are fulfilled, the voting rights defined in sections 28, 29 and 30 of the Law providing for transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market shall be taken into account as well as the conditions regarding their aggregation which are provided for in sections 34 and 35 of the said Law.

144(I) of 2007.

(b) In determining whether the criteria for control referred to in this Section are fulfilled, the Central Bank shall not take into account voting rights or shares which investment firms or credit institutions may hold as a result of providing the underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis included under paragraph 6 of Part I of the Third Annex to the Law which provides for the provision of investment services, the exercise of investment activities, the operation of regulated markets and other related matters.

(4) The bank shall know for every legal person that possesses at least five percent (5%) of its issued share capital, the names of the ultimate beneficial owners to whom each legal person belongs to, and to disclose this information to the Central Bank at least once a year or when there has been an amendment or change to the information:

It is provided that where the legal person possessing more than five percent (5%) of the issued share capital of the bank is a company which has at least twenty (20) shareholders, the bank should know only the shareholders of that legal person who possess five percent (5%) or more of that legal person's issued share capital and to disclose this information to the Central Bank at least once a year or when there has been an amendment or change to the information:

It is further provided that where the legal person possessing more than five percent (5%) of the issued share capital of the bank is a company whose shares are listed on a regulated market, the bank should know only the shareholders of that legal person who possess five percent (5%) or more of that legal person's issued share capital and to disclose this information to the Central Bank, at least once a year or when there has been an amendment or change to the information;

It is further provided that where the bank, has not been able to know the ultimate beneficial shareholders and the shareholders as above, after having actively attempted to do so, the bank shall inform the Central Bank which at its discretion may exempt the bank from the requirements provided for in this subsection.

Persons disqualified to act as directors etc without

18. (1) Any person who -

approval.

(a) is bankrupt or has entered into a compromise with its creditors; or

(b) has been convicted in any country of an offence involving fraud or dishonesty; or

(c) has been convicted of an offence under this Law, and in the case where that person is a company:

(i) any director or any person who has control over that company
(ii) any subsidiary of that company
(iii) any director of any such subsidiary,

shall not without the prior written approval of the Central Bank act as a director, chief executive officer or manager of a bank, as a result of bankruptcy, compromise or conviction before a period of five years from the date of conviction has elapsed.

(2) Notwithstanding the provisions of subsection (1), if in the opinion of the Central Bank, that any individual is not a fit and proper person to act as director, chief executive or manager of a bank, the Central Bank may direct that such person shall not act as director, chief executive or manager of a bank.

(3) In determining whether a person is a fit and proper person to hold any of the above positions in accordance with subsection (2), the Central Bank shall have regard to his probity, to his competence and soundness of judgement for fulfilling the responsibilities of that position, to the diligence with which he is fulfilling or likely to fulfil those responsibilities and to whether the interests of depositors or potential depositors of the bank are, or are likely to be, in any way, threatened by his holding that position. Moreover, the Central Bank will not consider a person to be fit and proper to act as director, chief executive or manager of a bank, if that person is not of sufficiently good repute or lacks sufficient experience to hold any of the above positions.

Management of a bank and a financial holding company.

19.-(1) At least two individuals are required to participate and concur in the effective direction and management of the business of the bank.

(2) Every bank shall have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and adequate internal control mechanisms, including sound and accounting procedures.

(3) The arrangements, processes and mechanisms referred in subsection (2) shall be comprehensive and proportionate to the nature, scale and

complexity of the bank's activities taking into account the technical criteria laid down in a directive of the Central Bank.

(4) The persons who effectively direct the business of a financial holding company shall be of sufficiently good repute and have sufficient experience to perform those duties.

Strategies and processes of banks and their internal review.

19A.-(1) Banks shall have in place sound, effective and complete strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed. For this purpose, banks adopt the guidelines, which are issued in a directive of the Central Bank.

(2) These strategies and processes shall be subject to regular internal review to ensure that they remain comprehensive and proportionate to the nature, scale and complexity of the activities of the bank.

PART VII
Capital

Minimum capital.

20. A bank incorporated in the Republic shall have at all times minimum own funds of not less than three million pounds or such other higher amount that the Central Bank might determine.

Capital adequacy.

21.-(1) Subject to the provisions of subsection (2) of section 41, the Central Bank may by notice given in writing, require banks incorporated in the Republic to maintain a capital adequacy ratio at such minimum level as may be determined by the Central Bank from time to time for each bank individually having regard to its circumstances.

(2) The capital adequacy ratio referred to in subsection (1) shall be in the form of mandatory maintenance of a capital base in relation to total assets including the activities of the trading book, to the off balance sheet exposures, to the operational risk or to categories of assets specified by the Central Bank from time to time at such minimum ratio or ratios as may be prescribed by the Central Bank from time to time.

Computation of capital.

22. Subject to the provisions of section 41(2) the Central Bank shall determine what constitutes capital base of a bank and the method by which it shall be computed and shall notify the banks in writing.

Recognition of external credit assessment institutions.

22A.-(1) The Central Bank may recognise an external credit assessment institution (ECAI) as eligible for the purposes of capital adequacy calculation, only if it is satisfied that its assessment methodology complies with the requirements of objectivity, independence, ongoing review and transparency, and that the resulting credit assessments meet the requirements of credibility and transparency. For those purposes, the Central Bank may take into account the technical criteria set out in Annex II.

Annex II

(2) An ECAI which has been recognised as eligible by the competent authorities of another Member State may also be recognised by the Central Bank as eligible without carrying out its own evaluation process.

(3) The Central Bank makes publicly available an explanation of the recognition process, and a list of eligible ECAIs.

PART VIII

Liquidity

Maintenance of liquidity.

23.(1) The Central Bank may establish a minimum ratio of liquefiable assets to be held by banks, in respect of the liabilities and other obligations of banks falling due or maturing within a period or periods as may be specified by the Central Bank, from time to time.

(2) Subject to the provisions of section 41(2) the liabilities and the liquefiable assets for purposes of subsection (1) shall be defined and calculated as may be determined by the Central Bank and notified in writing to banks.

(3) The powers which the Central Bank may exercise under this section shall be in addition to and not in substitution of its powers under section 38 of the Central Bank of Cyprus Law.

PART IX

Returns and Accounts

Submission and publication of balance sheet etc.

24. (1) Every bank shall, within four months from the end of each financial year, submit to the Central Bank a copy of the balance sheet and profit and loss account for that year, in the form prescribed by the Central Bank, duly certified by an approved auditor together with a signed copy of his report in the form prescribed by the Central Bank.

It is provided that the audit of banks shall be carried out in accordance with international auditing standards and any additional requirements specified by the Central Bank.

(2) In case of failure by a bank to appoint an approved auditor, the Central Bank may appoint such auditor and fix his remuneration to be paid by the bank concerned.

(3) A bank incorporated in the Republic shall publish, within six months from the end of each financial year, in such manner and form as the Central Bank may determine, the balance sheet and profit and loss account for that year together with the approved auditor's report.

(4) A bank, other than a bank incorporated in the Republic, shall publish in such manner and form as the Central Bank may determine the balance sheet and profit and loss account for each financial year covering its business as a whole.

Returns and information by banks.

25.(1) Every bank shall submit within fifteen days of the end of each month, or within such other period as the Central Bank may determine, to the Central Bank a certified statement of its assets and liabilities at the end of that month in a form prescribed by the Central Bank.

(2) The Central Bank may require a bank to submit periodically or at its request, such other information and within such time as may be specified by the Central Bank.

(3) Every bank incorporated in the Republic shall publicly disclose, in the manner prescribed in a Directive of the Central Bank, information concerning its operation, including the targets and the qualitative characteristics of the risk management policy, quantitative information on the risks undertaken, information regarding its own funds, the method of capital adequacy calculation and the monitoring of large exposures, and disclose whether it complies with the capital adequacy ratio as defined by the Central Bank pursuant to section 21.

PART X

Supervision and Inspection

Supervision and inspection by the Central Bank.

26. (1) The Central Bank is responsible for the supervision of banks in order to ensure the orderly functioning of the banking system;

The prudential supervision of banks, which also covers their activities pursuant to section 10C, is exercised by the Central Bank, as the competent authority of the home member state, subject to the provisions of this Law which assign responsibility to the competent authority of the host member state. This does not affect the supervision on a consolidated basis which is provided for in section 39.

(1A) In the exercise of its duties, the Central Bank shall have regard to the convergence in respect of supervisory tools and supervisory practices in the application of the laws, regulations and administrative requirements adopted pursuant to the European Union Directives. For that purpose, the Central Bank shall participate in the activities of the Committee of European Banking Supervisors and duly consider its non–binding guidelines and recommendations.

(1B) The Central Bank shall, in the exercise of its general duties, 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.

(2) Every bank shall, when so required by the Central Bank, make available for examination by a duly authorised official of the Central Bank its liquid and other assets, books or records, accounts and other documents, including those relating to the granting of loans and other facilities as well as the reports obtained by the bank regarding the business and financial position of debtors:

Provided that any such official may be assisted by a duly qualified person nominated for this purpose by the Central Bank who shall be bound by the same requirements regarding confidentiality as those applicable to officials of the Central Bank.

(3) The Central Bank is empowered to require banks to pay to it fees in connection with expenses incurred for their supervision and inspection in accordance with its directives.

(4) Any information obtained under this section, subsection (4) of section 3 and sections 24, 25 and 28, other than information which is published, shall be kept secret and used only for any of the purposes of the Central Bank of Cyprus Law, or of this Law.

(5) Notwithstanding the provisions of subsection (3), the Central Bank may use any of the information provided to it under this law for the compilation and publication of statistical aggregates.

(6) Taking into account the technical criteria set out in Annex III, the Central Bank shall review the arrangements, strategies, processes and mechanisms implemented by the banks to comply with the provisions of this Law and evaluate the risks to which the banks are or might be exposed to.

(7) The scope of the review and evaluation referred to in subsection (6) shall be that of the requirements of this Law and the directives issued pursuant to it.

(8) On the basis of the review and evaluation referred to in subsection (6), the Central Bank shall determine whether the arrangements, strategies, processes and mechanisms implemented by the banks and their own funds ensure a sound management and coverage of their risks.

(9) The Central Bank shall establish the frequency and intensity of the review and evaluation referred to in subsection (6) having regard to the size, systemic importance, nature, scale and complexity of the activities of the bank concerned and taking into account the principle of proportionality. The review and evaluation shall be updated at least on an annual basis.

(10) The review and evaluation performed by the Central Bank shall include the exposure of banks to the interest rate risk arising from their non trading book activities. Measures shall be required in the case of banks whose economic value declines by more than twenty percent (20%) of their own funds as a result of a sudden and unexpected change in interest rates the size of which shall be prescribed by the Central Bank and shall apply equally to all banks.

Disclosure of information by the Central Bank.

26A.-(1) The Central Bank shall disclose the following information:

(a) the texts of laws, regulations, directives, administrative rules and general guidance issued in the Republic in the field of prudential regulation;

(b) the manner of exercise of the options and discretions available in Community legislation;

(c) the general criteria and methodologies it uses in the review and evaluation referred to in subsection (6) of section 26; and

(d) without prejudice to the provisions laid down in subsections (1), (2) and (5) of section 27 and sections 27A, 27B, 27C, 27D, 28A, 28B and 28D, aggregate statistical data on key aspects of the implementation of the prudential framework by the Central Bank.

(2) The information disclosed, are updated regularly and are accessible at a single electronic location.

Cooperation with other competent authorities.

27. (1)(a) Without prejudice to the provisions of section 26, the Central Bank may cooperate and exchange information -

(a) with competent supervisory authorities responsible for the supervision of credit institutions, insurance companies, investment firms, financial institutions or regulated markets, either in the Republic or in a third country, and,

(b) with the competent supervisory authorities of credit institutions, insurance companies, investment firms, financial institutions or regulated markets of member states, to assist them in the conduct of their duties and responsibilities or to enable the effective conduct of its own duties, including the supervision on a consolidated basis.

(2) Where, the competent supervisory authorities of one member state wish in specific cases to verify the information required for the performance of their duties concerning a bank, a financial holding company, an ancillary services undertaking, a mixed activity holding company, a company which is not a credit institution and whose main activity comprises of acquisitions of holdings, a company which carries out business that is closely associated with the banking business or closely related with such business in accordance with paragraphs (a) to (l) of subsection (3) of section 13, a subsidiary that is referred to in section 39A or subsidiary of a bank or of a financial holding company that is not subject to consolidated supervision or the parent company of those companies, which are incorporated in the Republic, shall request the Central Bank to have that verification carried out. Upon receipt of such request, the Central Bank shall act upon it as follows by -

(a) Carrying out the verification itself;

(b) Allowing the authorities who made the request to carry it out;

(c) Allowing an auditor or expert to carry it out;

The competent authority which made the request may, if it so wishes, participate in the verification when it does not carry out the verification itself.

(3) Subject to the provisions of subsection (1), in the case a branch of a bank that carries out banking business in the Republic, whose head office is located in a third country, the competent authority of that third country who is responsible for the supervision of the said bank may carry out inspections of the said branch, provided it was previously discussed with the Central Bank and the Central Bank has given its consent.

(4) Any exchange of information will only take place when the Central Bank is satisfied that the information provided is subject to the same confidentiality rules in the hands of the receiving competent supervisory authority as apply to the Central Bank.

(5) Where the information received by the Central Bank originates in another member state of the European Union, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(6) In addition to the obligations imposed by other provisions of this Law, the Central Bank, when acting as the supervisory authority responsible for the exercise of supervision on a consolidated basis of EU parent credit institutions and banks controlled by EU parent financial holding companies shall carry out the following tasks:

(a) coordination of the gathering and dissemination of relevant or essential information in going concern and emergency situations; and

(b) planning and coordination of supervisory activities in going concern as well as in emergency situations, including in relation to the activities in section 26, in cooperation with the competent authorities involved.

(7) (a) (i) The Central Bank may, following the submission of an application, permit banks to calculate their risk-weighted exposure amounts using the Internal Ratings Based Approach ("IRB Approach") or/and use internal loss given default and conversion factors or/and use advanced measurement techniques using their own methods for measuring operational risk and relevant models for the calculation of their own capital requirements and/or the use of the Internal Model Method (IMM) as detailed in a directive of the Central Bank.

(ii) Banks may determine the exposure amount for the derivative contracts, repurchase transactions, borrowing transactions or securities or commodities lending, margin lending transactions and long settlement transactions, as defined in a directive of the Central Bank.

(iii) For applications submitted by an EU parent credit institution and its subsidiaries or by an EU parent investment firm and its subsidiaries or collectively by the subsidiary companies of an EU parent financial holding company, the Central Bank shall cooperate and shall consult closely with the competent authorities in order to decide whether to grant its approval or not and to determine the terms and conditions that must be fulfilled for the granting of the approval.

(b) The Central Bank and all competent authorities involved shall make every possible effort so that to come to a common decision with regards to the application within six months. This common decision shall be presented in a document that contains the fully justified decision, which is communicated to the applicant by the Central Bank.

(c) The time limit of paragraph (b) commences from the date of receipt of the fully completed application by the Central Bank. The Central Bank communicates immediately the fully completed application to the other competent authorities involved.

(d) If a common decision is not taken by the competent authorities within six months, the Central Bank shall take decision itself with regard to the application. The said decision is disclosed in the document that contains the fully justified decision and takes into consideration the views and reservations that have been expressed by the other competent authorities within the six-month period. The decision is communicated to the applicant and to the other competent authorities by the Central Bank.

(e) The decisions referred to in paragraphs (b) and (d) are recognised as enforceable and are applied in the member states concerned.

(8) Where an emergency situation arises within a banking group, which potentially jeopardises the stability of the financial system in any of the Member States where entities of a group have been authorised, the Central Bank, in case it is responsible for the exercise of supervision on a consolidated basis, shall alert as soon as is practicable, subject to the provisions of subsections (1) to (5). This obligation shall apply to all cases for which, under the provisions of subsections (6) and (7) of section 27 and subsection (7) of section 39, the Central Bank is identified as the competent authority for the supervision on a consolidated basis with respect to a specific group. Where possible, the Central Bank uses existing defined channels of communication.

(9) The Central Bank, in case it is responsible for the supervision on a consolidated basis shall, when it needs information which has already been given to another competent authority, contact this authority whenever possible in order to prevent duplication of reporting to the various authorities involved in supervision.

(10) In order to supervise the activities of banks operating, in particular through a branch, in one or more Member States other than that in which their head offices are situated, the competent authorities of the Member States concerned, including the Central Bank shall collaborate closely. They shall supply one another with all information concerning the management and ownership of such banks that is likely to facilitate their supervision and the examination of the conditions for their authorisation, and all information likely to facilitate the monitoring of such institutions, in particular with regard to liquidity, solvency, deposit guarantees, the limiting of large exposures, administrative and accounting procedures and internal control mechanisms.

(11) Where a bank authorised in another Member State carries on its activities also in the Republic through a branch, the competent authority of the home Member State, after having first informed the Central Bank, as the competent authority of the host Member State, may carry out itself or through a person they appoint for that purpose, on-the-spot verification of the information referred to in subsection (10).

(12) The competent authority of the home Member State may also, for the purposes of the verification of branches, have recourse to one of the other procedures laid down in subsection (2) of section 27.

(13) Subsections (11) and (12) shall not affect the right of the Central Bank, as the competent authority of the host Member State, to carry out, in the discharge of its responsibilities under this Law, on-the-spot supervision of the branches established within the Republic of banks which are authorised in another Member State.

(14) Where a bank authorised by the Central Bank carries on its activities also in another Member State through a branch, the Central Bank, after having first informed the competent authority of the host Member State, carry out itself or through a person it appoints for that purpose on-the-spot verification of the information referred to in subsection (10).

(15) The Central Bank, as the competent authority of the home Member State, may also, for purposes of the supervision of branches, have recourse to one of the other procedures laid down in section 27(2).

(16) Subsections (14) and (15) shall not affect the right of the competent authority of the host Member State to carry out, in the discharge of its responsibilities, on-the-spot supervision of the branches established in that member state of banks which are authorised by the Central Bank, which are assigned by the legislation of the host member state equivalent to this Law.

Exchange of information.

27A.-(1) The provisions of subsection (1) of section 28A and section 28B shall not preclude the exchange of information between the Central Bank and the following for the discharge of its supervisory function:

(a) the bodies involved in the liquidation and bankruptcy of banks and in other similar procedures; and

(b) the approved auditor responsible for carrying out, under the Companies Law and this Law, statutory audits of the accounts of banks and, under the Companies Law, the audit of accounts of other financial institutions.

(2) Subsection (1) of section 28A and section 28B shall not preclude the disclosure to bodies in the Republic or in other Member States which administer deposit-guarantee schemes, of information necessary to the exercise of their function.

(3) With regard to subsection (1) of section 27 and subsections (1) and (2) of this section, the information received shall be subject to the conditions of professional secrecy specified in subsection (1) of section 28A.

Exchange of information with the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of credit institutions or for overseeing persons charged with carrying out statutory audits.

27B.-(1) Notwithstanding subsection (1) of section 27 and irrespective of the provisions of subsections (4) and (5) of section 27 and sections 28A and 28B, the Central Bank may exchange information within the Republic with:

(a) the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of credit institutions and in other similar procedures; and

(b) the authorities responsible for overseeing persons charged with carrying out statutory audits of the accounts of insurance undertakings, banks, investment firms and other financial institutions.

(2) In the cases of subsection (1), as a minimum, the following conditions must be fulfilled:

(a) the information shall be for the purpose of performing the supervisory task referred to in subsection (1);

(b) information received in this context shall be subject to the conditions of professional secrecy; and

(c) where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(3) The Central Bank shall communicate to the Commission and to the other Member States the names of the authorities which may receive

information pursuant to subsections (1) and (2).

(4) Notwithstanding subsection (1) of section 27 and irrespective of the provisions of subsections (4) and (5) of section 27 and sections 28A and 28B, the Central Bank may, with the aim of strengthening the stability, including integrity, of the financial system, exchange information with the authorities or bodies in the Member States responsible under law for the detection and investigation of breaches of company law.

(5) In case of subsection (4), at least the following conditions shall be fulfilled:

(a) the information shall be for the purpose of performing the supervisory task referred to in subsection (4);

(b) information received in this context shall be subject to the conditions of professional secrecy; and

(c) where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have disclosed it and, solely for the purposes for which those authorities gave their agreement.

(6) Where the authorities or bodies referred to in subsection (4) perform their task of detection or investigation with the aid, in view of their specific competence, of persons appointed for that purpose and not employed in the public sector, the possibility of exchanging information provided for in subsection (4) may be extended to such persons under the conditions specified in subsection (5).

(7) In order to implement subsection (6), the authorities or bodies referred to in subsection (4) shall communicate to the Central Bank, which requires the information, the names and precise terms of reference of the persons to whom it is to be sent.

(8) The Central Bank shall communicate to the Commission and to the other Member States the names of the authorities or bodies which may receive information pursuant to subsection (4) to (7).

Communication of information.

27C.-(1) Irrespective of the provisions of subsections (1), (4) and (5) of section 27 and sections 27A, 27B, 27D, 28A, 28B, 28C and 28D of this Law, the Central Bank may transmit, within the framework of performing its responsibilities, information to the following bodies:

(a) central banks and other bodies with a similar function in their capacity as monetary authorities; and

(b) where appropriate, to other public authorities responsible for overseeing payment systems.

(2) Irrespective of the provisions on professional secrecy, provided for

in subsections (1), (4) and (5) of section 27 and sections 27A, 27B, 27D, 28A, 28B, 28C and 28D of this Law, such authorities or bodies are not precluded from communicating to the Central Bank such information as it may need.

Announcing of information.

27D. The provisions with regard to professional secrecy referred to in subsections (1), (4) and (5) of section 27 and sections 27A, 27B, 27C, 28A, 28B, 28C and 28D shall not prevent the Central Bank from communicating the information referred to in subsection (4) of section 26(4) and subsections (1), (4) and (5) of section 27, to a clearing house or other similar body recognised under Cyprus law for the provision of clearing or settlement services in a market of the Republic, if it considers that it is necessary to communicate the information in order to ensure the proper functioning of those bodies in relation to defaults or potential defaults by market participants. The information received in this context shall be subject to the conditions of professional secrecy as specified in subsection (1) of section 28A:

For the purposes of this section, where the information received by the Central Bank originate from the competent authority of another Member State, such information shall be subject to the conditions of subsection (5) of section 27.

Communication between the Central Bank and Auditors.

28.(1) The Central Bank may from time to time, arrange trilateral meetings with each bank and its approved auditors to discuss matters relevant to the Central Bank's supervisory responsibilities which arise in the course of the audit of that bank conducted in accordance with section 24, including relevant aspects of the bank's business, its accounting and control systems, and its annual balance sheet and profit and loss accounts.

(2) The Central Bank may, if it considers it desirable or necessary in the interests of depositors, arrange bilateral meetings with the approved auditors of banks.

(3) No duty of confidentiality to which an auditor of a bank may be subject shall be regarded as contravened by reason of his communicating in good faith to the Central Bank, whether or not in response to a request made by it, any information or opinion which is relevant to the Central Bank's functions and responsibilities under this Law.

(3A) (a) The approved auditor of the bank is obliged to report promptly to the Central Bank any fact or decision concerning the bank, of which he has become aware while carrying out its audit which may:

(i) constitute a material breach of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern the pursuit of the activities of banks;

(ii) affect the continuous functioning of the bank; or

(iii) lead to refusal to certify the accounts or to the expression of reservations.

(b) The obligation in paragraph (a) applies to the approved auditor of the bank with regard to the facts or decisions of which he becomes aware in the course of carrying out the audit of an undertaking having close links resulting from the control relationship with the bank.

Professional secrecy.

28A. (1) (a) All persons who carry out or have carried out a task on behalf of the bank and the auditors or experts commissioned by the Central Bank, are subject to professional secrecy.

(b) None of the confidential information that a person in subsection (1) becomes aware of, while carrying out his professional duties, shall not be disclosed to any person or any authority, except in a concise or collective form, so that the identity of the bank does not emerge, unless the case falls under the criminal law.

(c) Whenever a bank is declared bankrupt or its compulsory liquidation was ordered by the Court, any confidential information which is not related to the third parties who were involved in its rescue efforts, is permitted to be disclosed in the context of procedures of the civil or commercial law.

(2) Irrespective of the provisions of subsection (1), the competent authorities of various Member States are not precluded from exchanging information in accordance with this Law and other laws or directives or regulations implemented by banks. This information is subject to the conditions of professional secrecy provided for in subsection (1).

Use of confidential information.

28B. When the Central Bank receives confidential information, under the provisions of section 28A, it may use this information in the course of its duties and only for the following purposes:

(a) to verify that the conditions governing the taking-up of the business of banks are met and to facilitate monitoring, on a solo and on a consolidated basis, of the conduct of such business, especially with regard to the monitoring of liquidity, solvency, large exposures, and administrative and accounting procedures and internal control mechanisms;

(b) to impose penalties;

(c) in an administrative appeal against a decision of the Central Bank; or

(d) in appeals initiated by banks pursuant to Section 146 of the Constitution against decisions made by the Central Bank or to special provisions provided for in this Law and in other laws adopted in the banking sector.

Disclosure of certain information.

28C.(1) Notwithstanding the provisions of subsection (1) of section 28A and section 29, the disclosure of certain information to other public authorities of the Republic responsible for the enforcement of legislation on the supervision of credit institutions, financial institutions, investment firms and insurance companies and to inspectors acting on behalf of those authorities. Such disclosures are made only where necessary for reasons of prudential control.

(2) The information received under subsection (1) of section 27 and sections 27A and 28A and information obtained by means of the on-the-spot inspections referred to in subsections (11) to (16) of section 27, may never be disclosed in the cases referred to in subsection (1), except with the express consent of the competent authority which disclosed the information or of the competent authority of the Member State in which on-the-spot inspection was carried out.

PART XI

Banking Secrecy

Duty to maintain bank secrecy.

29.(1) No director, chief executive, manager, officer, employee or agent of a bank and no person who has by any means access to the records of a bank, while his employment in or professional relationship with the bank, as the case may be, continues or after the termination thereof, give, divulge, reveal or use for his own benefit any information whatsoever regarding the account of any individual customer of the bank.

(2) Subsection (1) shall not apply in any case where -

(a) the customer or his personal representatives gives or give his or their written permission to do so; or

(b) the customer is declared bankrupt or if the customer is a company, the company is being wound up; or

(c) civil proceedings are instituted between the bank and the customer or his guarantor relating to the customer's account; or

(d) the information is given to the police under the provisions of any law or to a public officer who is duly authorised under that law to obtain that information or to a court in the investigation or prosecution of a criminal offence under any such law; or

(e) the bank has been served with a garnishee order attaching moneys in the account of the customer; or

(f) the information is required by a colleague in the employment of the same bank or its holding company or the subsidiary of the bank or its holding company or an approved auditor or legal representative of the bank in the course of their duties; or

(g) the information is required to assess the creditworthiness of a customer in connection with or relating to a bona fide commercial transaction or a prospective commercial transaction so long as the information required is of a general nature and in no way related to the details of a customer's account; or

(gi) the information is supplied for the purpose of maintaining and operating the Central Information Register set up under the provisions of sub-sections (3) and (4) of section 41; or

(h) the provision of the information is necessary for reasons of public interest or for the protection of the interests of the bank.

It is provided that the provisions of this section shall also apply to any branch of a bank from a member state established in the Republic, or to any bank which provides cross border services under the provisions of section 10A

PART XII

Powers of the Central Bank

Powers to take measures.

30.(1) The Central Bank may take all or any of the following measures where a bank fails to comply with any of the provisions of this Law, or of any Regulation issued under this Law or with the conditions of its licence, or in the opinion of the Central Bank the liquidity and character of its assets have been impaired or there is a risk that the ability of the bank to meet promptly its obligations may be impaired, or where this is considered necessary for the safeguarding of the interests of depositors or creditors –

(a) require the bank forthwith to take such action as the Central Bank may consider necessary to rectify the matter or to restrict the operations of a bank by imposing conditions on its licence as it thinks desirable;

(b) Without prejudice to the generality of paragraph (a) above, impose conditions under this section and in particular:

(i) require the bank to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way;

(ii) impose limitations on the bank on the acceptance of deposits, the granting of credit or the making of investments;

(iii) prohibit the bank from soliciting deposits, either generally or from specified persons or class of persons;

(iv) prohibit the bank from entering into any other transaction or class of transactions;

(v) require the removal of any director, chief executive or

manager of a bank;

(vi) oblige the bank to hold own funds in excess of the minimum level laid down pursuant to the provisions of section 21;

(vii) require the reinforcement of the arrangements, processes, mechanisms and strategies of the bank implemented to comply with subsections (2) and (3) of section 19 and section 19A;

(viii) to require the bank to apply a specific provisioning policy or treatment of assets in terms of capital requirements;

(ix) restrict or limit the business, operations or network of banks; and

(x) require the reduction of the risk inherent in the activities, products and systems of banks.

The adoption of the measures specified in paragraphs (a) and (b) of subsection (1), are subject to the provisions of subsections (1), (2) and (5) of section 27 and sections 27A, 27B, 27C, 28A, 28B, 28C and 28D of this Law;

It is provided that any condition imposed under paragraphs (a) or (b) above may be varied or withdrawn by the Central Bank;

The Central Bank imposes a specific own funds requirement in excess of the minimum level laid down in section 21 at least on the banks which do not meet the requirements laid down in subsections (2) and (3) of section 19 and section 19A and the requirements for prudent administrative and accounting procedures and adequate internal control mechanisms for the detection and accounting recording of all of the large exposures and their subsequent changes, as defined in directive of the Central Bank and their supervision of these exposures taking into consideration the policy the bank follows in relation to exposures or in respect of which a negative determination has been made on the issue described in section 26(8), if the sole application of other measures is unlikely to improve the arrangements, processes, mechanisms and strategies sufficiently within an appropriate timeframe.

(c) consult with other banks with a view to determining the action to be taken;

(d) assume control of, and carry on in the bank's name, the business of the bank, for so long as the Central Bank may consider necessary. In such cases the bank shall be obliged to provide the Central Bank such facilities as the Central Bank may require for carrying on the business of the bank;

(e) subject to the provisions of section 4A, revoke the licence of the bank.

(2) The Central Bank shall, before taking any measure under paragraph (a) or (b) of subsection (1), furnish a report to the bank inviting its comments thereon within a specified period which should not be less than three days from the date of the delivery of the report.

Consequences of revocation of a licence.

31.(1) Where the licence of a bank is revoked, the Central Bank shall notify the bank in writing of such revocation and the bank shall as from the date specified in the notice cease to carry on banking business.

(2) The revocation of a licence under subsection (1) shall not prejudice the enforcement by any person of any right or claim against the bank or by the bank of any right or claim against any person.

Liability of Central Bank.

32. (1) The Central Bank and any person who is a Director or an officer of the Central Bank, shall be liable in any action suit or other legal proceedings for damages for anything done or omitted in the discharge of the functions and responsibilities of the Central Bank under this Law or under the Regulations issued under this Law, unless it is shown that the act or omission was not in good faith or was the result of gross negligence.

(2) The protection provided under sub-section (1) extends likewise to the Management Committee and to the members of the Management Committee of the Central Information Register, appointed pursuant to sub-section (4) of section 41, with regard to the exercise of their duties.

PART XIII

Reorganisation measures, winding-up and dissolution

For the purposes of this Part, the term ‘bank’ also includes electronic money institution:

Reorganisation measures.

33. (1) Subject to the provisions of sections 16, 33G, 33H, 33I, 33J, and 33K and of subsection (8) the reorganisation measures applied to any bank also apply to any of its branches in a member state other than the Republic and shall be fully effective in that member state, without any further formalities, even where the laws of the other Member State do not provide for such measures or make their implementation subject to conditions which are not fulfilled.

It is provided that in the case of a branch of a bank whose head office is in a member state other than the Republic, the reorganisation measures taken by the competent authorities of that state become automatically effective in the Republic.

(2) Where winding up measures are taken in a bank -

(a) the Central Bank may propose a compromise or a settlement, whereas the Court may, following an application by the Central Bank, order that a meeting of the bank’s creditors is convened, as provided in subsection (1) of section 198 of the Companies Law

(b) the Court ratifies the said compromise or settlement, as provided for in paragraph (a), only after hearing the views of the Central Bank, as provided for in subsection (2) of section 198 of the Companies Law

(3) The taking of reorganisation measures does not prevent the dissolution of the bank and the commencement of winding-up proceedings.

(4) The Central Bank shall without delay inform the competent authorities of the member states of its decision to adopt any reorganisation measure, including the practical effects which such a measure may have.

(5) Without prejudice of the provisions of subsection (6), the decision to take reorganisation measures is published within fifteen days in the official Gazette of the Republic and within reasonable time in the Official Journal of the European Communities and in at least two national newspapers in each of the host Member States. In the publication the following must be explicitly stated -

(a) the purpose of the decision to take reorganisation measures and that these measures, save where in this Law it is otherwise stated, are governed by the Laws of the Republic,

(b) the time limits for lodging appeals, specifically a clearly understandable indication of the date of expiry of the time limits, and

(c) the full address of the authorities competent to hear an appeal.

(6) The reorganisation measures shall apply irrespective of the measures prescribed in subsection (5) and shall be fully effective as against creditors.

(7) Where a reorganisation measure provides for rules relating to the voidness, voidability or unenforceability of legal acts detrimental to the creditors as a whole performed before adoption of the measure, the provisions of the Companies Law do not apply, unless a beneficiary of these acts provides proof that the act detrimental to the creditors as a whole is subject to the law of a Member State other than of the Republic, and that law does not allow any means of challenging that act in the case in point.

(8) The Central Bank may, whenever it deems appropriate, to request through a duly reasoned application made to the Court, the application of one or more reorganisation measures in a bank. In this case the Court may ratify the reorganisation measures, irrespective of the fact that the meeting of the bank's creditors or shareholders as provided in section 198 of the Companies Law has not been summoned:

It is provided that the bank concerned is required to provide the necessary information, as provided for in section 199 of the Companies

Law, to all its creditors and to all its shareholders.

(9) The provisions of subsections (1) to (8) are also applied, mutatis mutandis, where reorganisation measures are taken in a branch of a bank, whose head office is in a member state other than the Republic.

(10) Subparagraph (e) of section 33A is also applicable where reorganisation measures are taken.

(11) The Central Bank takes measures for the publication in the Gazette of the Republic of the reorganisation measures taken in a member state other than the Republic.

Winding-up.

33A. Save for the provisions of sections 33G, 33H, 33I, 33J, 33K and 33M, the publication of a decision to open winding-up proceedings in a bank, the winding-up procedure and its results are governed by the relevant provisions of the Companies Law, they are applicable by analogy and determine in particular:

(a) those assets of the bank which continue to belong to the bank, as well as the treatment of assets the bank acquired after the opening of winding-up proceedings;

(b) the respective powers of the bank and the liquidator;

(c) the conditions under which set-offs may be invoked;

(d) the effects of winding-up proceedings on contracts to which the bank is party;

(e) the effects of winding-up proceedings on proceedings brought by individual creditors, with the exception of lawsuits pending in a Court concerning an asset or rights of which the bank has been divested, which shall be governed by the law of the Member State in which the lawsuit is pending.

(f) the claims which are lodged against the bank after the opening of winding-up proceedings and the treatment of such claims in the bank's balance sheet;

(g) the rules governing the lodging, verification and admission of claims;

(h) the rules governing the distribution of the proceeds of the realisation of assets, the ranking of claims and the rights of creditors who have obtained partial satisfaction after the opening of winding-up proceedings by virtue of a right in relation to or through a set-off;

(i) the conditions for, and the effects of, the closure of winding-up proceedings;

(j) creditors' rights after the closure of winding-up proceedings;

(k) who is to bear the costs and expenses incurred in the winding-up proceedings;

(l) the rules relating to the voidness, voidability or unenforceability of agreements detrimental to all the creditors, unless a beneficiary of these agreements provides proof that the agreement detrimental to the creditors as a whole

(i) is subject to the law of a Member State other than of the Republic, and

(ii) that law does not allow any means of challenging that agreement in the case in point.

It is provided that any branch of a bank, against which winding-up proceedings were opened, in a member state other than the Republic, is subject, to the extent that the said winding-up relates to it, to the provisions of this Law, as if the said branch was physically located and was operating in the Republic.

Dissolution and appointment of liquidator.

33B. Irrespective of the provisions of the Companies Law with respect to the dissolution of a company, the revocation of a banking licence pursuant to paragraph (e) of subsection (1) of section 30 or section 4A or the surrender of a banking licence pursuant to subsection (6) of section 4 is a reason for its liquidation by the Court, after an application submitted by the Central Bank, and the appointment of a temporary receiver or liquidator of the bank, other than the Official Receiver, is made only after the Court hears the opinion of the Central Bank.

It is provided that, in the case of voluntary winding-up, the management bodies of the bank, request the Central Bank for its opinion, before taking such decision, whereas in the case of liquidation, either by the Court, or under the supervision of the Court, the Court informs immediately the Central Bank for the taking of such a decision:

It is further provided that any decision for the liquidation of the bank is applicable and immediately enforceable in all member states in which the bank has branches, without any further formalities.

It is further provided that, irrespective of the provisions of any other Law, and subject to the provisions of sections 33G, 33H, 33I, 33J and 33K, in the case of a branch of a bank whose head office is in a member state other than the Republic, any decision for the liquidation of the bank, taken by the competent authority of the home member state, is recognised and is effective without any restrictions in the Republic from the moment it is recognised and it is effective in the home member state, and the liquidation and all the issues referred to in section 33A are governed by the laws prevailing in the home member state, whereas the provisions of the Companies Law are applicable to the extent that they are not in conflict with the laws of the said home member state.

Information for the competent authorities of other member states.

33C. The Central Bank shall inform the competent authorities of the other member states of its decision to adopt any winding-up measure, including the practical effects which such a measure may have.

Voluntary winding up.

33D. The voluntary winding up of a bank shall not preclude the adoption of a reorganisation measure or the opening of winding-up proceedings.

Opening of winding-up proceedings.

33E. (1) Where the opening of winding-up proceedings is decided on in respect of a bank in the absence, or following the failure, of reorganisation measures, the authorisation of the bank shall be withdrawn by the Central Bank and the latter informs immediately the competent authorities of the other member states in which the bank has branches.

It is provided that, where the Central Bank decides to withdraw the banking licence of a bank which is registered in the Republic or in any other member state, it shall inform the competent authorities of member states of its decision, before the opening of winding-up proceedings, providing information on the potential effects of this procedure.

(2) The withdrawal of authorisation provided for in subsection (1) shall not prevent the person or persons entrusted with the winding up from carrying on some of the bank's activities insofar as that is necessary or appropriate for the purposes of winding up and that these activities are carried on with the consent and under the supervision of the Central Bank

Publication.

33F. The liquidator shall announce within reasonable time the decision to open winding-up proceedings through the publication of the winding-up decision in the Official Journal of the European Communities and in at least two national newspapers in each of the host Member States.

Effects on certain contracts and rights.

33G Subject to the provisions of sections 33 and 33A, the results of reorganisation measures or the opening of winding-up proceedings on -

(a) contracts of employment and employment relations and

(b) the rights over an immovable property, a ship or an aircraft subject to registration in a public register,

are governed by the law of the member state governing the contract of employment or under the authority of which the register is kept, depending on the case, whereas the effects of reorganisation measures on contracts conferring the right to make use of or acquire immovable property shall be governed solely by the law of the Member State within the territory of which the immovable property is situated.

It is provided that the enforcement of proprietary rights in instruments or other rights in such instruments the existence or transfer of which presupposes their recording in a register, an account or a centralised deposit system held or located in a member state shall be governed by the law of the member state where the register, account, or centralised

deposit system in which those rights are recorded is held or located.

(2) Subject to the provisions of subsection (1), the netting and conversion of debt agreements, repurchase agreements as well as transactions executed through the Cyprus Stock Exchange shall be governed solely by the laws applicable to the contract governing these agreements or these transactions.

Third parties' rights.

33H. Subject to the provisions of subsection (7) of section 33 and of paragraph (l) of section 33A, the adoption of reorganisation measures or the opening of winding-up proceedings shall not affect the rights in re of creditors or any other parties in respect of movable or immovable assets - belonging to the bank which are situated within the territory of a Member State other than the Republic, at the time of the adoption of such measures or the opening of such proceedings.

(2) The rights referred to in subsection (1) shall in particular include:

(a) the right to dispose of assets or have them disposed of and to obtain satisfaction from the proceeds of or income from those assets, in particular by virtue of a lien or a mortgage;

(b) the exclusive right to have a claim met, in particular a right guaranteed by a lien in respect of the claim or by assignment of the claim by way of a guarantee;

(c) the right to demand the assets from, or to require restitution by, anyone having possession or use of them contrary to the wishes of the party so entitled;

(d) the right in re to the beneficial use of assets.

It is provided that the right, recorded in a public register and enforceable against any party, under which a right in re within the meaning of subsection (1) may be obtained, shall be considered a right in re.

Reservation of title.

10 (I) of 1994
8 (I) of 1995
9 (I) of 1995
101 (I) of 1999

33I – (1) Subject to the provisions of subsection (7) of section 33 and of paragraph (l) of section 33A, as well as the provisions of the Sale of Goods Laws of 1994 to 1999 -

(a) The adoption of reorganisation measures or the opening of winding-up proceedings concerning a bank purchasing an asset shall not affect the seller's rights based on a reservation of title where at the time of the adoption of such measures or opening of such proceedings the asset is situated within the territory of a member state other than the Republic.

(b) the adoption of reorganisation measures or the opening of winding-up proceedings concerning a bank selling an asset, after delivery

of the asset, shall not constitute grounds for rescinding or terminating the sale and shall not prevent the purchaser from acquiring title where at the time of the adoption of such measures or the opening of such proceedings the asset sold is situated within the territory of a Member State other than the Republic.

Set-off.

33J. Subject to the provisions of the Companies Law and of subsection (7) of section 33, and of paragraph (l) of section 33A, the adoption of reorganisation measures or the opening of winding-up proceedings shall not affect the right of a creditor to demand the set-off of its claims against the claims of the bank, where such a set-off is permitted by the contract signed between the creditor and the bank.

Protection of third parties under special circumstances.

33K. Where, by an act concluded after the adoption of a reorganisation measure or the opening of winding-up proceedings, a bank disposes, of:

(a) an immovable asset,

(b) a ship or an aircraft subject to registration in a public register, or

(c) instruments or titles or rights in such titles the existence or transfer of which presupposes their being recorded in a register, or in an account or a centralised deposit system held or located in the Republic or in any other Member State,

the validity of that act shall be governed by the law of the Member State within the territory of which the immovable asset is situated or under the authority of which that register, account or deposit system is kept.

Proof of liquidators' appointment.

33L. The appointment of a liquidator of a bank registered in a member state other than the Republic, which has a branch in the Republic, shall be evidenced by a certified copy of the original decision appointing him by the responsible authority of the home Member State or by a certification of the appointment issued by the responsible authority in the home member state and no other formality shall be required.

Powers of the liquidator.

33M. (1) In exercising his powers in a member state other than the Republic, a liquidator shall comply with the law of that other Member States, in particular with regard to procedures for the realisation of assets and the provision of information to employees.

It is provided that those powers may not include the use of force or the right to rule on legal proceedings or disputes.

(2) In exercising his powers pursuant to subsection (1), the liquidator may appoint persons to represent him or to act on its behalf and for his account, either in the Republic or in another member state.

PART XIV

Deposit Protection Scheme

Compensation of depositors.

34.(1) The Central Bank shall set up a deposit protection scheme for the purpose of compensating depositors.

(2) The Central Bank may, with the approval of the Council of Ministers, make regulations governing the management and administration of the deposit protection scheme, participation in the scheme, the circumstances under which and the extent to which compensation may be provided and the level of contributions to the scheme.

(3) Any regulations made by the Central Bank under subsection (2) shall be submitted to the House of Representatives for approval.

It is provided that the first regulations shall be submitted to the House of Representatives within one year from the enactment of this Law

(4) The Central Bank may provide to the deposit protection scheme any information in its possession which in the opinion of the Central Bank may assist the scheme in the discharge of its functions and responsibilities.

(5) The Central Bank shall not divulge any information under this section relating to any individual deposit account.

PART XV

Miscellaneous provisions

Application of this Law to Co-operative Societies.

35. (1) Subject to the provisions of subsection (2), this Law shall not apply to societies established under the Co-operative Societies Law.

It is provided that the Co-operative Societies Supervision and Development Agency (hereinafter referred to as "The Agency") provides to the Central Bank all the necessary data and information concerning co-operative credit institutions operating under the Co-operative Societies' Laws in force from time to time, for purposes of monetary and credit policy, monitoring of the Balance of Payments and providing information to the European Central Bank or international organisations in which the Republic participates.

It is further provided, that with regard to the data submitted referred to above, the Central Bank may carry out, jointly with the Agency, on-site verification at the Co-operative credit institutions.

(2) Co-operative societies established principally for the purpose

of carrying on banking business for the benefit of their members who are themselves co-operative societies, shall be subject to the provisions of this Law except subsection (1) of section 14 and the term "bank" in this Law shall be deemed to include such societies.

It is provided that in the case of co-operative credit institutions associated with the central body (Co-operative Central Bank Ltd) as prescribed in the Co-operative Societies' Laws in force from time to time, these are subject to the provisions of this Law, excluding subsection (1) of section 14, to the extent required for purposes of exercising consolidated supervision on the Co-operative Central Bank Ltd and the co-operative credit institutions associated with it. For this purpose, the Agency provides to the Central Bank, all the necessary data and information concerning the associated co-operative credit institutions, while the Central Bank may, whenever it deems necessary, carry out, jointly with the Agency, on-site inspections on a sample basis at these institutions.

Housing Finance Corporation.

43 of 1980
18 of 1982
34 of 1991.

36. The provisions of this Law shall also apply to the Housing Finance Corporation to the extent that these are not in conflict with the provisions of the Housing Finance Corporation Laws.

37. (Deleted by section 4 of Law 74(I) of 1999).

38. (Repealed by section 35 of Law 80(I) of 2008).

Consolidated Supervision.

39.(1) The Central Bank shall exercise consolidated supervision which covers the bank, all subsidiary and associate companies of the bank or of its holding company which carry out banking business or predominantly functions integral to or closely related to banking business in accordance with section 13(3) of this Law and any holding company of any of the above companies. For this purpose, the relevant provisions of this Law shall apply to any such company or its holding company on a consolidated basis and in addition such provisions as may be specified by the Central Bank singly.

(2) The Central Bank may determine that any of the subsidiaries of a bank and of its holding company shall be deemed to be a bank for the purpose of any of the provisions of this Law as may be specified by the Central Bank, whereupon the relevant provision or provisions shall apply to any such company either singly or on a consolidated basis.

(3) Where the holding company and any of the subsidiaries of a bank are under the supervision of other appropriate authorities, the Central Bank shall act in accordance with subsection (2) after consultation with such

authorities.

(4) without prejudice to the provisions of paragraphs (1) to (3), the Central Bank may exercise consolidated supervision, in the manner it considers as appropriate where:

(a) a bank exercises, in the opinion of the Central Bank, a significant influence over one or more banks or institutions carrying on activities ancillary to banking activities, but without holding a participation or other capital ties in these institutions;

(b) two or more banks, or institutions mainly carrying on activities ancillary to banking activities are placed under single management other than pursuant to a contract or clauses of their memoranda or articles of association:

Where consolidated supervision is required pursuant to subsection (7), ancillary services undertakings and asset management companies shall be included in consolidations in the cases and in accordance with the methods laid down in section 39B and in this subsection.

(5) (a) Without prejudice to the provisions of section 11, the Central Bank shall exercise general supervision over transactions between the bank, its parent company and any subsidiary company of its parent company.

(b) The Central Bank shall require banks to have in place adequate risk management processes and internal control mechanisms, including sound reporting and accounting procedures, in order to identify, measure, monitor and control transactions with these entities:

It is provided that banks are required to report any significant transaction with these entities to the Central Bank within one month following the date of the transaction.

(c) Where these intra-group transactions are a threat to a bank's financial position the Central Bank shall take appropriate measures.

(6) Where a bank, the parent company of which is a bank or an undertaking engaged in activities ancillary to banking activities in accordance with the provisions of paragraph (3) of section 13, which is registered in a state outside the European Union and is not subject to consolidated supervision in accordance with the provisions of paragraphs (4) and (5), the Central Bank shall verify whether the bank is subject to consolidated supervision by a supervisory authority of the third country, which is equivalent to that governed by the principles of this section:

It is provided that the Central Bank shall, for this purpose, consult any

other competent authority of the member states involved:

It is further provided that the Central Bank shall, for this purpose, take into account the general guidance of the European Banking Committee as to whether the consolidated supervision arrangements of competent authorities in third countries are likely to achieve the objectives of consolidated supervision as defined in this section in relation to banks the parent undertaking of which has its head office outside the European Union:

It is further provided that in the absence of such equivalent supervision, the Central Bank shall apply to the bank the provisions of this section by analogy.

(7) (a) Where the parent of a bank is a parent bank established in the Republic or an EU parent credit institution, supervision on a consolidated basis shall be exercised by the Central Bank if it authorised the said parent in accordance with the provisions of section 4 or the corresponding legal provisions of the other Member States.

(b) Where the parent of a bank is a parent financial holding company in the Republic or an EU parent financial holding company, supervision on a consolidated basis shall be exercised by the Central Bank if it authorised the said bank in accordance with the provisions of section 4 or the corresponding legal provisions of the other Member States.

(c) Where banks authorised in two or more Member States have as their parent the same parent financial holding company in the Republic or the same EU parent financial holding company, supervision on a consolidated basis shall be exercised by the Central Bank as the competent authority of the bank authorised in the Republic in which the financial holding company was registered.

(d) Where the parents of banks authorised in two or more Member States comprise more than one financial holding company with head offices in different Member States and there is a bank in each of these Member States, supervision on a consolidated basis shall be exercised by the Central Bank, if it is the competent authority of the bank with the largest balance sheet total.

(e) Where more than one bank authorised in the Community has as its parent the same financial holding company and none of these banks has been authorised in the Member State in which the financial holding company was registered, supervision on a consolidated basis shall be exercised by the Central Bank if it authorised the bank with the largest balance sheet total, which shall be considered, for the purposes of this Law, as the bank controlled by an EU parent financial holding company.

(f) In particular cases, the Central Bank may, by common

agreement, waive the criteria referred to in paragraphs (d) and (e) if their application would be inappropriate, taking into account the banks and the relative importance of their activities in different countries, and appoint a different competent authority to exercise supervision on a consolidated basis. In these cases, before taking their decision, the Central Bank shall give the EU parent credit institution, or EU parent financial holding company, or bank with the largest balance sheet total, as appropriate, an opportunity to state its opinion on that decision. The Central Bank discloses to the European Commission the agreements under this paragraph.

(8) In order to facilitate and establish effective supervision, the Central Bank, in cases which it is responsible for supervision on a consolidated basis, and the other competent authorities shall have written coordination and cooperation arrangements in place.

(9) Under these arrangements, additional tasks may be entrusted to the Central Bank, in case it is responsible for supervision on a consolidated basis and procedures for the decision making process and for cooperation with other competent authorities may be specified.

(10) (a) Where the Central Bank is responsible for authorising the subsidiary of a parent undertaking which is a bank, it may, by bilateral agreement, delegate its responsibility for supervision to the competent authorities which authorised and supervise the parent undertaking so that they assume responsibility for supervising the subsidiary in accordance with the Directive 2006/48/EC.

(b) The European Commission shall be kept informed by the Central Bank of the existence and content of such agreements.

(11) (a) The competent authorities responsible for authorising the subsidiary of a parent undertaking which is a bank which is authorised and supervised by the Central Bank, may, by bilateral agreement, delegate their responsibility for supervision to the Central Bank so that it assumes responsibility for supervising the subsidiary in accordance with this Law.

(b) The European Commission shall be kept informed by the Central Bank of the existence and content of such agreements.

(12) Where the Central Bank is responsible for the supervision of banks controlled by an EU parent credit institution, it shall whenever possible contact the competent authority responsible for the exercise of supervision on a consolidated basis of EU parent credit institutions and credit institutions controlled by EU parent financial holding companies, when it needs information regarding the implementation of approaches and methodologies set out in this Law that may already be available to that competent authority.

(13) (a) The Central Bank shall, prior to taking its decision, consult with the other competent authorities with regard to the following items,

where this decision is of importance for other competent authorities' supervisory tasks:

(i) changes in the shareholder, organisational or management structure of the banks in a group, which require the approval or authorisation of competent authorities; and

(ii) major sanctions or exceptional measures taken by the competent authorities pursuant to the provisions of the Directive 2006/48/EC, including the imposition of an additional capital charge under Article 136 of this Directive and/or subparagraph (vi) of paragraph (a) of subsection (1) of section 30 of this Law and the imposition of any limitation on the use of the Advanced Measurement Approaches for the calculation of the own funds requirements as specified in a Directive of the Central Bank.

(b) For the purposes of subparagraph (ii) of paragraph (a), the Central Bank, as the competent authority of the host Member State, consults always with the competent authority responsible for supervision on a consolidated basis.

However, the Central Bank may decide not to consult in cases of urgency or where such consultation may jeopardise the effectiveness of the decisions. In this case, the Central Bank shall, without delay, inform the other competent authorities.

(14) The Central Bank may request from the European Commission to submit proposals to the European Council, for the negotiation of agreements with one or more third countries regarding the means of exercising supervision on a consolidated basis over the following:

(a) the banks, the parent undertakings of which have their head offices in a third country; or

(b) the banks situated in third countries the parent undertakings of which, whether banks or financial holding companies, have their head offices in a Member State.

(15) The Central Bank shall establish lists of the financial holding companies established in the Republic. Those lists shall be communicated to the competent authorities of the other Member States and to the European Commission.

Announcement by the mixed activity holding company of information relevant for the purpose of supervising subsidiary banks and verification of information received.

39A.-(1) Where the parent undertaking of one or more banks is a mixed activity holding company, the Central Bank shall require the mixed activity holding company and its subsidiaries either directly or via the subsidiary banks, to supply any information which would be relevant for the purpose of supervising the subsidiary banks.

(2) The Central Bank may carry out, or have carried out by external inspectors, on the spot inspections to verify information received from mixed activity holding companies and their subsidiaries. If the mixed activity holding company or one of its subsidiaries is an insurance undertaking, the Central Bank may use the procedure laid down in section 27. If a mixed activity holding company or one of its subsidiaries is situated in a Member State other than that in which the bank's subsidiary is situated, on the spot verification of the information shall be carried out in accordance with the procedure laid down in subsection (2) of section 27.

Full consolidation of all the credit institutions and financial institutions which are subsidiaries of a parent undertaking.

39B.(1) The Central Bank, being the competent authority responsible for the supervision on a consolidated basis shall, for the purposes of supervision, require full consolidation of all the credit institutions and financial institutions which are subsidiaries of a parent undertaking.

(2) The Central Bank may require only proportional consolidation where, in its opinion, the liability of a parent undertaking holding a share of the capital is limited to that share of the capital in view of the liability of the other shareholders or members whose solvency is satisfactory. The liability of the other shareholders and members shall be clearly established, if necessary by means of formal signed commitments.

(3) In the case where undertakings are linked by a relationship within the meaning laid down in section 2 of the term "associated company", the Central Bank shall determine how consolidation is to be carried out.

(4) The Central Bank, being the competent authority responsible for the supervision on a consolidated basis shall require the proportional consolidation of participations in credit institutions or financial institutions managed by an undertaking included in the consolidation together with one or more undertakings not included in the consolidation, where those undertakings' liability is limited to the share of the capital they hold.

(5) In the case of participations or capital ties other than those referred to in subsections (1) to (4), the Central Bank shall determine whether and how consolidation is to be carried out. In particular, it may permit or require use of the equity method. That method shall not, however, constitute inclusion of the undertakings concerned in the supervision on a consolidated basis.

Banks unable to meet obligations.

40. If any bank has any indication that it may face serious difficulties or become unable to meet its obligations or if it is about to suspend payment or becomes aware of any material adverse change in its condition it shall forthwith inform the Central Bank.

Power to issue directives.

41.(1) The Central Bank may, for the purpose of implementing the

objectives of this Law as well as its powers under this Law and under the Central Bank of Cyprus Law and subject to the provisions of this Law, issue general or specific directives which are communicated in any manner that it may determine.

(2) In exercising its discretionary power under this Law, the Central Bank shall act after taking into consideration, by way of guidance, the international practice and the directives and regulations of the European Union, the protection of depositors and the interests of the customers of the bank in general as well as the orderly functioning of the banking system and shall issue adequately reasoned decisions or directives.

(3) Specifically and without prejudice to the generality of sub-sections (1) and (2), the Central Bank may issue directives on matters of banking practice and good banking conduct, including directives with respect to the requirements and procedures for opening, maintaining, operating and closing current accounts and issuing or withdrawing cheque books.

(4) In the context of its above-mentioned powers and with a view to effectively combating the incidence of bounced cheques, including cheques which were issued at any time before or after the date those cheques were due for payment, the Central Bank shall issue directives to be published in the Official Gazette of the Republic, for the establishment, maintenance and operation of a Central Information Register where information concerning the issuers of bounced cheques, bankrupts or wound up companies, persons convicted for offences relating to the issue of bounced cheques, may be recorded in accordance with a procedure clearly defined in the directives, with a view to imposing upon them such measures depriving them of the right to hold, acquire or use cheque books or current accounts at a bank as may be prescribed specifically in the directives. The responsibility for the maintenance, operation and updating the Central Information Register is assigned by the Central Bank to a Management Committee appointed for this purpose;

It is provided that the directives to be issued under this sub-section shall be issued jointly after consultation with the Commissioner of Co-operative Societies and Co-operative Development Agency to apply equally and in the same manner to co-operative credit institutions so that there shall be uniform regulation and a common Central Information Register.

(5) The directives to be issued by the Central Bank pursuant to sub-section (4) shall contain provisions governing or regulating specifically –

(a) The composition, duties and responsibilities of the Management Committee,

(b) matters concerning the remuneration or compensation of the

members of the Management Committee,

(c) the procedure to be followed by the Management Committee for taking decisions, and the basic criteria or principles to be taken into account in making such decisions,

(d) the right of access and the manner access may be had to the records or information held on the Central Information Register,

(e) any other matter that may be deemed useful or expedient to be regulated by or defined in the directives, including a fair arrangement for the recovery by the Central Bank of the expenditure incurred by it for the initial establishment and subsequent operation of the Central Information Register.

Administrative fine.

42. (1) Where the Central Bank in the course of exercising its powers or responsibilities to examine and supervise banks pursuant to this Law or the directives issued under this Law, including its powers and responsibilities to collect information, enter and inspect under sections 25 and 26, ascertains that a bank -

(a) contravenes or fails to comply with any directive or circular lawfully issued to banks by the Central Bank, or

(b) contravenes or fails to comply, within the specified time limit or, in the absence of such time limit, within a reasonable time, with any requirement or notice of the Central Bank lawfully made or addressed to it, or

(c) in purported compliance with any such directive, requirement or notice of the Central Bank or with any provision of the Law or the Regulations issued thereunder, provides or makes available any misleading, inaccurate or incomplete data or information, which it knew or ought to have known that they did not represent true reality,

the Governor of the Central Bank, after calling the bank to state its defence, has the power to impose for each and every contravention an administrative fine, ranging from one thousand to eighty thousand euro, depending on the seriousness of the contravention, and in the case of a continuing contravention the Governor of the Central Bank is additionally empowered to impose a further administrative fine, ranging from one hundred to eight thousand euro, depending on the seriousness of the contravention, for each day during which the contravention continues.

(2) Without prejudice to subsection (1), where the Central Bank in the course of exercising its powers or responsibilities to examine and supervise banks pursuant to this Law or the directives issued under this Law, including its powers and responsibilities to collect information,

enter and inspect under sections 25 and 26, ascertains that a bank, due to fault or negligence or omission or in the knowledge of the managing director or/and of its chief executive officer or/and of a director -

(a) contravenes or fails to comply with any directive or circular lawfully issued to banks by the Central Bank, or

(b) contravenes or fails to comply, within the specified time limit or, in the absence of such time limit, within a reasonable time, with any requirement or notice of the Central Bank lawfully made or addressed to it, or

(c) in complying with any such directive, requirement or notice of the Central Bank or with any provision of the Law or the Regulations issued thereunder, provides or makes available any misleading, inaccurate or incomplete data or information, which it knew or ought to have known that they did not represent true reality,

the Governor of the Central Bank, after inviting the bank's managing director or/and its chief executive officer or/and its director to state its defence, has the power to impose for each and every contravention an administrative fine, ranging from one thousand to twenty thousand euro, depending on the seriousness of the contravention, and in the case of a continuing contravention, the Governor of the Central Bank is additionally empowered to impose a further administrative fine, ranging from one hundred to one thousand euro, depending on the seriousness of the contravention, for each day during which the contravention continues.

Administrative fine.

42A. In the case where a bank contravenes any of the obligations of sections 3, 4 and 5 of Regulation (EC) 2560/2001, the Governor of the Central Bank may, after hearing the bank, to impose an administrative fine not in excess of three thousand euro and, in the case of a continuing contravention the Governor of the Central Bank shall impose a further administrative fine not in excess of one hundred euro, for each day during which contravention continues.

PART XVI

Offences, Penalties and Prosecutions

Offences and penalties.

43. (1) The infringement of any provisions of this Law or any Regulations or directives issued by the Central Bank under this Law, except those provisions referred to in subsection (2), is an offence punishable by imprisonment not exceeding two years or by a fine not exceeding fifty thousand pounds or by both and in case of a continuing offence by a further fine not exceeding one thousand pounds for each day during which the offence continues.

(2) The infringement of any of the provisions of sections 8, 9, 10, 11, 12, 13, 15, 21, 23, 24, 25 or 26 of this Law is an offence punishable by a fine not exceeding fifty thousand pounds and in case of a continuing offence by a further fine of one thousand pounds for each day during

which the offence continues.

(3)Where an offence is committed as a result of an infringement of the provisions of this Law, by a bank or by an organisation of persons incorporated or unincorporated, then any director, managing director, chief executive, manager, partner or other officer or employee of the bank or of the organisation, who authorises or knowingly permits such infringement shall be guilty of an offence and in case of conviction shall be liable to the penalties provided in subsections (1) or (2) depending on the provisions infringed.

Prosecutions by or with the consent of the Attorney-General of the Republic.

44. No prosecution in respect of any offence under this Law shall be instituted except by or with the consent of the Attorney-General of the Republic.

PART XVII

Transitional Provisions

Former licences deemed to be licences under this Law Cap 124.

45. (1) All banking licences issued under the Banking Business (Temporary Restrictions) Law which were in force immediately prior to the enactment of this Law shall be deemed to be banking licences issued under this Law.

(2) Any conditions attached to a banking licence referred to in subsection (1) shall be deemed to be conditions imposed under this Law and shall continue to be in force until amended, varied or revoked.

Compliance with this Law.

46.(1) A bank which on the date of coming into operation of this Law was engaging in business prohibited by this Law or was holding specified assets in excess of limits provided under the provisions of sections 11 to 15 or whose paid up initial capital was below the minimum limit specified under the provisions of section 20, shall within three months from the coming into operation of this Law, inform the Central Bank of its position; and the Central Bank shall, after consultation with the bank concerned, establish a time table for rectifying the position provided that the maximum period or periods for rectifying the position shall not exceed three years from the date of coming into operation of this Law.

(2) As from the date of coming into operation of this Law a bank shall not engage in any new business which is prohibited under this Law or which would bring holdings of specified assets in excess of the limits provided in this Law or which would increase the excess of holdings of those assets above such limits.

Extension of period for compliance with this Law.

47. If for the purposes of compliance by a bank with this Law in accordance with section 46 the sale of certain of its assets or the calling in of certain of its credit facilities is required, the Central Bank may extend the maximum period for rectifying the position by a further period not exceeding two years if it is established to the satisfaction of the Central Bank that the sale of assets or calling in of credit facilities

within the period specified could result in substantial losses or hardship to the bank or to its customers.

Repeal.

Cap. 124.

48. The Banking Business (Temporary Restrictions) Law is hereby repealed.

ANNEX I
(section 10A)
LIST OF INVESTMENT SERVICES AND ACTIVITIES
AND FINANCIAL INSTRUMENTS

Part A

Investment services and activities:

(1) Reception and transmission of orders in relation to one or more financial instruments.

(2) Execution of orders on behalf of clients.

(3) Dealing on own account.

(4) Portfolio management.

(5) Investment advice.

(6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis.

(7) Placing of financial instruments without a firm commitment basis.

(8) Operation of Multilateral Trading Facility.

Part B

Ancillary services –

(1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management.

(2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction.

(3) Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings.

(4) Foreign exchange services where these are connected to the provision of investment services.

(5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments.

(6) Services related to underwriting.

(7) Investment services and activities as well as ancillary services of the type included under Parts A or B of this Annex related to the underlying of the derivatives included under points (5), (6), (7) and (10) of Part C where these are connected to the provision of investment or ancillary services.

Part C

Financial instruments –

(1) Transferable securities.

(2) Money-market instruments.

(3) Units in collective investment undertakings.

(4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.

(5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event).

(6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market or/and a Multilateral Trading Facility (MTF).

(7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in paragraph (6) of this Part and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls.

(8) Derivative instruments for the transfer of credit risk.

(9) Financial contracts for differences.

(10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contract relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Part, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls.

ANNEX II
(section 22A)
RECOGNITION OF EXTERNAL CREDIT ASSESSMENT INSTITUTIONS – ECAIs AND MAPPING OF THEIR CREDIT ASSESSMENTS

1. METHODOLOGY

1.1. Objectivity

1. The Central Bank shall verify that the methodology for assigning credit assessments is rigorous, systematic, continuous and subject to validation based on historical experience.

1.2. Independence

2. The Central Bank shall verify that the methodology is free from external political influences or constraints, and from economic pressures that may influence the credit assessment.

3. Independence of the ECAI's methodology shall be assessed by competent authorities according to factors such as the following:

(a) ownership and organisation structure of the ECAI;
(b) financial resources of the ECAI;
(c) staffing and expertise of the ECAI; and
(d) corporate governance of the ECAI.

1.3. Ongoing review

4. The Central Bank shall verify that ECAI's credit assessments are subject to ongoing review and shall be responsive to changes in the financial conditions. Such review shall take place after all significant events and at least annually.

5. Before any recognition, the Central Bank shall verify that the assessment methodology for each market segment is established according to standards such as the following:

(a) the back-testing must be established for at least one year;
(b) the regularity of the review process by the ECAI must be monitored by the competent authorities; and
(c) the Central Bank must be able to receive from the ECAI the extent of its contacts with the senior management of the entities which it rates.

6. The Central Bank shall take the necessary measures to be promptly informed by ECAIs of any material changes in the methodology they use for assigning credit assessments.

1.4. Transparency and disclosure

7. The Central Bank shall take the necessary measures to assure that the principles of the methodology employed by the ECAI for the formulation of its credit assessments are publicly available as to allow all potential users to decide whether they are derived in a reasonable way.

2. INDIVIDUAL CREDIT ASSESSMENTS

2.1. Credibility and market acceptance

8. The Central Bank shall verify that ECAIs' individual credit assessments are recognised in the market as credible and reliable by the users of such credit assessments.

9. Credibility shall be assessed by the Central Bank according to factors such as the following:

(a) market share of the ECAI;
(b) revenues generated by the ECAI, and more in general financial resources of the ECAI;
(c) whether there is any pricing on the basis of the rating; and
(d) at least two banks use the ECAI's individual credit assessment for bond issuing and/or assessing credit risks.

2.2. Transparency and Disclosure

10. The Central Bank shall verify that individual credit assessments are accessible at equivalent terms to all banks having a legitimate interest in these individual credit assessments.

11. In particular, the Central Bank shall verify that individual credit assessments are available to non-domestic banks on equivalent terms as to domestic counterparts having a legitimate interest in these individual credit assessments.

3. MAPPING

12. In order to differentiate between the relative degrees of risk expressed by each credit assessment, the Central Bank shall consider quantitative factors such as the long-term default rate associated with all items assigned the same credit assessment. For recently established ECAIs and for those that have compiled only a short record of default data, the Central Bank shall ask the ECAI what it believes to be the long-term default rate associated with all items assigned the same credit assessment.

13. In order to differentiate between the relative degrees of risk expressed by each credit assessment, the Central Bank shall consider qualitative factors such as the pool of issuers that the ECAI covers, the range of credit assessments that the ECAI assigns, each credit assessment meaning and the ECAI's definition of default.

14. The Central Bank shall compare default rates experienced for each credit assessment of a particular ECAI and compare them with a benchmark built on the basis of default rates experienced by other ECAIs on a population of issuers that the Central Bank believes to present an equivalent level of credit risk.

15. When the Central Bank believes that the default rates experienced for the credit assessment of a particular ECAI are materially and systematically higher than the benchmark, the Central Bank shall assign a higher credit quality step in the credit quality assessment scale to the ECAI credit assessment.

16. When the Central Bank has increased the associated risk weight for a specific credit assessment of a particular ECAI, if the ECAI demonstrates that the default rates experienced for its credit assessment are no longer materially and systematically higher than the benchmark, the Central Bank may decide to restore the original credit quality step in the credit quality assessment scale for the ECAI credit assessment.

ANNEX III
(section 26)

TECHNICAL CRITERIA AND ASSESSMENT
BY THE CENTRAL BANK

1. In addition to credit, market and operational risks, the review and evaluation performed by the Central Bank pursuant to section 26(6) shall include the following:

(a) the results of the stress tests carried out by the banks applying an IRB approach for the calculation of their capital requirements, as defined in a directive of the Central Bank;

(b) the exposure to and management of concentration risk by the banks, including their compliance with the requirements laid down in section 11 and in the directives issued thereunder;

(c) the robustness, suitability and manner of application of the policies and procedures implemented by banks for the management of the residual risk associated with the use of recognised credit risk mitigation techniques as specified in a directive of the Central Bank;

(d) the extent to which the own funds held by a bank in respect of assets which it has securitised are adequate having regard to the economic substance of the transaction, including the degree of risk transfer achieved;

(e) the exposure to and management of liquidity risk by banks;

(f) the impact of diversification effects and how such effects are factored into the risk measurement system; and

(g) the results of stress tests carried out by banks using an internal model to calculate market risk capital requirements as specified in a directive of the Central Bank.

2. The Central Bank shall monitor whether a bank has provided implicit support to a securitisation. If a bank is found to have provided implicit support on more than one occasion, the Central Bank shall take appropriate measures reflective of the increased expectation that it will provide future support to its securitisation thus failing to achieve a significant transfer of risk.

3. For the purposes of the determination to be made under section 26(8), the Central Bank shall consider whether the value adjustments and provisions taken for positions/portfolios in the trading book, as set out in a directive of the Central Bank, enable the bank to sell or hedge out its positions within a short period without incurring material losses under normal market conditions.

3.5 MEMORANDUM OF UNDERSTANDING BETWEEN THE SUPERVISORY AUTHORITIES OF THE FINANCIAL SECTOR OF CYPRUS

Preamble

1. The Central Bank of Cyprus, the Securities Commission, the Insurance Companies' Control Service and the Authority for the Supervision and Development of Cooperative Societies, hereinafter referred to as "the competent supervisory authorities", agree to co-operate in order to discharge their functions and responsibilities in the most effective manner. They also agree to exchange information and to provide mutual assistance to enable better performance of their functions on the basis of principles and procedures prescribed in this memorandum of understanding.

2. This memorandum of understanding is based on the application of the legislation in force which allows the competent supervisory authorities to co-operate and exchange information between them and/or with other supervisory authorities with a view to discharging their functions and responsibilities in a more effective manner.

General Provisions

3. The information exchanged between the competent supervisory authorities shall be exclusively used in the discharge of their functions and responsibilities and is subject to confidentiality rules in the hands of the receiving supervisory authority as apply to the supervisory authority which provides the information on the basis of legislation in force from time to time.

   Confidential information exchanged between the competent supervisory authorities on the basis of the legislation in force may not be disclosed without the express agreement of the competent supervisory authority which disclosed it and, where appropriate, solely for the purposes for which this authority gave its agreement:

   Provided that the Central Bank and the Authority for the Supervision and Development of Cooperative Societies shall not divulge any information relating to any individual deposit account.

Notifications

4. Each competent supervisory authority undertakes to notify to the other competent supervisory authorities every:

   (i) granting or temporary suspension or revocation of licence or rejection of application for the granting of a licence on the basis of their functions.

   (ii) Notification of establishment and/or provision of services on a cross border basis in Cyprus by institutions whose head office is situated in other member states of the European Union.

   (iii) Notification of establishment and/or provision of services on a cross border basis in other states by institutions whose head office is situated in Cyprus.

Exchange of supervisory information
between the competent supervisory authorities.

5. The competent supervisory authorities shall co-operate and exchange information necessary for the exercise of supervision on a consolidated basis.

   Specifically, the competent supervisory authority which is responsible, according to the law, with the duty of exercising consolidated supervision, may request the required information from the other competent supervisory authorities.

Procedure for the exchange of information

6. The competent supervisory authorities shall exchange information aiming at strengthening and facilitating the effectiveness of supervision. This means, in general, that consultations shall take place, orally and/or in writing, whenever such action is considered useful or necessary by the competent supervisory authorities for the accomplishment of their individual or common supervisory goals. The consultations shall take place at a level determined by the Governor of the Central Bank of Cyprus, the Chairman of the Securities Commission, the Superintendent of Insurance and the Commissioner of the Authority for the Supervision and Development of Cooperative Societies. Moreover, the competent supervisory authorities may determine, in their endeavour to discharge their functions and responsibilities more effectively, to exchange additional information in their possession following a specific request. The competent

supervisory authorities agree that matters or problems arising from the application of this memorandum of understanding shall be discussed and resolved in special meetings of the officers mentioned in paragraph 17 or their authorised representatives. At these meetings information shall also be exchanged concerning important changes in the legal framework for the supervision of institutions falling under the jurisdiction of the competent supervisory authorities.

Type of information exchanged

7. The information exchanged between the competent supervisory authorities, for purposes of discharging their functions and responsibilities more effectively, include data necessary for the supervision and control of solvency, liquidity, capital adequacy, concentration of risks, financial results and comparatives, the adequacy of accounting and internal control systems as well as administrative structure and the propriety of shareholders with qualifying holdings as well as the persons responsible of the management of institutions falling under their supervisory competence.

8. The competent supervisory authorities shall undertake the obligation to exchange information concerning persons which have or intend to acquire qualifying holdings in institutions under the supervision of one of the competent supervisory authorities. Moreover, the competent supervisory authorities undertake the obligation to exchange information concerning persons responsible or intending to become responsible for the management of institutions in cases where these persons held or continue to hold a similar position in an institution which falls under the jurisdiction of one of the other competent supervisory authorities.

9. Moreover, the competent supervisory authorities shall exchange information concerning infringements of the code of professional conduct in force from time to time or other relevant code as well as information concerning penalties imposed by the competent supervisory authorities on institutions under their supervision or the shareholders or any officers or persons responsible for the management of these institutions.

10. Furthermore, the competent supervisory authorities shall mutually exchange organograms which include the division of functions and responsibilities between officers of their departmental units.

Co-operation of the Competent Supervisory Authorities with the supervisory authorities of other states

11. The competent supervisory authorities may brief each other regarding the co-operation and exchange of information that they have with supervisory authorities of other states and shall co-operate in cases where the information concerns an institution which falls under the supervision of one of the competent supervisory authorities and which is connected with another institution which falls under the supervision of one of the other competent supervisory authorities.

Co-operation of the Competent Supervisory Authorities in other matters

12. The competent supervisory authorities shall undertake the obligation to co-operate for the preparation of a code of conduct/directives/regulations the scope of which is of relevance to any of the other competent supervisory authorities. Moreover, the competent supervisory authorities shall co-operate, to the extent possible, for the uniform treatment of matters and infringements of the legislation in force where matters of common interest exist, including the Prevention and Suppression of Money Laundering Activities Law.

13. The competent supervisory authorities shall also co-operate in order to prescribe, to the extent possible, uniform returns and information that should be submitted by the institutions under their supervision taking into account their special characteristics.

14. The competent supervisory authorities shall undertake the obligation to brief each other regarding the enactment of new regulatory measures in the filed of capital adequacy of the institutions under their supervision.

Final Provisions

15. The competent supervisory authorities shall undertake the obligation to revise this memorandum of understanding in the light of accumulated experience and future developments in the legislative framework of supervision.

16. For the implementation of co-operation as prescribed in this memorandum of understanding:

(a) High level meetings between the Governor of the Central Bank. the Chairman of the Securities Commission, the Superintendent of Insurance and the Commissioner of the Authority for the Supervision and Development of Cooperative Societies shall be convened on a quarterly basis, and

(b) The following representatives, nominated by the competent supervisory authorities, shall meet on a monthly basis and keep in touch on a daily basis:

1. Nicolaos Karydas (Representative of the Central Bank, Co-ordinator/Chairman)
2. Liana Ioannidou (Representative of the Securities Commission)
3. Melina Katsounotou (Representative of the Insurance Companies' Control Service)
4. Kypros Protopapas (Representative of the Authority for the Supervision and Development of Cooperative Societies)

This memorandum of understanding was done and signed in Nicosia, Cyprus on 10 November 2003 and comes today into effect.

FOR THE CENTRAL BANK OF CYPRUS
THE GOVERNOR

…..………………

FOR THE SECURITIES COMMISSION
THE CHAIRMAN

…..………………

FOR THE INSURANCE COMPANIES' CONTROL SERVICE
THE SUPERINTENDENT OF INSURANCE

…..………………

FOR THE AUTHORITY FOR THE SUPERVISION AND DEVELOPMENT OF COOPERATIVE SOCIETIES
THE COMMISSIONER

…………………….

Note: This is a translation of the Greek original which is the authentic text.

3.6 SPECIAL TECHNICAL COMMITTEE OF THE SUPERVISORY AUTHORITIES: TERMS OF REFERENCE

Terms of reference of the Special Technical Committee of the supervisory authorities of the Cyprus financial sector with regard to the prevention of money laundering and terrorist financing.

1. A Special Technical Committee is set up for the prevention of the use of the financial system for money laundering and terrorist financing activities (hereinafter to be referred to as "Special Technical Committee AML/CFT") in which the Governor of the Central Bank, the Chairman of the Securities Commission, the Superintendent of the Insurance Companies Control Service and the Commissioner of the Authority for the Supervision and Development of Cooperative Societies appoint one representative and one deputy.
2. The representative of the Governor of Central Bank acts as the Coordinator/Chairman of the Special Technical Committee AML/CFT.
3. The representatives in the Special Technical Committee AML/CFT are in contact on a continuous basis and meet quarterly, and in addition, whenever it is deemed necessary by any member of the Special Technical Committee AML/CFT.
4. The Special Technical Committee's role focuses in the following areas:
    i. The identification, discussion and examination of issues that emerge from the relevant EU Directives and Regulations, FATF recommendations and initiatives of other international organisations with the aim of achieving uniformity in new directives/circulars issued to supervised persons as well as a common line of interpretation and treatment;
    ii. Briefing on relevant regulatory and supervisory measures taken by each supervisory authority;
    iii. By taking into account the risks faced in each financial sector, the development, where this is possible, of common practical ways and methods for the uniform application by supervised persons of their obligations for the introduction of measures and procedures for the prevention of money laundering and terrorist financing in accordance with the Prevention and Suppression of Money Laundering Activities Law of 2007(Law 188(I)/2007) and the directives/circulars issued by each supervisory authority;

iv. The joint organization by supervisory authorities of training programs/seminars addressed to officers of the supervisory authorities whose duties include the AML/CFT regulation and supervision as well as to supervised persons with regard to their AML/CFT obligations.

5. The Special Technical Committee AML/CFT ensures that:

   (i) Informative material in relation to the prevention of money laundering and terrorist financing is placed on the website of each supervisory authority.

   (ii) The budget of each supervisory authority includes sufficient sum for training and education in order to fulfill point iv of paragraph 4 above.

6. The Special Technical Committee AML/CFT endeavors to take its decisions unanimously. In cases of disagreement on a particular subject that affects the entire financial sector and requires the adoption of a common approach for treatment by all supervisory authorities, the Special Technical Committee AML/CFT submits to the heads of supervisory authorities a note citing all opinions for a final decision.

7. The Special Technical Committee AML/CFT keeps minutes of its meetings which communicates to the Technical Committee of Supervisory Authorities and submits an annual report of its activities to the heads of supervisory authorities.

13 October 2009

4 ANNEX 4 – LIST OF ALL LAWS, REGULATIONS AND OTHER MATERIAL RECEIVED

Laws

1. Cooperative Societies Laws of 1985 - 2007 (Laws No.22 of 1985, 68 of 1987,190 of 1989, 8 and 22(I) of 1992, 140(I) of 1999 and 140(I) of 2000, 171(I) of 2000, 8(I) of 2001, 123(I) of 2003, 124(I) of 2003, 144(I) of 2003, (I) of 2004, 170 (I) of 2004, 230(I) of 2004, 23(I) of 2005, 49(I) of 2005, 76(I) of 2005, 29(I) of 2007, 37(I) of 2007, 177(I) of 2007)
2. Cooperative Societies Laws (excerpts: article 41H and article 41I)
3. Law No. 110(I) of 2010 on the Suppression of Terrorism (excerpt: Section 8)
4. Law No. 106(I) of 23 October 2009 Law to Amend the Investment Services and Activities and Regulated Markets Law
5. Law No. 188(I) of 2007 (as amended by Law No.58(I) of 2010) on the Prevention and Suppression of Money Laundering and Terrorist Financing Law)
6. Law No. 29 (III) of 2001 of 30 November 2001 To Ratify the International Convention for the Suppression of the Financing of Terrorism, Including Supplementary Provisions for the Immediate Implementation of the Convention
7. Law No. 4212 of 10 July 2009 Regulating the structure, responsibilities, powers, organisation of the securities and exchange commission and other related issues
8. The Real Estate Agents Law No. 273(I) of 2004 and its Amendment No. 118(I) of 2007
9. Unofficial Consolidation And Translation of Laws 66(I) of 1997, 74(I) of 1999, 94(I) of 2000, 119(I) of 2003, 4(I) of 2004, 151(I) of 2004, 231(I) of 2004, 235(I) of 2004, 20(I) of 2005, 80(I) of 2008, 100(I) of 2009 and 123(I) Of 2009 - of 7 December 2009
10. Central Bank of Cyprus Laws of 2002-2007 - unofficial translation and consolidation
11. The Societies and Institutions Laws 1972 and 1997 – English translation and consolidation
12. Clubs Registration Law (21 May 1930)
13. Chapter 41 of the Laws – Charities (1959 Edition)

Directives

14. CySec (Cyprus Securities and Exchange Commission Form) Directive DI144-2007-08 of the Cyprus Securities and Exchange Commission For the Prevention of Money Laundering and Terrorist Financing (2009)
15. CBC (Central Bank of Cyprus) Directive to Banks in Accordance with Article 59(4) of The Prevention And Suppression of Money Laundering Activities Law of 2007 – AML Guidance Note of 2008 (as amended in 2008, and 2009)
16. CBC - Directive to Money Transfer Businesses in Accordance with Article 59(4) of The Prevention And Suppression of Money Laundering Activities Law of 2007 (February 2009)
17. ICPAC Directive to the Members of the Institute of Certified Public Accountants of Cyprus on Prevention of Money Laundering and Terrorist Financing (2008)
18. CBA Directive to the Members of CBA concerning Prevention of Money Laundering and Terrorist Financing (2009)
19. CBC Amendment No 1 to the Directive on the prevention of money laundering and terrorist financing issued on 2 April 2008 of 2 September 2009
20. CBC Amendment No 2 to the Directive on the prevention of money laundering and terrorist financing issued on 2 April 2008 of 17 February 2009
21. CBC Amendment No 3 to the Directive issued by the Central Bank of Cyprus on 2 April 2008 for the prevention of money laundering and terrorist financing of 12 June 2009

Agreements / other – National co-operation

22. [The Central Bank of Cyprus, the Securities Commission, the Insurance Companies' Control Service and the Authority for the Supervision and Development of Cooperative Societies] Memorandum of Understanding between the supervisory authorities of the financial sector of Cyprus
23. Terms of reference of the Special Technical Committee of the supervisory authorities of the Cyprus financial sector with regard to the prevention of money laundering and terrorist financing.

Guidelines

24. MOKAS Guidance Note to Police and Prosecutors (Greek only)
25. ICCS (Insurance Companies Controlling Service) Guidance Note on Orders for Life-Insurance Companies and Life-Insurance Intermediaries in accordance with Article 59(4) of the Prevention and Suppression of Money Laundering Activities Law of 2007
26. MOKAS Guidelines to the members of the Cyprus Jewellers Association (The Prevention and Suppression of Money Laundering Activities and the Financing of Terrorism Law of 2007 (Law No. 188(I)/2007) issued on 18/4/2008
27. MOKAS Guidelines to the members of the Cyprus Estate Agents Registration Council - The Prevention and Suppression of Money Laundering Activities and the Financing of Terrorism Law of 2007 (Law No.188(I)/2007) issued o, 11/10/2007

Judgements

28. Assize Court of Nicosia Case No. 14753/08 of 29 May 2009
29. Assize Court of Limassol Case No. 3070/08 of 27 May 2009

Statistics

30. Money Laundering Cases investigated by the Police for the years 2006-2009
31. Table: Law enforcement statistics of 5 May 2010
32. Table: Statistics on internal money laundering reports
33. Table: References to Legislative Provisions
34. The Egmont Group Biennial Census 2009

Forms / others

35. CYSEC Form 144-03-01 - application for the granting of a CIF authorisation
36. CYSEC Form 144-03-02 – Questionnaire
37. CBC Form - application for the granting of authorisation as a payment institution under Section 7(1) of the Payment Services Law of 2009
38. ICCS Licensing Questionnaire
39. KYC sample questionnaire
40. CYSEC Professional Intermediary Questionnaire On Anti Money laundering And Counteracting Trustiest Financing Procedures
41. Questionnaire for monitoring lawyers during onsite inspections
42. Sample questionnaire for completion by clients to register a private company in Cyprus
43. Law on Insurance Services and other Related Issues of 2002-2005 - analysis
44. Declaration By Professional Intermediary And/Or Registered Shareholder/S