



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

MONEYVAL(2010)1 REV ANN

Ukraine

Progress report – *Annexes* ¹

27 September 2010

¹ First 3rd Round Written Progress Report Submitted to MONEYVAL

Ukraine is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 33rd Plenary meeting (Strasbourg, 27 September – 1 October 2010). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2010)32) at <http://www.coe.int/moneyval>.

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APPENDIX IV – Relevant legislation (excerpts)

LIST OF NORMATIVE AND LEGAL ACTS

1. Criminal Code of Ukraine (extract);
2. Criminal Procedure Code of Ukraine (extract);
3. Code of Administrative Offences of Ukraine (extract);
4. Law of Ukraine on Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing as of 18.05.2010 No 2258 (enters into force of August 21, 2010);
5. Law Of Ukraine On Financial Services and State Regulation of Financial Markets;
6. Law of Ukraine On Securities and Stock Market;
7. Law Of Ukraine On Banks and Banking;
8. Law of Ukraine On Fight Against Terrorism;
9. Law of Ukraine On Responsibility of Legal Persons for Corruption Offences as of June 11,2009 No1507-VI;
10. Law of Ukraine On Prohibition of Gambling in Ukraine;
11. Resolution of the Cabinet of Ministers of Ukraine On approval of Order of registration of financial transactions by the reporting entities as of April 26, 2003 No 644;
12. Resolution of the Cabinet of Ministers of Ukraine On Adopting the Procedure of Composing of the List of Persons Related to Terrorist Activities or with Regard to Whom International Sanctions are Applied as of August 18, 2010 No 745;
13. Resolution of the Cabinet of Ministers of Ukraine On approval of Procedure of Submitting Information Concerning Client Identification by State Authorities on Request of Reporting Entity as of August 25, 2010 No 746;
14. Resolution of the Cabinet of Ministers of Ukraine On Some Issues of Financial Monitoring Organization as of August 30, 2010 No 747;
15. Resolution of the Cabinet of Ministers of Ukraine On Procedure for Providing Information by State Authorities on Financial Transactions to the State Committee for Financial Monitoring as of August 25, 2010 No 759;
16. Resolution of the Cabinet of Ministers of Ukraine On Procedure of Determination of Countries (Territories) that do not Address or Improperly Address Recommendations of AML/CFT International, Intergovernmental Organizations as of August 28, 2010 No 765;
17. Resolution of the Cabinet of Ministers of Ukraine On approval of Procedure of submitting information to the State Committee for Financial Monitoring by business entities, enterprises, institutions, organizations, which are not reporting entities as of August 30, 2010 No 775;
18. Resolution of the Cabinet of Ministers of Ukraine as of December13, 2004 No 899-p;
19. Resolution of the Board of the National Bank of Ukraine of 17.03.2004, No 108;
20. Resolution of the Board of the National Bank of Ukraine of 14.05. 2003, No 189;
21. Resolution of the Board of the National Bank of Ukraine of September 25, 2007 No 348;
22. Resolution of the Cabinet of Ministers of Ukraine and National Bank of Ukraine 21.10.2009 No 1119 On Adoption of the AML/CTF Action Plan for 2009-2010;
23. Resolution of the Plenary Supreme Court Of Ukraine as of April 15, 2005 No 5;
24. Order of the State Committee for Financial Monitoring of Ukraine on October 15, 2009 No 147 (extract).
25. Order of the State Committee for Financial Monitoring of Ukraine No 84 (extract).

CRIMINAL CODE OF UKRAINE

*with amendments and supplements, introduced by the Laws of Ukraine
of January 17, 2002 No. 953-III, OBY, 2002, No. 7,*

*...
of July 07, 2010 No. 2453-VI, OBY, 2006, No. 13,*

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

1. Citizens of Ukraine and stateless persons permanently residing in Ukraine, who have committed crimes outside Ukraine, shall be criminally liable under this Code, unless otherwise provided by the international treaties of Ukraine, the consent to the binding effect of which has been granted by the Verkhovna Rada of Ukraine.

2. If the persons referred to in the first paragraph of this Article underwent criminal punishment for the committed crimes outside Ukraine, they shall not be criminally liable for these crimes in Ukraine.

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

Foreign nationals or stateless persons not residing permanently in Ukraine, who have committed criminal offences outside Ukraine, shall be criminally liable in Ukraine under this Code in such cases as provided by the international treaties, or if they have committed any of the especially dangerous crimes against rights and liberties of Ukrainian citizens or interests of Ukraine as prescribed by this Code.

Article 9 Legal consequences of conviction outside Ukraine

1. A judgment passed by a foreign court may be taken into account where a citizen of Ukraine, a foreign national, or a stateless person have been convicted of a criminal offence committed outside Ukraine and have committed another criminal offence on the territory of Ukraine.

2. Pursuant to the first paragraph of this Article, the repetition of criminal offences, or a sentence not served, or any other legal consequences of a judgment passed by a foreign court shall be taken into account in the classification of any new criminal offence, determination of punishment, in the discharge from criminal liability or punishment.

Article 15 Criminal attempt

1. A criminal attempt shall mean a directly intended act (action or omission) made by a person and aimed directly at the commission of a criminal offence prescribed by the relevant article of the Special Part of this Code, where this criminal offence has not been consummated for reasons beyond that person's control.

2. A criminal attempt shall be consummated where a person has completed all such actions as he/she deemed necessary for the consummation of an offence, however, the offence was not completed for the reasons beyond that person's control.

3. A criminal attempt shall be unconsummated where a person has not completed all such actions as he/she deemed necessary for the consummation of an offence for the reasons beyond that person's control.

Article 16 Criminal liability for an unconsummated criminal offence

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

Article 26 The notion of complicity

Criminal complicity is the wilful co-participation of several criminal offenders in an intended criminal offence.

Article 27 Types of accomplices

1. Organizer, abettor and accessory, together with the principal offender, are deemed to be accomplices in a criminal offence.
2. The principal (or co-principal) is the person who, in association with other criminal offenders, has committed a criminal offence under this Code, directly or through other persons, who cannot be criminally liable, in accordance with the law, for what they have committed.
3. The organizer is a person who has organized a criminal offence (or criminal offences) or supervised its (their) preparation or commission. The organizer is also a person who has created an organized group or criminal organization, or supervised it, or financed it, or organized the covering up of the criminal activity of an organized group or criminal organization.
4. The abettor is a person who has induced any other accomplice to a criminal offence, by way of persuasion, subornation, threat, coercion or otherwise.
5. The accessory is a person who has facilitated the commission of a criminal offence by other accomplices, by way of advice, or instructions, or by supplying the means or tools, or removing obstacles, and also a person who promised in advance to conceal a criminal offender, tools or means, traces of crime or criminally obtained things, to buy or sell such things, or otherwise facilitate the covering up of a criminal offence.
6. The concealment of a criminal offender, tools or means of a criminal offence, traces of crime or criminally obtained things, or buying or selling such things shall not constitute complicity where they have not been promised in advance. Persons who have committed such acts shall be criminally liable only in cases prescribed by Articles 198 and 396 of this Code.
7. A promised failure to report a crime which is definitely known to be in preparation or in progress, prior to the consummation of such, shall not constitute complicity. Any such person shall be criminally liable only if the act so committed comprises the elements of any other criminal offence.

Article 63 Imprisonment for a determinate term

1. The punishment of imprisonment consists in confinement of a convicted person and placing him or her in a penitentiary institution for a determinate period of time.
2. Imprisonment shall be imposed for a term of one to fifteen years, excluding those cases, which are determined by the General Part of this Code

Article 64 Life imprisonment

1. The punishment of life imprisonment is imposed for special grave offences and shall apply only in cases specifically provided for by this Code, where a court does not find it possible to impose imprisonment for a determinate term.
2. Life imprisonment shall not be imposed on persons who committed offences under 18 years of age and to persons over 65 years of age, and women who were pregnant at the time of offence or at the time of sentencing

Article 191 Misappropriation, embezzlement or conversion or property by malversation

1. Misappropriation or embezzlement of somebody else's property by a person to whom it was entrusted shall be punishable by a fine up to 50 tax-free minimum incomes, or correctional labour for a term up to two years, or restraint of liberty for a term up to four years, or imprisonment for a term up to four years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.
2. Misappropriation, embezzlement or conversion of property by malversation - shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.
3. Any such actions as provided for by paragraph 1 or 2 of this Article, if repeated or committed by a group of person upon their prior conspiracy, - shall be punishable by restraint of liberty for a term of three to five years, or imprisonment for a term of three to eight years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.
4. Any such actions as provided for by paragraphs 1, 2 or 3 of this Article, if committed in respect of a gross amount, - shall be punishable by imprisonment for a term of five to eight years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.
5. Any such actions as provided for by paragraphs 1, 2, 3 or 4 of this Article, if committed in respect of an especially gross amount, or by an organized group, - shall be punishable by imprisonment for a term of seven to twelve years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of property.

Article 192 Infliction of property damage by deceit or breach of confidence

1. Infliction of significant property damage by deceit or breach of confidence but without elements of fraud, - shall be punishable by a fine up to 50 tax-free minimum incomes, or by community service for a term up to 240 hours, or correctional labour for a term up to two years, or arrest for a term up to six months.
2. The same actions committed by a group of persons upon their prior conspiracy, or where these actions caused property damage in respect of a gross amount, - shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or restraint of liberty for a term up to three years.

Note: For the purposes of this Article, property damage is held to be significant where it exceeded 50 tax-free minimum incomes, and is held to be inflicted in respect of a gross amount where it exceeded 100 tax-free minimum incomes.

Article 205 Sham business

1. Sham business, that is the establishment or acquisition of businesses entities (legal entities) to cover illegal activities or engage in prohibited types of business, - shall be punishable by a fine of 300 to 500 tax-free minimum incomes, or restraint of liberty for a term up to three years.
2. The same acts, if repeated or where they caused a significant pecuniary damage to the State, a bank, lending institution, other legal entities or citizens, - shall be punishable by imprisonment for a term of three to five years.

Note: Pecuniary damage inflicted upon individuals is significant where it equals or exceeds 200 tax-free minimum incomes, whereas pecuniary damage inflicted upon the State or a legal entity is significant where it equals or exceeds 1000 tax-free minimum incomes.

Article 207 Evasion to return foreign currency proceeds

1. Wilful evasion of officials of enterprises, institutions and organisations of any ownership status or of unincorporated entrepreneurs to return to Ukraine, within time limits prescribed by the law, of any foreign currency proceeds gained from export sale of goods (work, services), or any other material values acquired for such proceeds, as well as wilful concealment in any manner of such proceeds, goods or other material values

- shall be punished by a fine of from 600 to 1,000 tax-free minimum incomes of citizens, or correctional labour for a term up to two years or limitation of liberty for a term up to three years.

2. The same acts, committed repeatedly or by a group of persons upon their prior conspiracy, as well as wilful evasion to return foreign currency proceeds, or goods or any other material values acquired for such proceeds, and wilful concealment in any manner of such proceeds, goods or other material values in respect of grand amounts

- shall be punished by limitation of liberty for a term of from three to five years or deprivation of liberty for a term up to three years.

3. Acts provided for by paragraph 1 or 2 of this Article, if committed in respect of especially grand amounts

- shall be punished by deprivation of liberty for a term of from three to seven years.

Note:

(1) Evasion to return foreign currency proceeds, or goods or any other material values acquired for such proceeds, and concealment in any manner of such proceeds, goods or other material values is considered be committed in respect of grand amounts where the value of such proceeds, or goods or other material values equals or exceeds 1,000 tax-free minimum incomes of citizens (as calculated in the Ukrainian currency on the basis of the official exchange rate of the national currency established by the National Bank of Ukraine for the last day of the legally prescribed time limit for the transfer of foreign currency proceeds from abroad).

(2) Evasion to return foreign currency proceeds, or goods or any other material values acquired for such proceeds, and concealment in any manner of such proceeds, goods or other material values is considered be committed in respect of especially large amounts where the value of such proceeds, or goods or other material values equals or exceeds 3,000 tax-free minimum incomes of citizens (as calculated in the Ukrainian currency on the basis of the official exchange rate of the national currency established by the National Bank of Ukraine for the last day of the legally prescribed time limit for the transfer of foreign currency proceeds from abroad).

Article 209. Legalization (laundering) of the proceeds from crime

1. Conduct of a financial transaction or other deal involving money or other property obtained as the result of a socially dangerous illicit act that preceded the legalization (laundering) of proceeds, or other actions for the purpose of concealing or disguising the illegal origin of such money or other property, or their possession, or titles to such money or property, or sources of their origin, location or movement, as well as acquisition, possession or use of money or other property obtained as the result of a socially dangerous illicit act that preceded the legalization (laundering) of proceeds, – shall be punishable by imprisonment for a term of three to six years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, and the confiscation of the money or property obtained illegally, and the confiscation of property.

2. Any actions as provided for by paragraph 1 of this Article, if repeated, or committed by a group of persons upon prior conspiracy, or with regard to large amounts, – shall be punishable by imprisonment for a term of seven to twelve years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and the confiscation of the money or property obtained illegally, and the confiscation of property.

3. Any actions as provided for by paragraphs 1 or 2 of this Article, if committed by an organized group of persons or with regard to especially large amounts, – shall be punishable by imprisonment for a term of eight to fifteen years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and the confiscation of the money or property obtained illegally, and the confiscation of property.

Note: 1. Socially dangerous illicit act that precedes the legalization (laundering) of proceeds from crime – shall mean the activity (except for the activity provided for by Articles 207, 212 and 212-1 of the Criminal Code of Ukraine) for which the Criminal Code of Ukraine provides the punishment in a form of imprisonment or activity conducted outside Ukraine if it is recognized as a crime by a Criminal Law of country where it was committed, and is a crime under Criminal Code of Ukraine and resulted in illegal proceeds;

2. The legalization (laundering) of the proceeds from crime is considered committed with regard to large amounts, if it involves money or other property amounting to more than 600 untaxed minimum incomes of citizen.

3. The legalization (laundering) of proceeds from crime is considered committed with regard to especially large amounts, if it involves money or other property amounting to more than 1800 minimum untaxed minimum incomes of citizen.”

4. The property subject to confiscation includes the proceeds from crime or other property of the similar cost if it is impossible to confiscate the subject of crime.

Article 209¹ Intentional violation of AML legislation

1. Intentional failure to submit, untimely submission or submission false information on financial transactions which according to the law are subject to financial monitoring to the specially authorized central agency of executive power on financial monitoring issues, if it caused essential damage to the rights, freedoms or interests of individual citizens, state or public interests or interests of individual legal persons protected by law, -

shall be punishable by fine at the rate of 1000 to 2000 tax-free minimum incomes of citizen or deprivation liberty up to 2 years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years.

2. Any disclosure of information which according to the law is submitted to the specially authorized central agency of executive power on financial monitoring issues, by a person which received this information in the course of professional or service activity, if it caused essential damage to the rights, freedoms or interests of individual citizens, state or public interests or interests of individual legal persons protected by law, -

shall be punishable by fine at the rate of 2000 to 3000 tax-free minimum incomes of citizen or deprivation liberty up to 3 years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years.”;

Article 212 Evasion of taxes, fees or other compulsory payments

1. Wilful evasion of taxes, fees (compulsory payments) which are part of the taxation system established by the law, by an official of an enterprise, institution or organization of any ownership status, or by any unincorporated entrepreneur, or by any other person liable to pay such taxes where such actions resulted in actual non-receipt of significant amounts of funds by budgets or special state funds, - shall be punishable by a fine of 300 to 500 tax-free minimum incomes of citizens, or deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. The same actions, committed by a group of persons upon their prior conspiracy, or where they resulted in actual non-receipt of grant amounts of funds by budgets or special state funds,

-shall be punishable by a fine of 500 to 2000 tax-free minimum incomes of citizens, or correctional labour for a term of two years, or restraint of liberty for a term of five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

3. Actions provided for by paragraph 1 or 2 of this Article, if committed by a person previously convicted of evasion of taxes, fees (compulsory payments), or where they resulted in actual non-receipt of especially grant amounts of funds by budgets or special state funds,

-shall be punishable by imprisonment of from five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and with the confiscation of property.

4. A person who committed an act provided for by paragraphs 1 and 2 of this Article for the first time shall be discharged from criminal liability if he/she paid taxes, fees (compulsory payments) and indemnified the State for the damage caused by late payment (fiscal penalties, fines).

Note: A grant amount of funds means any amount of taxes, fees or other compulsory payments which equals or exceeds 1000 tax-free minimum incomes of the citizen as established by the law; a large amount of funds means any amount of taxes, fees or other compulsory payments which equals or exceeds 3000 tax-free minimum incomes as established by law; an especially grant amount means any amount of taxes, fees or other compulsory payments which equals or exceeds 5000 tax-free minimum incomes as established by the law.

Article 212¹ Evasion of insurance payments for compulsory state retirement insurance

1. Wilful evasion of insurance payments for compulsory state retirement insurance by an official of an enterprise, establishment or organization of any ownership status, or by any unincorporated entrepreneur, or by any other person liable to pay it, where such actions resulted in actual non-receipt of significant amounts of funds by Retirement fund of Ukraine,

-shall be punished by a fine of 300 to 500 tax-free minimum incomes, or deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. The same actions, if committed by a group of persons upon their prior conspiracy, or where they resulted in actual non-receipt of large amounts of funds by Retirement fund of Ukraine,

-shall be punished by a fine of 500 to 2000 tax-free minimum incomes, or correctional labour for a term of two years, or limitation of liberty for a term of five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

3. Actions as provided for by paragraph 1 or 2 of this Article, if committed by a person previously convicted of evasion of insurance payments for compulsory state retirement insurance, or where they resulted in actual non-receipt of especially large amounts of funds by Retirement fund of Ukraine,

-shall be punished by imprisonment of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and with the confiscation of property.

4. A person who committed an act provided for by paragraphs 1 and 2 of this Article for the first time shall be discharged from criminal liability if he/she paid insurance payments for compulsory state retirement insurance and indemnified the State for the damage caused by late payment (fiscal penalties, fines).

Note: A significant amount of funds means any amount of taxes insurance payments for compulsory state retirement insurance which equals or exceeds 1000 tax-free minimum incomes of the citizens as established by law; a large amount of funds means any amount insurance payments for compulsory state retirement insurance which equals or exceeds 3000 tax-free minimum incomes as established by law; an especially large amount means any amount insurance payments for compulsory state retirement insurance which equals or exceeds 5000 tax-free minimum incomes as established by law.

Article 232¹ Illegal use of insiders' information

1. Illegal use of insiders' information, committed by a person who obtains such information, involving significant loss-making, - shall be punishable by a fine of 750 to 2000 tax-free minimum incomes of the citizen, or limitation of liberty for a term up to three years, with or without deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without applying such functions.

2. The same actions, if repeated, or involving great loss-making, - shall be punishable by a fine of 2000 to 3000 tax-free minimum incomes, or restraint of liberty for a term of two to five years, with or without deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without applying such functions.

Note. (1) Significant loss-making in this Article, if it is causing material damage, shall be damage that equals or exceeds 500 tax-free minimum incomes of the citizens.

(2) Grant consequences in this Article if it is causing material damage, shall be damage that equals or exceeds 1000 tax-free minimum incomes of the citizens.

Article 258 Act of terrorism

1. An act of terrorism, namely use of weapons, committing explosion, arson or any other actions that exposed human life or health to danger or caused significant material damage or other harmful consequences, where such actions were committed with a purpose of public security violation, intimidate population, military conflict provocations, international complication, or to exert influence on decisions made or actions taken or not taken by state authorities or local state authorities, officials and of such bodies, citizens associations, legal entities, or to attract attention of the public to certain political, religious or any other convictions of the culprit (terrorist), and also a threat to commit any such acts for the same purposes

- shall be punished by deprivation of liberty for a term of from five to ten years.

2. The same acts, committed repeatedly or by a group of persons upon their prior conspiracy, or where these actions have caused significant property damage or other grave consequences

- shall be punished by deprivation of liberty for a term of from seven to twelve years.

3. Acts provided for by paragraph 1 or 2 of this Article, where they have caused death of people

- shall be punished by deprivation of liberty for a term of from ten to fifteen years or life deprivation of liberty

4. Excluded

5. Excluded

Article 258¹ Involvement in commitment of terrorist act

1. Implication of a person in commitment of a terrorist act or coercion to commitment of a terrorist act using deception, extortion, using vulnerable condition of a person, or use of threats of violence

–shall be punished by imprisonment for a term of three to five years.

2. Actions, envisaged by the part 1 of this Article, committed with regard to several persons or repeatedly, as well as in prior conspiracy by a group of persons, or by an official person with using official position,

– shall be punishable by deprivation of liberty for a term of from four to seven years.

Article 258² Public exhortations to commit a terrorist act

1. Public exhortations to commit a terrorist act, as well as distribution, production or keeping with the purpose of distribution of materials with such exhortations

– shall be punishable by correctional labour for a term of 2 years or imprisonment for a term of 6 months, or the limitation of liberty for a term up to 3 years, or the deprivation of liberty for the same term.

2. The same actions, committed using mass media,

–shall be punishable by limitation of liberty for a term of 4 years or exhortations 5 years with deprivation of the right to occupy certain positions or engage in certain activities for the period up to 3 years.

Article 258³ Creation of a terrorist group or terrorist organization

1. Establishment of a terrorist group or terrorist organization, leadership in such group or organisation or participation in it, as well as material, organizational or other assistance in creation or activity of terrorist group or terrorist organization – shall be punishable by deprivation of liberty for a term of from 8 to 15 years.

2. A person, except organizer and leader of terrorist group or terrorist organisation, who voluntarily informed law enforcement authority about relevant terrorist activity, contributed to its termination or detection of crimes, committed with regard to establishment or activity of such group or organisation, if there is no corpus delicti of other crime in its actions, shall be released from criminal responsibility for actions envisaged by part 1 of this Article.

Article 258⁴ Contribution in commitment of a terrorist act

1. Recruiting, financing, material support, armament, training of a person with the purpose of commitment a terrorist act, as well as use of person with this purpose
– shall be punishable by imprisonment for a term of from 3 to 8 years.
2. The same actions, committed with regard to several persons or repeatedly, or by prior conspiracy by a group of persons, or by an official person with using official position,
– shall be punishable by deprivation of liberty for a term of from 5 to 10 years.

Article 258⁵. Terrorist Financing

1. Terrorist financing, namely acts committed with the aim of financial or material provision of individual terrorist or terrorist group (organization), organization, preparation or commitment of the terrorist act, involvement into commitment of the terrorist act, public calls to commit terrorist act, assistance in commitment of the terrorist act, creation of terrorist group (organization), -
shall be punishable by imprisonment for a term of 5 to 8 years with deprivation of the right to occupy certain positions or engage in certain activity for a term up to 2 years and with confiscation of property.
 2. The same action repeated or conducted for mercenary reasons or in prior agreement by a group of persons or in large amounts or if they resulted in significant property damage, –
shall be punishable by imprisonment for a term of 8 to 10 years with deprivation of the right to occupy certain positions and engage in certain activity for a term up to 3 years and with confiscation of property.
 3. Actions, envisaged by part one or two of this Article, committed by an organized group or in especially large amounts, or resulted in other dangerous effects, –
shall be punishable by imprisonment for a term of 10 to 12 years with deprivation of the right to occupy certain positions or engage in certain activity for a term up to 3 years with confiscation of property.
 4. A person, except organizer or manager of terrorist group (organization), shall be exempted from criminal liability for the actions envisaged by this Article if before bringing to criminal liability he willingly informed on certain terrorist activity or in another way promoted its suspension or prevention of crime he financed or assisted, provided there is no other corpus delicti in his actions.
- Note.** 1. Terrorist financing is deemed to be committed in large amounts, if the value of financial or material provision exceeds 6000 tax-free minimum incomes of citizen.
2. Terrorist financing is committed in especially large amounts, if the value of financial or material provision exceeds 18000 tax-free minimum incomes of citizen.

Article 306 Use of Funds Generated from Illegal Circulation of Narcotics, Psychotropic Substances, their Analogues or Precursors

1. Deposit of money obtained as the result of illegal circulation of narcotics, psychotropic substances, their analogues or precursors, in banks, enterprises, establishments, organizations and their subsidiaries, or use of such money for purchase of objects or property subject to privatization, or of equipment for manufacturing or other purposes, or use of such proceeds (funds and property) for continuation illegal circulation of narcotics, psychotropic substances, their analogues or precursors,
- shall be punished by deprivation of liberty for the term of from 5 to 12 years with deprivation of the right to occupy certain positions or perform certain activities for the term up to three years and with forfeiting of funds or other property from crime and with confiscation of property.
 2. Actions provided by part 1 of this article committed repeatedly or by prior conspiracy of a group of persons, or with regard to large amounts, - shall be punished by deprivation of liberty for the term of from eight to fifteen years with deprivation of the right to occupy certain positions or perform certain activities for the term up to three years and with confiscation of property.
- Note.** Large amount shall be understood as funds, the amount of which is two hundred and more untaxed minimum incomes of the citizens.

Article 364 Abuse of authority or office

1. Abuse of authority or office, that is a wilful use of authority or official position contrary to the official interests by an official for mercenary motives or other personal benefit or benefit of any third persons, where it caused any substantial damage to legally protected rights, freedoms and interests of individual citizens, or state and public interests, or interests of legal entities, -

shall be punishable by correctional labour for a term up to two years, or arrest for a term up to six months, or restraint of liberty for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years together with fine of 250 to 750 tax-free minimum incomes.

2. The same act that caused any grave consequences, -

shall be punishable by imprisonment for a term of three to six years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years together with fine of 500 to 1000 tax-free minimum incomes.

3. Any such actions as provided for by paragraph 1 or 2 of this Article, of committed by a law enforcement officer, -

shall be punishable by imprisonment for a term of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of property.

Note:

1. For the purposes of the Articles 364, 365, 368, 368¹, 369 of this Code, officials shall mean persons who permanently, temporary or under special authority represent public authorities or self-governing authorities, and also permanently or temporary occupy positions in state bodies, self-governing bodies, state or communal enterprises, institutions or organizations, which are related to organizational, managerial, administrative and executive functions, or are specifically authorized to perform such functions by authorized body of state power, self – governing, central state body with special status, authorized body or official of enterprise, institution, organization, court or by law.

2. Officials shall also mean officials of foreign countries (persons who occupy positions in legislative, executive, administrative or judicial body of foreign country, as well as other persons who execute state functions of foreign country, in particular for state body or state enterprise), and officials of international organizations (employees of international organizations or persons authorized by international organization to act on behalf of it).

3. For the purposes of Articles 364, 365 and 367, substantial damage with reference to any pecuniary losses shall mean any damage that equals or exceeds 100 tax-free minimum incomes.

4. For the purposes of Articles 364 to 367, grave consequences with reference to any pecuniary losses shall mean any such consequences that equal or exceed 250 tax-free minimum incomes.

Article 365 Excess of authority or official powers

1. Excess of authority or official powers, that is a wilful commission of acts, by an official, which patently exceed the rights and powers vested in him/her, where it caused any substantial damage to the legally protected rights and interest of individual citizens, or state and public interests, or interests of legal entities, -

shall be punishable by the correctional labour for a term up to two years, or restraint of liberty for a term up to five years, or imprisonment for a term of two to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years together with fine of 250 to 500 tax-free minimum incomes.

2. Excess of authority or official powers accompanied with violence, use of weapons, or actions that caused pain or were derogatory to the victim's personal dignity, -

shall be punishable by imprisonment for a term of three to eight years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years together with fine of 500 to 1000 tax-free minimum incomes.

3. Any such actions as provided for by paragraph 1 or 2 of this Article, if they caused any grave consequences, -

shall be punishable by imprisonment for a term of seven to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years together with fine of 750 to 1500 tax-free minimum incomes.

Article 368 Taking a bribe

1. Taking a bribe of any kind, by an official, in return for taking or refraining from any action for the benefit of the person that gave the bribe or for the benefit of any third person by means of authority or official powers entrusted in this official, -

shall be punishable by a fine of 750 to 1500 tax-free minimum incomes, or imprisonment for a term of two to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. Taking a bribe of gross amount by an official who occupies a responsible position, or by a group of persons upon their prior conspiracy, or if repeated, or accompanied with requests of a bribe, -

shall be punishable by imprisonment for a term of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and confiscation of property.

3. Receiving a bribe in especially great amount by an authorized person in especially responsible position, - is punishable by the imprisonment for a term of eight to twelve years with the forfeiture of property and with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and confiscation of property.

Note: 1. A bribe of gross amount shall mean a bribe that equals or exceeds 200 tax-free minimum incomes, and a bribe of especially gross amount shall mean a bribe that equals or exceeds 500 tax-free minimum incomes.

2. Officials who occupy responsible positions shall mean persons referred to in paragraph 1 of the Note to Article 364, whose positions pursuant to Article 25 of the Law of Ukraine "On Civil Service" are referred to the third, fourth, fifth and sixth categories, and also judges, prosecutors and investigators, heads and deputy heads of government and public agencies, local government organs, their divisions and units. Officials who occupy especially responsible positions shall mean persons referred to in paragraph 1 of Article 9 of the Law of Ukraine "On Civil Service" and persons whose positions are referred to the first and second categories pursuant to Article 25 of this Law.

3. For the purposes of Articles 368 and 369 of this Code, a repeated offence shall mean an offence committed by a person who had previously committed any of the criminal offences created by these articles, and articles 235⁴ and 235⁵ of this Code.

4. Request of a bribe shall mean a demand of a bribe by an official accompanied with a threat to take or refrain from any actions through abuse of authority or official position, which may cause any harm to the rights and legal interests of the person who gives the bribe, or wilful creation of conditions, by an official, in which a person is compelled to give a bribe to prevent any harmful consequences to his/her rights and legal interests.

Article 387 Disclosure of information on pre-trial investigation or inquiry

1. Disclosure of information on preliminary investigation or inquiry by a person who was notified, in a manner prescribed by law, of his/her obligation not to disclose any such information, provided that this disclosure was not authorized by a prosecutor, investigator, or a person who conducted inquiry or pre-trial investigation, -

shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or correctional labour for a term up to two years.

2. Disclosure of information on preliminary investigation or inquiry by a judge, prosecutor, investigator, inquiry officer, detective officer, whether or not this person was directly involved in such pre-trial investigation or inquiry, where this information defames a person, derogates his/her honour and dignity, -

shall be punishable by a fine of 100 to 300 tax-free minimum incomes, or correctional labour for a term up to two years, or arrest for a term up to six months, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

CRIMINAL PROCEDURE CODE OF UKRAINE

*with amendments and supplements, introduced by
the Decrees of the Presidium of the Verkhovna
Rada of Ukrainian SSR as of June 27, 1961*

...

*with amendments and supplements, introduced by Law of Ukraine as
of July 07, 2010 No. 2453 - VI*

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

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

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

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

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

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

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

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

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

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

CODE OF ADMINISTRATIVE OFFENCES OF UKRAINE

*The Code entered into force as of June 1, 1985
with amendments and supplements, introduced by
the Decree of the Presidium of the Parliament of Ukraine
No. 102-11 dated 12.04.85, BBP 1985*

...
*with amendments and supplements, introduced by the Laws of Ukraine
of July 07, 2010 No. 2479-IV*

Article 163⁸. Manipulation of prices during carrying out of securities transactions

Illegal influence of official of participant of stock market on market price of securities on the organization stock market in the interests of such participant or third parties as a result of which obtaining or sale of such securities is conducted under the other prices, than those that would exist under an absence of such illegal influence, -

shall be imposed with fine from 100 up to 500 untaxed minimum of citizens incomes.

The same action committed by group of persons or by person that during a year subjected to administrative sanction for offence provided for by the part 1 of the current Article, -

Shall be imposed with fine from 500 up to 1000 untaxed minimum of citizens incomes.

Article 163⁹. Illegal use of insider information

Illegal use of insider information by a person possessing it, -

Shall be imposed with fine from 500 up to 750 untaxed minimum of citizens incomes.

(The Law of the Parliament of Ukraine as of December 25, 2008, № 801-VI On Introducing Amendments to Some Legal acts of Ukraine on Responsibility for Infringement on Securities Market)

Article 166⁹ Breach of the anti-money laundering law (the law on prevention and combating of legalization of proceeds of crime)

Violation of requirements on identification and financial activity verification of person conducting financial transaction; failure to submit, untimely submission or submission false information on financial transactions subject to financial monitoring to the specially authorized central agency of executive power on financial monitoring issues; failure to submit, untimely submission of additional information on financial transactions subject to financial monitoring under request of the specially authorized central agency of executive power on financial monitoring issues; violation of requirements on recordkeeping related to identification and financial activity verification of person conducting financial transaction, and conducted financial transactions; failure to report the specially authorized central agency of executive power on financial monitoring issues on suspension financial transaction if the participant or beneficiary included to the list of person related to terrorist activity or internationally sanctioned, -

shall be punishable by a penalty imposed on reporting entities officials, citizens – business entities at the rate of 100 to 200 tax-free minimum incomes of citizen.

Failure to submit, untimely submission or submission of false information related to analysis of financial transactions subject to financial monitoring, notes and copies of documents (including bank and commercial secrecy) on the request of the specially authorized central agency of executive power on financial monitoring issues –

shall be punishable by a penalty imposed on officials of the institutions, enterprises and organizations, citizens – business entities which are not a reporting entities at the rate of 100 to 200 tax-free minimum incomes of citizen.

Any disclosure of information which according to the Law shall be subject to exchange between the reporting entity and specially authorized central agency of executive power on financial monitoring issues or the fact of submission (receiving) such information by the persons aware of such information during their professional or service activity, –

Article 188³⁴ Failure to execute legal requirements of the state financial monitoring entities officials

Failure to execute legal requirements of the officials of the state authorities to address violations of AML/CTF legislation or putting obstacles to execute their duties – shall be punishable by a penalty imposed on reporting entities officials, citizens – business entities at the rate of 100 to 200 tax-free minimum incomes of citizen.

Article 221. District, district in cities, town and inter town courts (judges)

Judges of district, district in cities, town and intertown courts shall consider cases on administrative offences, provided for by Articles 160, 160², 162, 163¹ - 163⁴, 164, 164³, 164⁵ - 164¹⁴, 166¹ - 166⁴, 166⁷ - 166¹², 173 - 173², 174, 177², and Articles 184 - 185¹¹, 186⁵ - 188¹, 188¹³, 188¹⁴, 188¹⁶, 188¹⁷, 188¹⁹, 188²², 188²⁵, 188²⁷, 188²⁸, 188³¹, 188³², 188³⁴, 188³⁵, of this Code as well as cases on administrative offences perpetrated by 16-18 year old persons.

Article 244-17. State Securities and Stock Market Commission

State Securities and Stock Market Commission shall consider cases on administrative offences related to violation of the legislation in securities market (Articles 163, 163-5 – 163-11, 188-30). Head of State Securities and Stock Market Commission, members of Commission, Heads of territorial agencies of the Commission are authorized to consider cases on administrative offences and impose administrative sanctions on behalf of State Securities and Stock Market Commission.

Article 255. Persons, authorized to draw up statements administrative offences

In cases of administrative offences, considered by the authorities designated by the Articles 218 – 221 of the Code, statements on administrative offences can be drawn up by:

1) authorized officials:

...

of specially authorized executive power agency on financial monitoring issues (article 166⁹, 188³⁴)

...

In cases of administrative offences, considered by the authorities designated by the Articles 222 – 244¹⁸ of this Code, statements on administrative offences can be drawn up by authorized officials of stated agencies.

Annex 4

LAW OF UKRAINE

on Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing

This Law shall protect rights and legitimate interests of citizens, society and state by means of determination of the legal mechanism for prevention and counteractions to legalization (laundering) of the proceeds from crime or terrorist financing as well as ensure development of national, multisource analyst information providing Ukrainian and foreign law-enforcement agencies to detect, verify and investigate offences related to money laundering and other illegal financial transactions.

Chapter I. GENERAL PROVISIONS

Article 1. Definitions

1.

The following definitions shall be used in the current Law:

1)

Proceeds from crime – shall mean any economic benefit resulting from the commitment of a socially dangerous illicit act that precedes the legalization (laundering) of proceeds, that may consist of material property, or property in titles, as well include movable or immovable property, and documents that confirm the title to such property or a share in it;

2)

Socially dangerous illicit act that precedes the legalization (laundering) of proceeds from crime – shall mean the activity (except for the activity provided for by Articles 207, 212 and 212-1 of the Criminal Code of Ukraine) for which the Criminal Code of Ukraine provides the punishment in a form of imprisonment or activity conducted outside Ukraine if it is recognized as a crime by a Criminal Law of country where it was committed, and is a crime under Criminal Code of Ukraine and resulted in illegal proceeds;

3)

Terrorist financing – providing or collection of any funds in knowledge that they are to be used, in full or in part, for organization, preparation and commitment of the terrorist act, defined by the Criminal Code, by a individual terrorist or terrorist organization, involvement into a terrorist act, public calls to commit a terrorist act, establishment of the terrorist group or terrorist organization, aiding in commitment of a terrorist act as well as any other terrorist activity, and an attempt to commit such actions.

4)

Financial transaction – shall mean any actions related to assets conducted with assistance of the reporting entity.

5)

Financial monitoring – shall mean the aggregate of AML/CTF actions taken by financial monitoring entities and include conduction of state financial monitoring and initial financial monitoring.

6)

Subject to financial monitoring – shall mean actions with assets connected with relevant participants that conduct financial transactions in case of risk for such assets to be used for legalization (laundering) of the proceeds from crime or terrorist financing, and any other information on such actions or events, assets and their participants.

7)

State financial monitoring – shall mean the aggregate of actions taken by the entities of the state financial monitoring and directed on execution of AML/CTF legislation requirements:

State financial monitoring of the Specially Authorized Agency – shall mean the aggregate of actions taken by this agency on collection, processing and analysis of information on financial transactions submitted by the reporting entities and entities of state financial monitoring and other state agencies,

relevant foreign agencies, as well as actions for verification of such information according to the Ukrainian legislation;

State financial monitoring of other entities of the state financial monitoring – shall mean the aggregate of actions taken by entities defined by the second abstract of the part three of Article 5 of the current Law and directed on execution requirements of AML/CTF legislation.

8)

Initial financial monitoring – shall mean the aggregate of actions taken by the reporting entities and directed on execution of the current Law requirements, and includes the conduction of obligatory and internal financial monitoring.

9)

Obligatory financial monitoring – shall mean the aggregate of actions taken by reporting entities for detection of financial transaction subject to obligatory financial monitoring according to the Article 15 of the current Law, identification of transactions participants and examination of their activity, record keeping on such transaction and data on their participants, obligatory reporting on them to the Specially Authorized Agency, and submission of additional information on financial transactions and their participants subject to financial monitoring by the Specially Authorized Agency.

10) Internal financial monitoring shall mean the aggregate of actions taken by reporting entities for detection financial transaction subject to internal financial monitoring according to the Article 16 of the current Law, by means of ML/TF risk assessment; record keeping of such transactions and data on their participants; submission to the Specially Authorized Agency information on high ML/TF risk transactions, as well as additional information on financial transactions and their participants subject to financial monitoring by the Specially Authorized Agency.

11)

Properly completed report on financial transaction subject to financial monitoring – the report on financial transaction, subject to financial monitoring, completed and submitted to the Specially Authorized Agency according to requirements of the Article 12 of the current Law.

12)

Reporting entity`s failure to submit information on financial transaction subject to financial monitoring to the Specially Authorized Agency shall mean:

-

Failure to submit information on financial transactions subject to financial monitoring (absence in Specially Authorized Agency` records of the properly completed and submitted report (information) on such financial transaction by the reporting entity;

-

Repeated submission of improperly completed report (information) on financial transaction subject to financial monitoring, and which was not registered by the Specially Authorized Agency (improperly completed report (information) on financial transaction subject to financial monitoring shall mean consecutive submission by reporting entity of three improperly completed reports on the same financial transaction subject to financial monitoring).

13)

Intentional submission by the reporting entity deliberately unauthentic information on financial transactions subject to financial monitoring to the Specially Authorized Agency – intentional submission of deliberately unauthentic and false information on financial transactions subject to financial monitoring.

14)

Risks – shall mean menace (threat, vulnerabilities) for reporting entities to be used by clients while providing them services according to the nature of their activity for legalization (laundering) of the proceeds from crime or terrorist financing.

15)

Risk management – shall mean actions taken by the reporting entities in order to determine, asses, monitoring and control over risks for their decreasing to the appropriate level.

16)

Specially Authorized Agency – shall mean the central agency of executive power with a special status on financial monitoring issues.

17)

Assets – shall mean funds, property, property rights and non-property rights.

18)

Participants of financial transaction – shall mean client, contracting party, and persons acting on their behalf and in their interest.

19)

Client – shall mean any person applying for services or uses reporting entity services.

20)

Control over legal person – shall mean direct or indirect possession by the natural person individually or jointly with immediate relatives of the share in legal person which equals to 50 and more percents of the statutory capital or votes of legal person, or independent from formal possession capability to execute conclusive influence on management or activity of legal person.

21)

Control over natural person – shall mean possibility for final influence on financial transactions of such a person regardless the actual possession of assets of natural person.

22)

Controller – shall mean a person executing control.

23)

Essential share – direct or indirect holding of 10 and more percents of the statutory capital (fund), 10 and more percents of shares or voting authority in legal person, direct or indirect authority on it.

24)

Beneficiary - shall mean natural person, for the benefit or interest of which a financial transaction is conducted.

25)

Business relations – shall mean relations between the client and reporting entity originating on the basis of agreement regarding provision of financial or other services.

26)

Foreign bank subsidiary – shall mean separate structural division of the foreign bank, which does not have a status of a legal person and executes banking activity on the territory of Ukraine.

27)

Case referrals - shall mean data on financial transactions subject to financial monitoring under analysis of which the Specially Authorized Agency detected suspicions on money laundering or terrorist financing crime or socially dangerous illicit act that precedes legalization (laundering) of the proceeds from crime. Case referrals are the report on crime and contain the basis for law-enforcement agencies` decision-making according to the Criminal Procedure Code of Ukraine, as well as conduction of operational and search activity by law-enforcement and intelligence agencies of Ukraine. The form and structure of case referrals shall be defined by the Specially Authorized Agency with approval of law-enforcement agencies.

28)

Additional case referrals – shall mean data collected on the basis of analysis of additionally received information to the case referrals previously submitted to law-enforcement agencies.

29)

Politically exposed persons – shall mean natural persons which empowered or were empowered with execution of important political functions in foreign countries, especially:

- Head of State, government, ministries and their deputy ministers;
- parliamentary members;
- members of high court, constitutional court or other high level judicial agencies the decisions of which could not be appealed except of extraordinary cases;
- members of courts of auditors or the boards of central banks;
- extraordinary and plenipotentiary ambassadors, chargé d'affaires and high-ranking military officers;
- members of an administrative, managerial or supervisory agencies in a government enterprises of strategic importance.

30)

International sanctions – shall mean sanctions recognized by Ukraine according to international

treaties, or decisions of international organizations regarding assets freezing the decision of which are recognized according to international treaties.

31)

Irreproachable business reputation – range of confirmed information on person enabling to make decision on the correspondence of its activity to legislation requirements, as well as for natural persons – on individual professional, managerial skills and absence of criminal records for mercenary and economic crimes which is not expunged or quashed according to the procedure defined by legislation.

32)

Separate subdivision of reporting entity – shall mean branch, other subdivision of reporting entity situated outside its place and which execute financial transaction or ensure their execution including provision of services on behalf of reporting entity.

33)

High risk – shall mean the result of risk assessment conducted by the reporting entity grounded on the range of defined criteria and indicate on high probability of reporting entity to be used for money laundering and/or terrorist financing.

34)

Non-profit organizations – legal persons created for scientific, educational, cultural, health, ecological, religious, charitable, social and other activity to meet the necessities and interests of citizens within the scope defined by Ukrainian legislation and without receiving of profit.

Article 2. Scope of the Law

1.

This Law shall apply to the citizens of Ukraine, foreigners and stateless persons, also the legal persons, their subsidiaries, branches and other separate divisions that ensure execution of financial transactions both in Ukraine and abroad according to the international treaties of Ukraine ratified by the Parliament of Ukraine.

Article 3. AML/CTF legislation

1. The relations originated in AML/CTF sphere shall be regulated by the current Law, other Laws of Ukraine that regulate activity of financial monitoring entities as well as by the normative–legal acts of the Specially Authorized Agency and other state agencies empowered to regulate activity of the reporting entities and adopted for execution of the current Law.

Article 4. Acts Related to Money Laundering

1. Legalization (laundering) of the proceeds from crime shall cover any acts related to the proceeds (property) received (obtained) from crime, directed to conceal the origin of such proceeds (property) or assistance to the person who is the associate in crime that is the origin of such proceeds (property).

Section II. FINANCIAL MONITORING SYSTEM

Article 5. System and Entities of Financial Monitoring

1. Financial monitoring system shall consist of two levels: the initial and the state levels.
2. The following shall be the reporting entities:
 - 1) banks, insurance (re-insurance), credit unions, pawn-shops and other financial institutions;
 - 2) payment organizations, members of payment systems, acquiring and clearing institutions;
 - 3) commodity, stock and other exchanges;
 - 4) professional participants of securities market;

- 5) asset management companies;
- 6) operators of post service, other institutions that conduct financial transactions on funds transfer;
- 7) subsidiaries or branches of foreign business entities providing financial services on the territory of Ukraine;
- 8) specially designated reporting entities:
 - a) business entities providing intermediary services while conduction transactions on buying-selling real estate;
 - b) business entities executing trading in cash of precious metals and precious stones and products of them if the amount of financial transaction equals or exceeds the sum defined in the part one of Article 15 of the current Law;
 - c) business entities conducting lotteries and gambling including casino, electronic (virtual) casino;
 - d) notaries, lawyers, auditors, audit firms, natural persons – business entities providing accounting services, business entities providing legal services (except persons providing services within personal management) in cases foreseen in the Articles 6 and 8 of the current Law;
 - e) natural persons – business entities and legal persons conducting financial transactions with goods (executing works, providing services) for cash if the amount of such financial transaction is equal or exceeds the amount designated by part one of Article 15 of the current Law, in cases foreseen by Articles 6 and 8 of this Law.
- 9) Other legal entities which under their legal status are not financial institutions but provide certain financial services.

3. The following shall be the entities of state financial monitoring:

National Bank of Ukraine, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Ministry of Transport and Communications of Ukraine, Ministry of Economy of Ukraine, State Commission for Securities and Stock Market, State Commission for Financial Services Markets Regulation of Ukraine;

Specially Authorized Agency.

Article 6. Tasks, Duties and Rights of Reporting Entities

1. Reporting entity considering legislation requirements, normative-legal acts of the Specially Authorized Agency and other entities of the state financial monitoring establishes the rules, develop the for conducting financial monitoring and assigns the compliance officer responsible for its execution, except specially designated reporting entities operating individually without creation of legal person and persons listed in subparagraph «e» point 8 part 2 Article 5 of the current Law. programs

2. The reporting entity shall be obliged to:

- 1) register as reporting entity within the Specially Authorized Agency and in case of termination of its activity to inform the Specially Authorized Agency within the procedure defined by the National bank of Ukraine for banks and the Cabinet of Ministers of Ukraine for other reporting entities;
- 2) provide client identification and verification in cases provided by the law;
- 3) ensure detection of financial transactions, subject to financial monitoring, prior to its execution, in the process of its execution, in the day of suspicions arise, after execution, or in attempted transaction or if the client refused its conduction;
- 4) ensure ML/FT risks management in its activity and develop risk criteria;
- 5) ensure registration of financial transaction, subject to financial monitoring, not later than next business day after the moment of its detection;
- 6) inform Specially Authorized Agency on:
 - a) financial transactions subject to obligatory financial monitoring during three business day after the date of such transactions registration or attempt to conduct;
 - b) financial transactions subject to internal financial monitoring in case of reasonable suspicion that they are connected with legalization of the proceeds from crime – on the day of suspicions arise but

not later than in ten business days from the moment of such transactions registration or attempt to conduct

c) detected financial transactions, subject to reasonable suspicion that they are connected with, related or intended for terrorist financing on the day of detection or attempt to conduct and inform relevant law enforcement agencies designated by the law.

7) in case of receiving from the Specially Authorized Agency report on incorrect (inaccurate) completion of the fields in the report on financial transaction subject to financial monitoring, submit Specially Authorized Agency with correctly completed report on such financial transaction during three business days;

8) within the acting legislation to assist the personnel of the Specially Authorized Agency in conducting financial transactions analysis;

9) submit on Specially Authorized Agency request the additional information on financial transaction subject to financial monitoring, copies of initial documents on the basis of which such transactions and connected financial transactions were conducted, data on the transactions' participants as well as other information including information that is classified as bank or commercial, insurance secrecy, copies of documents essential for execution tasks assigned to Specially Authorized Agency during five business days from the date of request receiving;

10) submit on the request of Specially Authorized Agency information (including copies of documents) essential for execution request received from foreign authorized agency including the information that is classified as bank or commercial secrecy during five business days from the date of request receiving;

11) submit on the request of Specially Authorized Agency information on tracing (monitoring) of client's financial transactions subject to financial monitoring. The procedure for submission of current information is stipulated by the Specially Authorized Agency with approval of relevant entities of the state financial monitoring.

12) if reporting entity on the objective score considering the scope of requested information (depends on form of submitting – electronic or written, copying or scanning, receiving the data from archives etc) is unable to observe the terms provided by paragraph 9, 10 of the part two of current Article, reporting entity shall be obliged during a business day when request is received but not later than the next business day to agree with Specially Authorized Agency the terms of requested information submission. The procedure for submission of current information is stipulated by the Specially Authorized Agency with approval of relevant entities of the state financial monitoring.

13) submit on the request of relevant entity of state financial monitoring information essential for verification of facts of violation of AML/CTF legislation;

14) take actions to prevent disclosure (including to persons whose financial transactions are being verified) of information that is submitted to the Specially Authorized Agency, and other information on financial monitoring issues (including the facts of submission of such information or receiving the request from Specially Authorized Agency);

15) keep documents on identification of the persons which carried out the financial transaction subject to financial monitoring pursuant to the current Law, as well as all documents connected to business relations with client no less than five years after termination of business relations, and all essential data on transactions – no less than five years after completion of transaction (at that the terms for documents keeping could be increased by the relevant entity of the state financial monitoring within the procedure defined by legislation);

16) on documentary request provide unimpeded access of entities of state financial monitoring and law enforcement agencies to documents or information contained in it according to the law requirements;

17) by order of the Specially Authorized Agency submitted for execution of foreign authorized agency request on suspension of the relevant financial transaction that could be related to money laundering or terrorist financing, to suspend execution or ensure monitoring of financial transaction of the relevant person within the procedure stipulated by the Specially Authorized Agency with approval of relevant entities of state financial monitoring;

18) ensure development and permanent renewal of rules, programs for execution of financial monitoring considering legislation requirements;

- 19) annually conduct internal inspections of activity for adherence AML/CFT legislation requirements;
 - 20) ensure professional development of the compliance officer by passing training at least once in three years;
 - 21) take on permanent basis measures for personnel training on detection of financial transactions subject to financial monitoring according to the current Law by performance educational and practical events;
 - 22) detect financial transactions subject to obligatory financial monitoring according to Article 15 of the current Law;
 - 23) perform the analysis of financial transactions for detection financial transactions subject to internal financial monitoring according to Article 16 of the current Law;
 - 24) verify purpose and nature of future business relations with clients;
 - 25) according to legislation and internal procedures permanently update information on nature of client's activity and financial condition;
 - 26) conduct analysis of correspondence of client's financial transactions to existent information on nature of its activity and financial condition;
 - 27) take relevant measures to restrict risk of misuse of services provided with use of new technologies especially ensuring conduction of non-face to face transaction.
3. Reporting entity shall be obliged individually execute classification of its clients considering risk criteria designated by the Specially Authorized Agency and authorities that conduct regulation and supervision over its activity, while executing financial transactions that might be related to legalization (laundering) of the proceeds or terrorist financing, and undertake preventive measures regarding clients which activity indicates high risk to carry out such transactions.
4. Reporting entity shall be obliged to take the following measures:
- 1) With regard to foreign financial institutions with correspondent relations established within the procedure defined by the relevant entity of the state financial monitoring:
 - a) ensure collection of information on nature of financial institution activity and its financial condition, reputation, including whether this institution has been subject to enforcement measures taken by the agency providing regulation and supervision over its activity in AML/CTF sphere;
 - b) clarify which measures are taken by the institution for prevention and counteraction to legalization (laundering) of the proceeds or terrorist financing;
 - c) clarify on the basis of information received the sufficiency and efficiency of measures taken by foreign institution to combat money laundering or terrorist financing;
 - d) open correspondent accounts to foreign financial institutions and in foreign financial institutions under senior manager approval.
 - 2) with regard to politically exposed persons or their associates – while establishing business relations with the client and in the process of customer service the reporting entity according to internal procedures ensure establishing the fact whether the client is classified as politically exposed person or persons acting on its behalf (associates to politically exposed persons shall be members of family and other close relatives, legal persons the sufficient share or control in which belongs to politically exposed persons or their close relatives).
 - a) establishing the relations with politically exposed persons and their associates shall be performed under permission of the senior management of the reporting entity;
 - b) reporting entity shall take measures to establish sources of funds of such persons;
 - c) conduct monitoring of transactions participants or beneficiary in which are the politically exposed persons or their associates shall be performed by reporting entity within the procedure designated for high risk clients considering recommendation of relevant entity of state financial monitoring.
 - 3) reporting entity shall be obliged to take measures to reduce the risk of charitable and nonprofit organizations to be used with the purpose of money laundering or terrorist financing considering recommendations of the relevant entity of state financial monitoring.
5. Reporting entities as well as their branches offices and other separate divisions are obliged to ensure taking of measures, envisaged by AML/CTF legislation, including divisions located in states, where FATF Recommendations are not applied or are applied insufficiently, in the range that do not contradict the legislation of this state. If the application of such measures is prohibited by legislation

of such state, the reporting entities are obliged to inform the Specially Authorized Agency and the relevant entity of state financial monitoring on impossibility of such measures application.

Simultaneously, the reporting entity shall take relevant preventive measures directed on: enhancement of the client identification prior to establishing business relations with persons or companies from such countries; systematical notification on financial transactions with clients from relevant countries; notification of the non-financial sector that transactions with natural or legal persons in the relevant countries could bear ML/TF risk.

6. Provisions of the paragraph 4, 11, 12, of the part two of the current Article shall not cover specially designated reporting entities.

Provisions of subparagraph «a» of the paragraph 6 and 22 of the part two of the current Article shall not cover specially designated reporting entities except the entities envisaged by subparagraph «c», point 8 part of the Article 5 of the current Law.

Provisions of the paragraph 18, 19, 20, 21, 24, 25, 26, 27 of the part two and parts three-five of the current Article shall not cover specially designated reporting entities envisaged by subparagraph «e», point 8 part two of the Article 5 of the current Law.

7. Reporting entity to execute the tasks assigned according to the current Law shall have the right to request the executive power authorities, law enforcement agencies, National Bank of Ukraine, other legal persons that inform on the results of the consideration of such request within the procedure prescribed by the legislation.

8. For the violation of the current Law reporting entities` senior management and compliance officers responsible for performing financial monitoring shall bear responsibility according to the law.

Requirements for verification of irreproachable business reputation and correspondence to professional criteria of candidates for the positions named in the current paragraph are established by the relevant entities of the state financial monitoring.

9. Reporting entity senior manager shall be responsible for the organization of AML/CTF legislation requirements adherence.

In case of liquidation procedure to reporting entity including declaration of the bankrupt or appointment of the temporary administration the responsibility for execution of the paragraph 9, 10 of part 2 of the Article 6 of the current Law shall be assigned to liquidation commission members, liquidator or temporary administrator.

Article 7. Legal Status of the Compliance Officer

1. Person responsible for financial monitoring (further – compliance officer) shall be appointed at the position at the managerial level of reporting entity.

The appointment and dismissal of the bank`s (foreign branch) compliance officer shall be under agreement with the National Bank of Ukraine.

2. The following shall be the compliance officer competence:

1) taking a decision to inform the Specially Authorized Agency on financial transactions in case of reasonable suspicion on their relation to money laundering or connected with, related to or intended for terrorist financing;

2) taking a decision to inform the law enforcement agencies prescribed by the legislation on financial transactions suspected to be related, connected with or intended for terrorist financing;

3) performing the inspection of any reporting entity division and its personnel on compliance with the rules of internal financial monitoring and execution financial monitoring programs;

4) right to access all the premises, documents, telecommunication facilities of the reporting entity;

5) involvement of any personnel of the reporting entity to performing AML/CTF measures and inspections on these issues;

6) organization of development and submission for approval as well as introducing, realization of the rules for internal financial monitoring and financial monitoring execution programs;

7) receiving the explanations from the reporting entity personnel on performing financial monitoring regardless of their position;

8) assistance to authorized representatives of the relevant state financial monitoring agencies in performing the inspections of the reporting entity on compliance to Ukrainian AML/CTF legislation;

- 9) taking a decision on submitting information on financial monitoring issues on request of the Specially Authorized Agency and relevant law enforcement agencies;
 - 10) executing other tasks according to the legislation.
3. The compliance officer of the reporting entity performs other functions in accordance to the legislation, rules for internal financial monitoring, financial monitoring execution programs and other internal AML/CTF documents.
 4. Senior manager of the reporting entity shall be obliged to assist compliance officer in execution of its functions.
 5. Compliance officer shall be independent in its activity, accountable exceptionally to the senior manager of the reporting entity and is obliged at least once a month to provide the senior manager with a written information on detected financial transactions subject to financial monitoring, and measures undertaken, including for:
 - ensuring the execution of financial monitoring measures;
 - development and on-going renewal of rules and programs for conduction of financial monitoring considering legislation requirements;
 - personnel training on execution requirements of the current Law, by carrying out educational and practical events.

Article 8. Actions taken by the Specially Designated Reporting Entities

1. Execution of reporting entities obligations shall be ensured by lawyers, notaries, person providing legal services, auditors, audit offices, natural persons – business entities providing accounting services if they participate in preparation and execution of deeds on:
 - Buying-selling of real estate;
 - customer's assets management;
 - bank or securities account management;
 - gathering funds to establish legal persons, to provide their functioning or management;
 - establishment of legal persons, ensure their management or functioning as well as purchase– sale of legal persons.
2. Execution of reporting entities obligations shall be ensured by business entities providing intermediary services during execution of transactions on purchase-sale of real estate, preparation and execution of deeds on purchase and sale of real estate if the amount of such transaction equals or exceeds UAH 400 000 or equals or exceeds the amount in foreign currency equivalent to UAH 400 000.
3. Execution of reporting entities obligations shall be ensured by business entities providing trading in cash of precious metals and precious stones and products of them if the amount of financial transaction equals or exceeds the amount provided in the part one of the Article 15 of the current Law while executing transactions with high value goods (especially with precious metals, antique goods, works of art etc) or organization trading with such goods including auctions.
4. Execution of reporting entities obligations shall be ensured by business entities providing lotteries and gambling including casino, electronic (virtual) casino, while executing financial transactions related to receiving or returning stakes or payment of wins.
5. Execution of reporting entities obligations shall be ensured by natural persons - business entities providing financial transactions in cash with goods (executing works, providing services) if the amount of such financial transaction equals or exceeds the sum provided in part on of the Article 15 of the Law in cases foreseen by Articles 6 and 8 of the current Law.
6. The notaries as the reporting entities shall not report their suspicions on financial transactions to the Specially Authorized Agency if relevant information was received under the circumstances subject to the secrecy of notary actions, except for the cases on certification of real estate purchase - sale agreements, if the amount of such transaction equals or exceeds UAH 400 000 or equals or exceeds amount in foreign currency equivalent to UAH 400 000.
7. Lawyers, persons providing legal services, auditors, audit companies, business entities providing accounting services, shall not report their suspicions on financial transactions to the Specially Authorized Agency if relevant information was received under the circumstances subject to the

lawyer's or professional secrecy, when they execute their duties on protection of clients, representing of their interests in courts and in cases of pretrial settlement of disputes.

8. Senior managers and compliance officers of the specially designated reporting entities shall bear responsibility for the violation of the current Law according to the law.

Article 9. Identification and Verification the Clients Conducting Financial Transactions

1. Reporting entity according to legislation and on the basis of submitted official documents or their duly certified copies, shall conduct identification of clients that execute financial transactions. Additional data for client's verification also could be received from client and other sources if such information is public (open).

2. Mentioned documents shall be valid at the moment of their submission and include all the data necessary for identification.

3. The identification and verification of activity shall be conducted in the following cases:

establishing business relations with clients;

in case of suspicion that financial transaction might be related to ML or TF;

executing of financial transaction subject to financial monitoring;

executing of single financial transaction without establishing business relations with clients on amount which equals or exceeds the amount provided in part one of the Article 15 of the current Law.

4. Depending on ML/TF risk the customer identification is also carried out in case of conducting financial transaction by client on the amount defined by the section 1 of the Article 15 of the current Law irrespective of whether such transaction is single or several transactions seemed to be connected.

5. In case of suspicion concerning reliability or adequacy of information provided on customer, the reporting entity is obliged to undertake measures to verify and clarify customer (person) identity information.

6. Characteristics for carrying out identification (simplified identification) and verification of financial activity by reporting entities considering their specific activity shall be designated by agencies which due to the current Law execute functions of regulation and supervision over these reporting entities.

7. Reporting entity has the right to demand, and the state authorities are obliged during ten business days to provide according to the legislation information on customer identification. Such information is provided free of charge. The list of such authorities and the procedure for submitting information shall be designated by the Cabinet of Ministers of Ukraine.

8. Reporting entity has the right to demand and the customer is obliged to provide information concerning its identity, nature of activity and financial condition required for such entity to execute AML/CTF legislation requirements.

9. If the customer, with whom the business relations were established, fails to submit necessary information for identification and verification of financial activity, the reporting entity shall have the right to refuse execution of further financial transaction.

10. Customer identification is carried out before/during establishment of the business relations, execution of deeds but before execution of financial transaction, opening account.

11. With the purpose of identifying residents the reporting entities shall identify:

1) for natural person - surname, name, patronymic, date of birth, series and number of the passport (or other ID), date of issue and issuing agency. During the identification the place of registration or real residence of natural person, identification number according to the State Register of natural persons – payers of taxes and other compulsory payments or series and number of passport which contains the record of State Tax Administration agencies on refusal in receiving the identification number shall be verified;

2) for natural person – business entity – surname, name, patronymic, date of birth, series and number of the passport (or other ID), date of issue and issuing agency. During the identification the place of residence, essential elements of the state registration certificate and the issuing authority, essential elements of the bank in which the account is opened and the number of bank account (if available) shall be verified;

3) for legal person — full title, location, essential elements of the state registration certificate and issuing authority; information on managing bodies and its composition; information on persons who

have the right to manage accounts and property; owners of significant share in legal person; the data for identification of person`s controllers conducting control, identification number according to the Unified State Register of entities and organizations of Ukraine, essential elements of the bank where the account is opened and the bank account number.

12. With the purpose of identifying non-residents the reporting entities shall identify:

1) for natural person – surname, name, patronymic (if available), date of birth, series and number of passport (or other ID), date of issue and issuing agency, citizenship. During the identification the data on the place of residence or temporary residence in Ukraine shall be verified.

2) for legal person – full title, location and essential elements of the bank where the account is opened and bank account number, information on managing bodies and its composition; identification information on the persons who have the right to manage accounts and property; data on owners of significant share in legal person; the data on controllers of legal person. Also the reporting entity should be provided with a copy of the legalized extract from the trade, bank or court register or notary sealed registration certificate of the foreign authorized agency on registration of the relevant legal person.

13. Customer identification is not obligatory in case of:

conducting financial transaction by person that already have been identified before;

concluding of deeds between banks, registered in Ukraine;

14. The reporting entity can use simplified identification procedure in case of:

establishment of business relations or conduction of financial transaction if the client is a state agency, state enterprise, international institution or organization with Ukraine`s participation according to international treaties of Ukraine ratified by the Parliament of Ukraine;

conducting financial transaction on organized securities market.

15. If customer (person) acts as a representative of the other person or acts in the interests of other person, or the reporting entity doubts whether the person acts on its own behalf, or the beneficiary is another person, the reporting entity, according to the requirements of this Article and provisions of other laws that regulate the identification procedure, is obliged to identify also the person, on whose behalf or under the order of which or in the interests of which the financial transaction is conducted, or which is a beneficiary.

16. If a person acts as a representative of other person, the reporting entity should verify the relevant powers of this person as well.

Article 10. Refusal of the Reporting Entity to Perform Financial Transaction

1. Reporting entity is obliged to refuse from establishing business relations or conduction of financial transaction if execution of customer identification according to the legislation is impossible, except for the transaction of crediting of funds to the account of such client. At that, the reporting entity is obliged to inform during one business day but not later than next business day the Specially Authorized Agency on conduction of such transactions and persons that have or had intention to conduct them.

Reporting entity has the right to refuse the conduction of financial transaction if the financial transaction contains indicators of transaction which is subject to financial monitoring according to the current Law and inform the Specially Authorized Agency during one business day but not later than a next business day from the day of refusal.

Article 11. Risk Management

1. The reporting entity shall be obliged to manage ML/TF risks considering of the results of customer identification, services provided to customer, analysis of conducted customer`s transactions and their correspondence to financial condition and nature of the client`s activity.

2. The risk assessment by the reporting entity shall be executed considering relevant criteria such as type of customer; geographical location of customer registration country or institution by which the customer transfer (receive) the assets and the kind of goods and services.

3. To reduce detected risks the reporting entity shall take measures including enhanced identification of the customer and customer verification during certain period, including its owners; additional requirements to the customer when opening the account or establishing relations with this customer;

increasing the frequency of customer verification, including its owners; collection of information to understand the customer's activity, nature and level of the transactions conducted; enhanced monitoring of customer transactions etc.

Article 12. Submission of the Information on Financial Transaction

1. The reporting entity submits information on financial transaction, which according to Article 15 of the current Law is subject to the obligatory financial monitoring, during three business days from the date of its registration.

2. The decision on submission or non-submission to the Specially Authorized Agency information on financial transaction subject to internal financial monitoring shall be taken by compliance officer of the reporting entity (branch, other separate division of the reporting entity) according to internal procedures vested in rules of internal financial monitoring according to the Article 16 of the current Law. If the decision to submit the information to Specially Authorized Agency on financial transaction is taken, such information shall be submitted not later than in ten business days from the date of its registration.

3. The procedure for registration of financial transactions subject to financial monitoring as well as submission to the Specially Authorized Agency of information on financial transactions subject to financial monitoring, other financial transactions that might be related to money laundering or terrorist financing are designated by:

National Bank of Ukraine – for the banks;

Cabinet of Ministers of Ukraine – for other reporting entities.

4. Appropriate submission of the information by the reporting entity to the Specially Authorized Agency shall not represent a violation of professional, insurance, bank or commercial secrecy.

5. The reporting entity, its officials and other personnel shall not be disciplinary, administratively, civilly and criminally liable for submission of information on financial transaction to the Specially Authorized Agency, if they acted within the current Law, even if such actions caused damage to legal or natural persons, as well as for other actions related to implementation of the current Law.

6. The reporting entity personnel submitted to the Specially Authorized Agency information on financial transaction is prohibited to inform about it the persons that conduct (conducted) it or any other third persons.

7. The reporting entity personnel who receive the request from Specially Authorized Agency and/or responded such request to this agency shall be prohibited to inform participants of financial transaction mentioned in the request or in the respond as well as to inform any other third party.

8. If the reporting entity conducting financial transactions has reasonable suspicions that such financial transactions are connected with, related to or intended for financing terrorist activity, terrorist acts or terrorist organizations, and organizations or persons internationally sanctioned, it should immediately inform about such financial transactions the Specially Authorized Agency and the law-enforcement agencies defined by the legislation at the same day the suspicion occurred.

9. State authorities, conducting AML/CTF activity, in case of detection, while executing their functions, of financial transactions subject to suspicion that they are conducted with the purpose of the money laundering or terrorist financing, or connected with persons internationally sanctioned are obliged to inform the Specially Authorized Agency concerning such transactions. Procedure and requirements for information submission shall be stipulated by the Cabinet of Ministers of Ukraine.

10. State authorities are obliged to submit the Specially Authorized Agency with information (copies of documents) essential for execution its tasks according to the procedure defined by the Cabinet of Ministers of Ukraine.

Illegitimate refusal to submit such information (copies of documents), untimely or incomplete submission shall bear the liability of state authorities' officials according to the law.

11. Specially authorized agency of executive power on customs issues submits information on cases of illegal transportation through the Ukrainian state boundary of cash, negotiable monetary documents, precious metals, precious stones and products of them, as well as cultural values for the amount that equals or exceeds the amount envisaged in the Part 1 of the Article 15 of this Law.

12. The information submitted under requirements of the current Law shall be restricted. This information shall be exchanged, disclosed and protected in accordance with the laws by reporting

entities, and the executive agencies and the National Bank of Ukraine which according to legislation responsible for the regulation and the supervision over reporting entities.

13. The Specially Authorized Agency ensures securing and keeping of information, received according to requirements of the current Law. The Specially Authorized Agency is prohibited to disclose and/or forward to anyone the received from reporting entities information, with the exception of cases, envisaged in the Articles 18, 20 and 22 of the current Law. Information, kept in the Specially Authorized Agency and received from reporting entities, shall be restricted. In case of receipt of request about such information the Specially Authorized Agency shall return to relevant person such request without consideration except for the cases if the request was submitted within the verification of previously submitted case referrals. If the Specially Authorized Agency has additional information related to previously submitted to the law enforcement agencies case referrals the Specially Authorized Agency can form and submit to the relevant law enforcement authority with additional case referrals.

Any disclosure by the personnel of the Specially Authorized Agency the information received from reporting entities according to the requirements of the current Law shall be subject to liability due to the law.

14. Submission by the state authorities to the Specially Authorized Agency of the information on financial transactions which might be related to money laundering or terrorist financing shall not represent a violation of bank or commercial secrecy.

The officials and other personnel of the state authorities shall not be disciplinary, administratively, civilly and criminally liable for submission of information to the Specially Authorized Agency on financial transaction which might be related to money laundering or terrorist financing.

15. Business entities, enterprises, institutions, organizations regardless form of ownership that are not a reporting entities in accordance with the paragraph 2 section 1 of the Article 20 of the current Law are obliged to submit on the request of the Specially Authorized Agency the information related to analysis of financial transactions subject to financial monitoring, references and copies of the documents (including those constituting bank or commercial secrecy) essential for execution by this agency AML/CTF tasks.

Information submitted according to the requirements of the section 15 of this article shall be restricted. The exchange of such information, its disclosure and protection is provided according to law.

Scope and procedure for submission of such information (except information on individual natural persons) is designated by the Cabinet of Ministers of Ukraine.

The officials and other personnel of the business entities, enterprises, institutions, organizations and state authorities shall not be disciplinary, administratively, civilly and criminally liable for submission of information to the Specially Authorized Agency according to the requirements of the current Law.

The persons guilty in violation of provisions of current Law shall be liable according to the Law of Ukraine on Information and other legislative acts.

16. Intelligence agencies of Ukraine are prohibited to disseminate information received from the Specially Authorized Agency in a form of case referrals and additional materials except for the cases of their submission to law-enforcement agencies for taking a decision according to the Criminal Procedure Code of Ukraine.

Intelligence agencies of Ukraine are obliged to inform Specially Authorized Agency on the state of processing and taking relevant actions under results of consideration of case referrals and additional materials received.

Article 13. Registration of Financial Transaction Subject to Financial Monitoring

Information on financial transaction subject to financial monitoring received by the Specially Authorized Agency shall be registered by this agency. The procedure for registration information on financial transaction subject to financial monitoring shall be established by the Cabinet of Ministers of Ukraine.

Article 14. Powers of Entities of the State Financial Monitoring

1. State regulation and supervision in AML/CTF sphere is carried out concerning:

- 1) banks, payment organizations and members of payment systems which are bank institutions — by the National Bank of Ukraine;
- 2) stock exchanges, assets managing companies and other professional participants of the securities markets (except banks) – by the State Securities and Stock Market Commission;
- 3) insurance (re-insurance) companies, pawn shops and other financial institutions, as well as legal persons, which according to legislation provide financial services (except financial institutions and other legal persons the AML/CTF regulation and supervision of which is conducted by other entities of state financial monitoring), payment organizations and members of payment systems which are non-bank institutions – by the State Commission on Regulation of Financial Services Markets of Ukraine;
- 4) business entities that organize lotteries or any other gambling, business entities providing trade in precious metals and precious stones and articles of them, auditors, auditor companies, business entities providing accounting services, State Treasury of Ukraine, Main Control and Revision Office of Ukraine – by the Ministry of Finance of Ukraine;
- 5) notaries, lawyers, and other persons providing legal services – by the Ministry of Justice of Ukraine;
- 6) postal services operators (in part of conducting of money transfers) – by the Ministry of Transport and Communication of Ukraine;
- 7) commodities and other exchanges conducting financial transactions with goods – by the Ministry of Economy of Ukraine;
- 8) other reporting entities for which the Law does not define the state authorities regulating and supervising their activity – by the Specially Authorized Agency.

2. The entities of state financial monitoring indicated in paragraph 1 of this Article are obliged to:

- 1) ensure AML/CTF supervision the activity of the relevant reporting entities especially by means of conduction of scheduled and unscheduled inspections, including on-site inspections;
- 2) ensure provision of AML/CTF methodological, methodical and other assistance to the reporting entities;
- 3) ensure regulation and supervision considering AML/CTF policies, procedures and control systems, risk assessment in order to detect the compliance of measures taken by reporting entities and reduce risks within the activity of relevant reporting entities;
- 4) demand from the reporting entities to executing AML/CTF legislation requirements, and if revealing cases of violation the legislation to take measures prescribed by the laws;
- 5) conduct inspections for organization of professional training of personnel and heads of the divisions responsible for financial monitoring execution;
- 6) inform Specially Authorized Agency for realization of its tasks on detected cases of violation by the reporting entities of AML/CTF legislation and measures taken to eliminate such violations;
- 7) annually, but not later than January of the following year, submit the Specially Authorized Agency with generalized information on the reporting entities for which they provide regulation and supervision for adherence of AML/CTF legislation requirements including information on violations revealed and measures taken to eliminate such violations;
- 8) ensure keeping of the information submitted by the reporting entities and entities of the state financial monitoring and by law-enforcement authorities;
- 9) coordinate with Specially Authorized Agency any normative – legal acts related to executing requirements of the current Law;
- 10) submit to Specially Authorized Agency information, particularly documents essential for execution of its tasks (except the information on citizens private life) according to the procedure prescribed by the legislation;
- 11) take according to legislation actions on verification irreproachable business reputation of persons conducting management and control over reporting entities
- 12) take actions according to legislation in order to avoid access to the management of reporting entities, direct or indirect significant participation in such entities of persons who have a record of conviction for mercenary crime or terrorism that have not been quashed and expunged in procedure designated by the law;

13) in cases prescribed by the legislation take actions on prevention forming statutory funds of the relevant reporting entities at the expense of the funds sources of which are impossible to confirm;
14) use the information of the Specially Authorized Agency about indicators of violation by the reporting entities of AML/CTF legislation for establishing existence of relevant violations.

Provisions of the paragraph 6, 7, 9, 10 and 14 of the Part 2 of this Article shall be applied to the entities of the state financial monitoring, except Specially Authorized Agency.

3. Entities of the state financial monitoring within the scope of the current Law have the right to obtain from reporting entities information, essential for fulfillment by them functions of regulation and supervision over these entities.

4. The entities of state financial monitoring (except Specially Authorized Agency) and other state authorities according to the legislation shall provide the Specially Authorized Agency with access to their informational resources for establishing and ensure functioning of the unified state AML/CTF informational system.

5. The entities of state financial monitoring shall define and elaborate the procedure for taking relevant preventive measures to countries which do not or insufficiently apply recommendations of international, intergovernmental organization, the activity of which is directed on combating money laundering or terrorist financing: pay special attention while coordinating the establishment of the branches, offices or subsidiaries of the reporting entities in such countries; notify non-financial sector reporting entities on ML/TF risk while conducting financial transactions with natural or legal persons in relevant country; restriction of the business relations or financial transactions with the relevant country or persons in such country etc.

Section III. FINANCIAL TRANSACTIONS SUBJECT TO OBLIGATORY AND INTERNAL FINANCIAL MONITORING

Article 15. Financial Transactions Subject to Obligatory Financial Monitoring

1. Financial transaction shall be subject to obligatory financial monitoring if its amount equals or exceeds UAH 150 000 (for business entities performing gambling – UAH 13,000), or equals or exceeds the amount in foreign currency equivalent to UAH 150 000 (for business entities performing gambling – UAH 13,000) and has one or more indicators provided below:

1) transfer of funds to anonymous (numbered) account abroad and transfer of funds from anonymous (numbered) account from abroad, as well as transfer of funds to account or from account opened in financial institution in a country included by the Cabinet of Ministers of Ukraine to the list of offshore zones;

2) purchase (sale) of cheques, traveler's cheques or other similar payment means for cash;

3) placement or transfer of funds, granting or receiving a credit (loan), performing other financial transactions if at least one of the parties of financial transaction is a natural or legal person that has appropriate registration, location or residence in a country (territory) which do not or insufficiently apply recommendations of international, intergovernmental organization, the activity of which is directed on combating money laundering or terrorist financing, or if one of the parties has an account in a bank registered in abovementioned country (on territory). The list of such countries (territories) shall be stipulated in accordance with the procedure established by the Cabinet of Ministers of Ukraine, using conclusions of the international, intergovernmental organizations engaged in counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing, and shall be published;

4) placement of cash funds on account and further transfer to other person on the same or next transaction day;

5) placement of funds to the current account of the legal or natural person – business entity or writing off the funds from the current account of the legal or natural person - business entity if the period of its activity does not exceed three months from the day of its registration, or placement of funds to the current account or writing off the funds from the current account of the legal or natural person - business entity if the transactions on such account have not been conducted since the day of its opening;

6) transfer of funds abroad by a person with absence of foreign economic agreement (contract);

- 7) exchange of banknotes, particularly of foreign currency, for banknotes of another nominal value;
 - 8) conduction of a financial transaction with bearer's securities which were not deposited in depositary institutions;
 - 9) conduction of a financial transaction with promissory notes with blank endorsement or bearer's endorsement;
 - 10) performing cash payment on financial transaction;
 - 11) performing financial transactions on legal deeds without specification of payment form;
 - 12) receipt (payment, transfer) of insurance (reinsurance) payment (insurance deposit, insurance premium);
 - 13) performing insurance payment or insurance compensation;
 - 14) payment (handing over) to a person of winning in a lottery, purchasing of chips, tokens, payment by other methods for the right to participate in gambling, payment (handing over) of winning by the business entity providing gambling;
 - 15) conduction of payments under external economic contract which does not provide a real delivery of goods, works, services to the customs territory of Ukraine;
 - 16) providing of credit funds to a person which is not a member of non-bank credit institution at the same day for a few times if the total amount of financial transaction equals or exceeds the amount stated in the part one of this Article;
- According to paragraphs 10, 11, 16 of the part one of this Article the information on financial transactions shall be submitted to Specially Authorized Agency by all reporting entities except banks.

Article 16. Financial Transactions Subject to Internal Financial Monitoring

1. A financial transaction shall be subject to internal financial monitoring if it has one or more indicators designated by this Article or contains other risks:
 - 1) complex or unusual character of financial transaction or aggregate of connected financial transactions without apparent economic or visible lawful purpose;
 - 2) noncompliance of a financial transaction with the character and nature of customer's activity;
 - 3) revealing of repeated financial transactions, the nature of which gives grounds to believe that their aim is to evade the procedures of obligatory financial monitoring or identification established by this Law (particularly two or more financial transactions conducted by the client during one business day with the same person and might be connected if the total amount is equals or exceed the amount stated in the part one of Article 15).
2. If the reporting entity has grounds to believe that financial transaction is connected with money laundering or terrorist financing it conducts the internal financial monitoring regarding other financial transactions which are essential to be clarified.
3. Transactions are also subject to internal financial monitoring according to typologies of international AML/CTF organizations.

Article 17. Suspension of Financial Transactions Subject to Reasonable Suspicion to be Connected to Money Laundering or Terrorist Financing or Internationally Sanctioned

1. Reporting entity has the right to suspend carrying out of financial transaction if such transaction contains indicators provided in the Articles 15, 16 of the current Law and obliged to suspend execution of financial transaction if its participant or beneficiary is included to the list of persons, related to terrorist activity or internationally sanctioned, and within the same day to report it to the Specially Authorized Agency. Such suspension of financial transactions shall be performed for a period up to two business days.
2. According to the part one of this Article the Specially Authorized Agency can take a decision on further suspension of such financial transaction up to five business days and is obliged to inform immediately about it the reporting entity, as well as law enforcement authorities authorized to take decision according to Criminal Procedure legislation. If the Specially Authorized Agency takes no relevant decision during the period, provided by the part one of this Article, the reporting entity shall recommence conduction of financial transaction.

3. The Specially Authorized Agency can take a decision to suspend the debit transactions under customer's (person's) accounts, if such transaction contains indicators provided in the Articles 15, 16 of the current Law and in case of suspicion in terrorist financing, up to five business days, and is obliged to inform immediately about it the reporting entity, as well as law enforcement agencies, authorized to take decision according to Criminal Procedure legislation.

4. The suspension of debit financial transactions is not a ground for suspension of credit transactions. At that the reporting entity should inform the Specially Authorized Agency on conduction of such transactions at the same day.

5. If the decision was taken according to paragraphs 2 and 3 of this Article, the Specially Authorized Agency performs analysis, collects essential additional information, processes, verifies and analyses such information. If confirming reasonable suspicion the Specially Authorized Agency prepares and submits relevant case referrals within term of suspension of such transaction to the law enforcement authorities authorized to take decision according to Criminal Procedure legislation.

At that the term for financial transaction suspension is prolonged for seven business days from the date of submitting such case referrals under condition that the overall term would not exceed fourteen business days.

The Specially Authorized Agency on the day of submitting case referrals shall inform relevant reporting entity on expiry date of the term of financial transaction suspension.

If the verification doesn't confirm the suspicion on money laundering or terrorist financing, the Specially Authorized Agency shall immediately cancel its decision on suspension of debit transactions and inform the reporting entity on it.

6. The procedure for suspension and renewal execution of financial transactions shall be established by the entities of state financial monitoring within their competence. The terms of financial transactions suspension by the reporting entities and the Specially Authorized Agency mentioned in parts one-four of this Article shall be absolute and cannot be prolonged.

7. The procedure for composing the list of persons related to terrorist activity or internationally sanctioned shall be designated by the Cabinet of Ministers of Ukraine. The grounds for enlisting a legal or natural person to the named list shall be the following:

1) court sentence in legal force concerning conviction of natural person for committing crimes, provided by the Articles 258, 258-1, 258-2, 258-3, 258-4 and 258-5 of the Criminal Code of Ukraine;

2) data formed by international organizations or their empowered bodies on organizations, legal and natural persons related to terrorist organizations or terrorists as well as on persons internationally sanctioned;

3) courts sentences (decisions), decisions of other competent agencies of foreign states concerning organizations, legal or natural persons, related to terrorist activity, acknowledged by Ukraine according to the international treaties of Ukraine.

8. List of persons, related to execution of terrorist activity or internationally sanctioned shall be informed to the reporting entities by the Specially Authorized Agency within procedure agreed with other entities of state financial monitoring.

9. The procedure for authorization access to the funds related to terrorist financing and which relates to financial transactions suspended according to the decision taken under resolutions of UN Security Council shall be defined by the Cabinet of Ministers of Ukraine. Such access is executed for covering basic or extraordinary expenses.

10. The suspension of financial transactions according to the part one of this article as well part five of Article 22 of the current Law do not constitute the basis for civil liability of the reporting entity and its officials for violation of the terms of relevant legal deeds.

11. Procedure for excluding from the list of persons related to terrorist activity or internationally sanctioned is defined by the Cabinet of Ministers of Ukraine. The grounds for delisting a legal or natural person from the named list shall be the following:

1) quashing or cancellation of criminal record of natural person convicted by the court sentence which entered into legal force on finding this person guilty in committing a crimes provided by the Articles 258, 258-1, 258-2, 258-3, 258-4 and 258-5 of the Criminal Code of Ukraine;

2) excluding the person from data formed by international organizations or their empowered bodies on organizations, legal and natural persons related to terrorist organizations or terrorists or internationally sanctioned;

- 3) quashing or cancellation of criminal record of natural person convicted by the court sentence (decision), decisions of other competent foreign authorities on organizations or natural persons related to terrorist activity, acknowledged by Ukraine according to the international treaties of Ukraine;
- 4) existence of relevant documented data on the death of person enlisted according to the part seven of the current Article.

12. Consideration of requests for excluding from the list of persons related to terrorist activity or internationally sanctioned shall be carried within the procedure defined by the Cabinet of Ministers of Ukraine.

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

Article 18. Tasks and Functions of the Specially Authorized Agency

1. The following shall be the tasks of the Specially Authorized Agency:

1) collection, processing and analysis of the information on the financial transactions subject to financial monitoring, other financial transactions or other information related to ML/TF suspicions; The Specially Authorized Agency establishes principles for working out of reporting entities' information on transactions subject to financial monitoring and criteria for transactions analysis.

2) ensure realization of the state policy in AML/CTF sphere;

3) establishment and ensuring operation of unified state AML/CTF information system;

4) establishment of cooperation, interaction and information exchange with the state authorities, competent authorities of foreign states and international organizations in the named sphere;

5) ensure representation of Ukraine, according to the established procedure, in international AML/CTF organizations.

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

1) introduce proposals on elaboration of legislative acts, take part, according to the established procedure, in elaboration of other AML/CTF normative-legal acts;

2) submit requests to the executive power authorities, local self-government authorities, business entities on receiving information (including copies of documents) essential for fulfillment of its tasks;

3) cooperate with executive power authorities, other state authorities within AML/CTF system;

4) submit relevant case referrals, additional materials to law enforcement agencies which are empowered by criminal procedure legislation, and intelligence agencies of Ukraine to conduct operational and search activity in case of reasonable grounds to consider that financial transaction or aggregate of connected financial transactions can be related to money laundering or terrorist financing, and receive information regarding processing of such case referrals;

5) in case of reasonable grounds that financial transaction or client are connected with commitment of act provided in the Criminal Code of Ukraine and do not relate to money laundering or terrorist financing, submits such information to the relevant law-enforcement or intelligence authority in form of case referrals;

6) participate in international AML/CTF cooperation;

7) analyze ML/TF methods and financial schemes;

8) provides generalization of condition of the execution by state authorities the AML/CTF measures in the state;

9) approve draft AML/CTF normative legal acts of the entities of state financial monitoring, as well approve its draft normative legal acts on executing AML/CTF requirements by reporting entities with the entities of state financial monitoring.

10) analyze the efficiency of measures, functioning of the financial monitoring system in the state under information received from the state agencies;

11) receive from reporting entities (except specially designated) information on tracing (monitoring) of the client's financial transactions subject to financial monitoring;

12) ensure executing the tasks prescribed by Article 14 of the current Law (with the exception of paragraphs 6, 7, 9, 10 and 14 of the part two of Article 14 of the current Law);

13) assist in detection of indicators of criminal proceeds usage in financial transactions;

- 14) demand from the reporting entities the execution of AML/CTF legislation requirements, if detected violations of legislation takes measures provided by the laws, and inform agency providing supervision over such reporting entity;
 - 15) ensure implementation of AML/CTF state policy and conduct coordination of activity of state authorities in this sphere;
 - 16) ensure according to the law organization and coordination of activity for AML/CTF retraining and professional development of financial monitoring experts on financial monitoring issues and reporting entities personnel responsible for conduction financial monitoring on the basis of the relevant training institution within the management of the Specially Authorized Agency.
 - 17) according to legislation provide entities of state financial monitoring with information for increasing effectiveness of supervision over adherence by reporting entities of AML/CTF legislation requirements (the scope and the procedure of submitting such information shall be designated by joint normative legal acts of the Specially Authorized Agency and relevant entities of the state financial monitoring);
 - 18) after receiving relevant information from law enforcement authorities, authorized to take a decision according to the criminal procedure legislation, inform the reporting entity on the fact of initiation of criminal case (or closing of a criminal case in course of pretrial investigation) under its report submitted to the Specially Authorized Agency according to the requirements of the Articles 15, 16 of the current Law, as well as inform it on courts decisions taken on such criminal cases with the simultaneously informing relevant entity of state financial monitoring. The procedure of such informing the reporting entity and entity of state financial monitoring shall be established by the Specially Authorized Agency;
 - 19) provide interpretations on application of AML/CTF normative-legal acts, issued by the Specially Authorized Agency;
 - 20) participate, under instruction of the Cabinet of Ministers of Ukraine, in elaboration of relevant international treaties of Ukraine;
 - 21) determine and approve with the agreement of the entities of state financial monitoring the risk criteria;
 - 22) perform other functions pursuant to the tasks assigned to it and other duties according to the legislation.
3. The Specially Authorized Agency for performing its tasks shall have the right to establish, reorganize and liquidate the structural units in Autonomous Republic of Crimea, regions and relevant training institutions.
4. Within the scope of the current Law the Specially Authorized Agency shall ensure recordkeeping of the following:
- 1) information on financial transactions subject to financial monitoring;
 - 2) case referrals and additional materials submitted to the law enforcement agencies as well as procedural decisions taken by the law enforcement agencies on the basis of consideration of such case referrals;
 - 3) information on results of the pre-trial investigation and court decisions taken for cases in investigation of which were used (are used) submitted case referrals;
 - 4) information on assets confiscated and seized for cases in investigation of which were used (are used) submitted case referrals;
 - 5) sent and fulfilled international requests for AML/CTF cooperation.

Article 19. Political Independence of the Specially Authorized Agency

1. The Head of the Specially Authorized Agency shall be appointed and dismissed according to the procedure established by the legislation.
2. The use of the Specially Authorized Agency for party, group or personal interests shall be prohibited.
3. The activity of parties, movements and other civil unions for political purposes within the Specially Authorized Agency shall be prohibited.

4. The membership of officials and personnel of the Specially Authorized Agency in parties, movements and other civil groups shall be suspended for the period of service or work under labor contract.

The Head of the Specially Authorized Agency shall not be a member of a political party.

5. As an exception, personnel working under labor contract with a Specially Authorized Agency may participate in trade unions.

Article 20. Rights of the Specially Authorized Agency

1. The Specially Authorized Agency shall have the right to:

1) engage experts of central and local executive bodies, enterprises, institutions and organizations (with the consent of their heads) in consideration of the issues within its competence;

2) receive, free of charge according to the procedure established by legislation, information (notes, copies of documents) including the information that is classified as bank or commercial secrecy required for fulfillment of its tasks from executive power authorities, law-enforcement agencies, National Bank of Ukraine, local self-government authorities, business entities, enterprises, institutions and organizations;

3) receive from the reporting entity (except specially designated) if essential under outcome of analysis the data on tracing (monitoring) of assets turnover suspected in money laundering or terrorist financing;

4) according to the procedure established by legislation, to provide access, including automatic, to databases of entities of the state financial monitoring and other state agencies;

4) to receive under request from reporting entities information (notes, copies of documents), including the information that is classified as bank or commercial secrecy, on financial transaction subject to financial monitoring, and connected transactions. If participant of financial transaction is nonresident of Ukraine, the Specially Authorized Agency has the right to demand from the reporting entity all available information on this person. If the participant of financial transaction is resident of Ukraine, the Specially Authorized Agency has the right to demand from the reporting entity copies of this person's passport, card with signs samples and letters of attorney under which this participant took part in conduction of financial transaction subject to financial monitoring, as well as other information (copies of documents) essential to perform the tasks assigned to the Specially Authorized Agency;

6) issue normative-legal acts necessary for performing tasks and functions under Article 18 of the current Law;

7) receive, according to the procedure established by legislation, the information on processing and taking relevant measures under received materials, from the law enforcement and intelligence agencies of Ukraine which, pursuant to this Law, receive case referrals on financial transactions from the Specially Authorized Agency;

8) conduct organization and coordination of activity for AML/CTF retraining and professional development of state authorities experts on financial monitoring and with approval of relevant entities of state financial monitoring - personnel of reporting entities responsible for conduction financial monitoring;

9) conclude, in accordance with the procedure established by legislation, international interagency agreements on cooperation with relevant authorities of other countries;

10) make a decision on suspension debit transactions on the person's accounts for the period established by the current Law;

11) extend the suspension of the execution of financial transactions in cases defined by the current Law;

12) with the agreement of relevant entities of state financial monitoring participate in preparing and/or performing inspections of the reporting entities regarding adherence of AML/CTF legislation;

13) inform entities of state financial monitoring on violation of requirements of the current Law by reporting entities;

14) submit entities of state financial monitoring with statistical information according to legislation within the scope established by part four of the Article 18 of the current Law.

Section V. INTERNATIONAL AML/CTF COOPERATION IN THE

Article 21. General Principles of International AML/CTF Cooperation

1. International AML/CTF cooperation shall be carried out by entities of the state financial monitoring on reciprocity principle according to the current Law, international treaties of Ukraine ratified by the Parliament of Ukraine, other normative legal acts considering recommendations and standards of the Financial Action Task Force (FATF), Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), European Union, World Bank, International Monetary Fund, Egmont Group of Financial Intelligence Units, United Nations Organization.

Article 22. Competence of State Authorities to Ensure International AML/CTF Cooperation

1. The Specially Authorized Agency, according to the international treaties of Ukraine under reciprocity principle or spontaneously, shall conduct international cooperation with relevant agencies of foreign states in part of exchange of AML/CTF experience and information.

2. The Specially Authorized Agency shall disclose information with restricted access to the relevant agency of foreign state on the conditions of ensuring by the latter of its protection similar to the level of the national standards acting in Ukraine and its use exclusively for the purposes of criminal justice in cases on money laundering or terrorist financing.

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

4. The refusal or postponement in execution of the request for international AML/CTF cooperation shall be performed exclusively on the basis of international treaties of Ukraine.

5. The Specially Authorized Agency has the right to assign the reporting entity to suspend or to renew or to monitor the conduction of financial transaction during the period stated in the request, according the request was received from the relevant foreign authority on suspension of relevant financial transaction as such that can be related to legalization of the proceeds from crime or terrorist financing. The procedure for suspension and renewal of such financial transaction shall be designated by the entity of state financial monitoring regulating and supervising over the reporting entities within its competence.

6. The Ministry of Justice of Ukraine shall be entrusted with performance of international AML/CTF cooperation in the part of execution of court decisions concerning confiscation of the proceeds, while the General Prosecutor's Office of Ukraine shall be entrusted with execution of procedural actions in the framework of investigation of criminal cases on money laundering or terrorist financing.

7. Criminal proceeds confiscated while proceeding the case on money laundering or terrorist financing and subject to recover to Ukraine or to foreign state shall be transferred according to international treaty of Ukraine with such a state on distribution of confiscated assets or proceeds from such assets. The funds received by Ukraine under such international treaty shall be transferred to a special fund of the state budget if other is not provided by the law.

8. Entities of state financial monitoring shall conduct international cooperation with relevant foreign agencies on exchange of experience and information on AML/CTF regulation and supervision over activity of financial institutions in the area, according to the international treaties of Ukraine or spontaneously.

9. The Specially Authorized Agency and other entities of state financial monitoring within their competence shall cooperate with the Financial Action Task Force (FATF) and other international AML/CTF organizations.

10. Ukraine, according to international treaties of Ukraine ratified by the Parliament of Ukraine and laws of Ukraine, recognize the court sentences (decisions), decisions entered to a legal force of other foreign competent authorities regarding persons which have proceeds from crime.

Ukraine, according to international treaties of Ukraine ratified by the Parliament of Ukraine and laws of Ukraine, recognize the court sentences (decisions), decisions entered to a legal force of other foreign competent authorities regarding confiscation of the proceeds from crime or equivalent property situated on the territory of Ukraine.

The confiscated proceeds from crime or equivalent property on the basis of the relevant international treaty of Ukraine can be transferred in a full scope or partially to a foreign state which court or other competent agency had taken a sentence (decision) on confiscation.

11. The decision on extradition to the foreign state of persons committed crimes related to money laundering or terrorist financing is taken under obligations of Ukraine according to the international treaties of Ukraine, and decision on transit traffic of such persons through the territory of Ukraine is taken under obligations of Ukraine within international treaties of Ukraine.

Provided the absence in Ukraine of the relevant international treaty with foreign state requesting extradition, the named persons could be extradited for crimes related to money laundering or terrorist financing exclusively within adherence the reciprocity principle.

Section VI. LIABILITY FOR VIOLATION OF THE CURRENT LAW REQUIREMENTS AND REINSTATEMENT OF RIGHTS AND LEGITIMATE INTERESTS

Article 23. Liability for Violation of the current Law Requirements

1. Persons guilty of violation of the current Law requirements shall be subject to criminal, administrative and civil liability according to the law. Also such persons may be deprived of the right to conduct certain kinds of activity pursuant to the law.

2. Legal persons conducted ML/TF financial transactions may be liquidated by a court decision.

3. If the reporting entity fails to comply (irrelevant compliance) the current Law requirements and/or other AML/CTF normative- legal acts it could be fined according to the procedure defined by the law:

for violation of requirements on person`s identification and verification in cases provided by the legislation, - at the rate up to 500 tax-free minimum incomes of citizen (for reporting entities which are not legal persons – at the rate up to 100 tax-free minimum incomes of citizen);

for non-detection, untimely detection and violation of the procedure for registration of financial transactions which according to the legislation are subject to financial monitoring, - at the rate up to 800 tax-free minimum incomes of citizen (for reporting entities which are not legal persons – at the rate up to 100 tax-free minimum incomes of citizen);

for non-submission, untimely submission, violation of procedure for submission or submission of false information to the Specially Authorized Agency on financial transactions which according to the legislation are subject to financial monitoring, - at the rate of 2000 tax-free minimum incomes of citizen (for reporting entities which are not legal persons – at the rate up to 100 tax-free minimum incomes of citizen);

for violation of the procedure for suspension of financial transactions – at the rate up to 1000 tax-free minimum incomes of citizen (for reporting entities which are not legal persons – at the rate of 100 tax-free minimum incomes of citizen);

for violation of obligations provided by Articles 6, 8-12, 17, 22 of the current Law and not stated in paragraphs 1-5 of the part three of the current Article at the rate up to 300 tax-free minimum incomes of citizen (for reporting entities which are not legal persons – at the rate of 100 tax-free minimum incomes of citizen).

4. Repeated (during a year) violation by the reporting entities – legal person or citizens – business entities of the current Law requirements and/or AML/CTF normative-legal acts shall be resulted with imposition of fine at the rate up to 3000 tax-free minimum incomes of citizen (for citizens – business entities – at the rate of 200 tax-free minimum incomes of citizen).

5. Besides application of financial sanctions for repeated similar violations during one year by reporting entities of the current Law requirements and/or AML/CTF normative- legal acts, the entity

of the state financial monitoring could restrict, terminate or cancel the license or other special leave for execution certain kinds of activity in the procedure prescribed by the legislation.

6. In case of severe violation by the reporting entity official of the requirements of the current Law and/or AML/CFT normative-legal acts the entity of state financial monitoring could take a decision on temporary dismissal from the position of such official of reporting entity.

7. Sanctions to the reporting entities within this article are imposed by the entities of the state financial monitoring regulating and supervising the reporting entities activity within their competence.

If a person conducted several violations foreseen in the part three of the current Article the penalty shall be implicated within the sanction provided for more gross violation from the conducted.

Article 24. Reinstatement of Rights and Legitimate Interests

1. Upon a court decision, the criminal proceeds shall be subject to confiscation in favor of state or returned to its owner whose rights or legitimate interests were violated, or their cost shall be compensated.

2. The agreements aimed at money laundering or terrorist financing shall be considered as null and void in accordance with the procedure prescribed by the law.

3. The entities of financial monitoring, their officials and other personnel shall not be liable for the damage caused to legal and natural persons as a result of performance of their official duties during execution of financial monitoring, provided they acted within their duties, obligations and in the manner prescribed by the current Law.

4. The damage, caused to legal or natural person by illegal actions of the state agencies as a result of AML/CTF actions, shall be compensated from the State Budget of Ukraine.

Section VII. CONTROL AND SUPERVISION OVER ADHERENCE OF THE AML/CTF LAWS

Article 25. Control over Adherence of AML/CTF Laws

1. Control over adherence of AML/CTF laws shall be executed by the state power authorities within their competence in procedure defined by the law.

2. The Specially Authorized Agency annually in March submits AML/CTF report to the Parliamentary Committee on Finance and Banking and Parliamentary Committee on Combating Organized Crime and Corruption.

II. FINAL PROVISIONS

1. This Law shall enter into force in 90 days from the date of its publication.

2. The following legal acts of Ukraine shall be amended:

1) part 3 of the Article 112 of the Criminal Procedure Code after numbers “258-4” shall be supplemented with numbers “258-5”;

2) In the Administrative Code of Ukraine:

a) The Article 166⁹ shall be read in the following wording:

" Article 166⁹. Violation of AML/CTF legislation

Violation of requirements on identification and financial activity verification of person conducting financial transaction; failure to submit, untimely submission or submission false information on financial transactions subject to financial monitoring to the specially authorized central agency of executive power on financial monitoring issues; failure to submit, untimely submission of additional information on financial transactions subject to financial monitoring under request of the specially authorized central agency of executive power on financial monitoring issues; violation of requirements on recordkeeping related to identification and financial activity verification of person conducting financial transaction, and conducted financial transactions; failure to report the specially

authorized central agency of executive power on financial monitoring issues on suspension financial transaction if the participant or beneficiary included to the list of person related to terrorist activity or internationally sanctioned, -

shall be punishable by a penalty imposed on reporting entities officials, citizens – business entities at the rate of 100 to 200 tax-free minimum incomes of citizen.

Failure to submit, untimely submission or submission of false information related to analysis of financial transactions subject to financial monitoring, notes and copies of documents (including bank and commercial secrecy) on the request of the specially authorized central agency of executive power on financial monitoring issues –

shall be punishable by a penalty imposed on officials of the institutions, enterprises and organizations, citizens – business entities which are not a reporting entities at the rate of 100 to 200 tax-free minimum incomes of citizen.

Any disclosure of information which according to the Law shall be subject to exchange between the reporting entity and specially authorized central agency of executive power on financial monitoring issues or the fact of submission (receiving) such information by the persons aware of such information during their professional or service activity, –

shall be punishable by a penalty at the rate of 300 to 500 tax-free minimum incomes of citizen.”;

b) supplement with the Article 188³⁴ of the following wording:

“Article 188³⁴. Failure to execute legal requirements of the state financial monitoring entities officials

Failure to execute legal requirements of the officials of the state authorities to address violations of AML/CTF legislation or putting obstacles to execute their duties –

shall be punishable by a penalty imposed on reporting entities officials, citizens – business entities at the rate of 100 to 200 tax-free minimum incomes of citizen.”;

c) Article 221 after numbers “Article 188³³” to supplement with numbers “Article 188³⁴”;

d) in the paragraph 1 of the part one of the Article 255:

in the abstract “National Bank of Ukraine (the Articles 164¹¹, 166⁷ - 166⁹)” numbers “166⁹” shall be replaced with number “166⁸”;

abstract “Specially Authorized Agency of executive power on financial monitoring issues (Article 166⁹)” shall be excluded;

abstract “State Commission for Securities and Stock Market (Articles 166⁹) shall be excluded;

supplement with abstract of the following wording:

“entities of the state financial monitoring (Articles 166⁹, 188³⁴)”;

e) in the part two of the Article 277 the words and numbers “Articles 46¹, 51 and 176” to amend with words and numbers “Articles 46¹, 51, 166⁹, 176 and 188³⁴”;

3) In the Criminal Code of Ukraine:

a) in Article 209:

in abstract 1 of the part one words “or concluding agreement” to amend with words “or legal deed”;

paragraph 1 of the note shall be read as follows:

“1. Socially dangerous illicit act that precedes the legalization (laundering) of proceeds from crime – shall mean the activity (except for the activity provided for by Articles 207, 212 and 212-1 of the Criminal Code of Ukraine) for which the Criminal Code of Ukraine provides the punishment in a form of imprisonment or activity conducted outside Ukraine if it is recognized as a crime by a Criminal Law of country where it was committed, and is a crime under Criminal Code of Ukraine and resulted in illegal proceeds”;

b) Article 209-1 shall be read as follows:

“Article 209-1. Intentional violation of AML legislation

1. Intentional failure to submit, untimely submission or submission false information on financial transactions which according to the law are subject to financial monitoring to the specially authorized central agency of executive power on financial monitoring issues, if it caused essential damage to the rights, freedoms or interests of individual citizens, state or public interests or interests of individual legal persons protected by law, -

shall be punishable by fine at the rate of 1000 to 2000 tax-free minimum incomes of citizen or deprivation liberty up to 2 years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years.

2. Any disclosure of information which according to the law is submitted to the specially authorized central agency of executive power on financial monitoring issues, by a person which received this information in the course of professional or service activity, if it caused essential damage to the rights, freedoms or interests of individual citizens, state or public interests or interests of individual legal persons protected by law, -

shall be punishable by fine at the rate of 2000 to 3000 tax-free minimum incomes of citizen or deprivation liberty up to 3 years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to 3 years.”;

c) in the part one of the Article 258-3 the word “material” shall be excluded;

d) in part one of the Article 258-4 the words “financing, material provision” shall be excluded;

e) supplement with the Article 258-5 with the following wording:

“Article 258-5. Terrorist Financing

1. Terrorist financing, namely acts committed with the aim of financial or material provision of individual terrorist or terrorist group (organization), organization, preparation or commitment of the terrorist act, involvement into commitment of the terrorist act, public calls to commit terrorist act, assistance in commitment of the terrorist act, creation of terrorist group (organization), -

shall be punishable by imprisonment for a term of 5 to 8 years with deprivation of the right to occupy certain positions or engage in certain activity for a term up to 2 years and with confiscation of property.

2. The same action repeated or conducted for mercenary reasons or in prior agreement by a group of persons or in large amounts or if they resulted in significant property damage, -

shall be punishable by imprisonment for a term of 8 to 10 years with deprivation of the right to occupy certain positions and engage in certain activity for a term up to 3 years and with confiscation of property.

3. Actions, envisaged by part one or two of this Article, committed by an organized group or in especially large amounts, or resulted in other dangerous effects, -

shall be punishable by imprisonment for a term of 10 to 12 years with deprivation of the right to occupy certain positions or engage in certain activity for a term up to 3 years with confiscation of property.

4. A person, except organizer or manager of terrorist group (organization), shall be exempted from criminal liability for the actions envisaged by this Article if before bringing to criminal liability he willingly informed on certain terrorist activity or in another way promoted its suspension or prevention of crime he financed or assisted, provided there is no other *corpus delicti* in his actions.

Note. 1. Terrorist financing is deemed to be committed in large amounts, if the value of financial or material provision exceeds 6000 tax-free minimum incomes of citizen.

2. Terrorist financing is committed in especially large amounts, if the value of financial or material provision exceeds 18000 tax-free minimum incomes of citizen.

4) in the Civil Code of Ukraine:

a) part one of the Article 1074 to supplement with the words “as well as in case of suspension of financial transactions that could be related to money laundering or terrorist financing provided by the law”;

b) Article 1087 shall be supplemented with part three of the following wording:

“3. Cash payments threshold for legal and natural persons – business entities according to this article shall be established by the National Bank of Ukraine.”;

5) part one of the Article 6 of the Law of Ukraine on Operational and Search Activity shall be supplemented with the paragraph 4 of the following wording:

“4) existence of case referrals of the special central agency of executive power on financial monitoring issues received within the procedure defined by the law.”;

6) Article 15 of the Law of Ukraine on State Tax Service in Ukraine after part three to supplement with two new parts of the following wording:

“State tax service officials execute organizational-management and consultative-advisory functions provided by the legislation of Ukraine.

The legal status of state tax service officials, their rights and duties are defined by the Constitution of Ukraine, current Law, and in part that is not covered by it – by the Law of Ukraine on Civil Service”.

Parts 4-9 shall be considered as parts 6-11.

7) in the Law of Ukraine On State Regulation of Securities Market in Ukraine:

a) part two of the Article 7 shall be supplemented with the paragraph 38 of the following wording:

“38) execute other tasks according to the law.”;

b) Article 8 shall be supplemented with the paragraph 33 of the following wording:

“33) execute other rights provided by the law”;

c) part three of the Article 11 shall be read as follows:

“In case of nonpayment of penalty during 15 days the enforced recovery of penalties is executed on the basis of the relevant court decision under the claim of the State Commission on Securities and Stock Market.”;

8) in the Law of Ukraine on Charity and Charity Organizations:

a) in Article 8:

part four after words “data on the founders (founder)” shall be supplemented with the words “(for the founders – legal persons – with addition of proven documents on structure of founders’ property that enable to determine owners of sufficiency share in these legal persons)”;

part nine after words “on changes in the statutory documents” and “to the registering agency ” shall be supplemented accordingly with the words “or structure of the legal persons-founders’ property” and “with addition of relevant proven documents”;

part ten shall be supplemented with words “or failure to submit/untimely submission of notification about changes in statutory documents or in structure of legal person-founder’s property or if available the person with direct or indirect influences on legal person – founder and/or receive significant part of the proceeds from activity of such legal person, who enlisted to the list of persons related to terrorist activity”;

b) part one of the Article 9 after words “procedure of establishing charity organization or” shall be supplemented with the words “availability of the founders/owners of sufficiency share in the legal person – founder or the person with direct or indirect influences on legal person – founder and/or receives main part of the proceeds from activity of such legal person, who enlisted to the list of persons related to terrorist activity”;

9) in the Law of Ukraine on Banks and Banking:

a) first sentence of the part two of the Article 59 shall be read as follows:

“The suspension of own expenditure transactions of the bank on its accounts as well as suspension of debit transactions of the legal and natural persons shall be executed only in case of seizure according to part one of this Article with the exception of cases prescribed by the Law on Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing.”;

b) in Article 62:

paragraph 5 of the part one shall be read as follows:

"5) to the special central agency of executive power on financial monitoring issues on its request on financial transactions related to financial transactions subject to financial monitoring (analysis) in accordance to AML/CTF legislation as well as on participants of mentioned transactions”;

part nine after word “Regulations” shall be supplemented with the words „of part two and four”;

c) part two of the Article 63 shall be read as follows:

“National Bank of Ukraine supervising the activity of the banks shall perform the inspections of the banks on compliance to AML/CTF legislation requirements and sufficiency of the measures aimed at prevention money laundering or terrorist financing”;

d) in Article 64:

part one shall be supplemented with a new part of the following wording:

“Banks shall be prohibited to establish correspondent relations with banks, other financial institutions – non-residents that have no permanent location and don’t perform activity in the place of their registration and/or don’t subject to relevant supervision in the country (territory) of their location as well as with banks and other financial institution – non-residents that maintain such correspondent relations”.

parts two-nine shall be considered as parts three-ten;

abstract four of the part four shall be read in the following wording:

“customers conducting cash transactions without opening an account on amount that equals or exceeds UAH 150 000 or the equivalent amount in foreign currency”;

in the first sentence of the part six the words “its person” shall be excluded;

in part seven:

first and second sentence shall be amended with a sentence of the following wording:

“For identification of the legal person except state and municipal enterprises bank shall be obliged to identify natural persons who own significant share in this legal person as well as natural persons with direct or indirect influence on this legal person”;

in the fourth sentence the words “have doubtful nature” shall be replaced with the words “subject to financial monitoring”, and words “prescribed by the legislation”, “that supervise and/or control the activity of this legal person” and “prescribed by the legislation” shall be excluded;

in part eight the words “have doubtful nature” and “Mentioned agencies” shall be replaced accordingly with the words “subject to financial monitoring” and “the Agencies”;

part ten shall be excluded;

10) in Article 18 of the Law of Ukraine on Financial Services and State Regulation of Financial Services Markets”:

in third sentence of the part eight the word “bank” shall be replaced with words “financial institution”;

part eleven shall be excluded;

11) in the Law of Ukraine on Combating Terrorism:

a) in Article 1:

abstract eleven shall be read as follows:

“financing and other promotion of terrorism”

abstract eleven shall be supplemented with a new abstract of the following wording:

“terrorist financing - providing or collection of any funds in knowledge that they are to be used, in full or in part, for organization, preparation and commitment of the terrorist act, defined by the Criminal Code, by a individual terrorist or terrorist organization, involvement into a terrorist act, public calls to commit a terrorist act, establishment of the terrorist group or terrorist organization, aiding in commitment of a terrorist act as well as any other terrorist activity, and an attempt to commit such actions”.

abstract twelve – twenty shall be abstracts thirteen – twenty one correspondingly;

b) in Article 4:

part four after abstract one shall be supplemented with a new abstract of the following wording:

“specially authorized central agency of executive power on financial monitoring issues”.

abstracts two – twelve shall be abstracts three – thirteen correspondingly;

part five shall be read as follows:

“In case of reorganization or changes in names of central agencies of executive power enlisted in this article, their functions in the sphere of combating terrorism could be transferred to their successors if this provided by the relevant acts of the Cabinet of Ministers of Ukraine and President of Ukraine”;

12) part one of the Article 24 of the Law of Ukraine on State Registration of Legal Persons and Natural Persons – Business Entities shall be supplemented with abstract six of the following wording: “information with submission of the supporting documents on structure of founders – legal persons’ property that enable to establish the natural persons - owners of significant share of these legal persons”;

13) part one of the Article 2 of the Law of Ukraine on Legal Persons Liability for Commitment Corruption Offences after word “Articles” shall be supplemented with numbers “258-5”.

3. Cabinet of Ministers of Ukraine during three months from the date of publication of the current Law:

shall harmonize its normative-legal acts with the current Law;
ensure ministries and other central agencies of executive power adopt acts essential for implementation of the current Law, as well as harmonize their normative legal acts with the current Law.

During 3 month after the entering into force of the current Law, the National Bank of Ukraine shall harmonize its normative legal acts with the current Law and submit its proposals regarding amendments arising from the current Law.

President of Ukraine
V. YANUKOVICH
Kyiv
May 18, 2010
No. 2258-VI

Annex 5

LAW OF UKRAINE

On Financial Services and State Regulation of Financial Markets

With amendments and supplements, introduced by the Laws of Ukraine of February 6, 2003 No. 458-IV,

...
18 May 2010 No. 2258-VI

Particular provisions of this Law are recognized such as not respond to the Constitution of Ukraine (are unconstitutional) (pursuant to the decision of Constitutional Court of Ukraine № 19-rp/2008 of 02.10.2008)

Official interpretation is given to the Item 4, part 1 of Article 28 of this Law (pursuant the decision of Constitutional Court of Ukraine № 27-rp/2008 of 03.01.2008)

This Law shall establish general legal fundamentals in the sphere of provision of financial services, regulation and supervision of activities in providing financial services.

The goal of this Law is to establish a legal basis for protecting interests of customers of financial services, legal framework for operation and development of the competitive financial service market in Ukraine, and legal framework for a unified state policy in the Ukrainian financial sector.

Section I. General provisions

Article 1. Definition of terms

1. In this Law, terms shall have the following meaning:
 - 1) **Financial institution** – a legal entity which, according to the legislation, provides one or a number of financial services and which is entered in the appropriate register according to the procedure established by the law. Financial institutions will include banks, credit unions, pawnshops, leasing companies, trust companies, insurance companies, accumulation pension provision institutions, investment funds and companies, and other organizations whose exclusive activity is to render financial services.
 - 2) **Credit institution** – a financial institution that is, according to the effective legislation, entitled to risk to provide financial credits from the funds it raises;
 - 3) **Financial credit** – funds that are lent to a legal entity or an individual for a determined period and on an interest basis.
 - 4) **Financial assets** – funds, securities, debt instruments and the right to claim repayment of debts that do not have the status of securities.
 - 5) **Financial service** – an operation with financial assets that is performed in the interest of third parties at own or third parties' expense and in cases envisaged by the legislation – through external financing – with the purpose to make profit or secure the real value of financial assets.
 - 6) **Financial services markets** – sphere of activities by participants of the financial services markets, aimed at rendering and consuming certain financial services. Financial services markets incorporate professional services in markets of banking services, insurance services, investment services, operations with securities as well as other types of markets that ensure financial assets flow;
 - 7) **Participants of the financial services market** – legal entities and individuals entitled to be engaged in financial services rendering activities on the territory of Ukraine and consumers of such services.
 - 8) **Essential participation** – direct or indirect, separate or joint interest in a legal entity or the right of vote which is based on holding shares of a legal entity or other means (different from formal ownership) of decisive influence on management or activities of a legal entity.
 - 9) **Self-regulatory organization** – a non-profit association of financial institutions set up with the purpose of protecting interests of its members and other participants of financial markets, to which

state financial service market regulators delegate authorities for developing and implementing rules of conduct in financial service markets and/or licensing experts in financial service markets. Laws on regulating financial service markets may establish other authorities which might be delegated to self-regulatory organizations.

10) **State regulation of financial services markets** – taking a set of measures by the State as to regulation and supervision over financial services markets, with the purpose of protecting interests of financial services consumers and preventing crises events.

11) **Professional secret** – materials, documents, and other information which are used in the course and in connection with discharging regular duties by officials of government bodies regulating financial services and persons involved in performing these functions and which are prohibited to disclose in any form until a relevant decision is made by a authorized government body.

12) **Authorized body** – specially authorized body of the executive power in the sphere of regulation of financial service markets.

2. Meaning of other terms used in the Law shall be defined by specialized laws of Ukraine regulating particular financial

Article 2. Scope of the Law

1. The Law regulates relations arising among participants of financial service markets in performing operations of rendering

2. The Law applies to activities of banks and other financial institutions taking into consideration specific features of such

3. Provisions of the Law shall have no effect in respect to:

- Activities of financial institutions in Ukraine that have the status of intergovernmental international organizations;
- Activities of the State Treasury and State Special Purpose Funds.

Article 3. Legislation on Regulation of Activities in Rendering financial services

1. Relationship arising from functioning of financial market and the rendering of financial services to consumers shall be

Section II. Terms of rendering financial services

Article 4. Financial Services

1. The following operations are considered to be financial services:

- 1) Issue of payment documents, payment cards, travel checks, and/or their servicing, clearing, other forms of securing settlements;
- 2) Trust management of financial assets;
- 3) Foreign exchange operations;
- 4) Taking deposits and other financial assets with commitments to their further return;
- 5) Financial leasing;
- 6) Lending money, including on the financial credit conditions;
- 7) Granting guarantees and securities;
- 8) Money transfer;
- 9) Services in the sphere of insurance and accumulation pension provision;
- 10) Trading with securities;
- 11) Factoring;
- 12) Other operations meeting criteria specified in Article 1, Part 1, Item 5 of this Law.

Article 5. Eligibility for Rendering Financial Services

1. Financial services shall be rendered by financial institutions and, should it be directly stipulated by specialized laws – by self-employed individuals (hereinafter referred to as “Businesses”).

2. The exclusive right or other restriction in respect to rendering particular financial services shall be established by specialized laws on activities of a respective financial institution and by regulations issued by state regulators of financial service markets.

3. Only a credit institution shall be entitled to extend financial credits for the account of raised funds

based on an appropriate license.

4. Possibility and procedure of providing individual financial services by legal entities not being financial institutions by their legal status shall be provided for by specialized laws and regulations issued by state regulators in sphere of financial institutions activities within their competence.

Article 6. Agreement on Providing Financial Services

1. Under this Law financial services shall be provided by businesses on a contractual basis.

Unless otherwise envisaged by the Law an agreement on rendering financial services shall include:

- 1) Name of the document;
- 2) Name, mailing and legal address of a business;
- 3) Full name and address of an individual being the recipient of financial services;
- 4) Name and location of the legal entity;
- 5) Name of the financial operation;
- 6) Monetary value of the financial assets, time of contributing the assets, terms for mutual settlements;
- 7) Effective period of the agreement;
- 8) Terms and conditions for amending and terminating the agreement;
- 9) Rights and responsibilities of the parties; liabilities of the parties for poor performance or non-performance of conditions of the agreement;
- 10) Other terms and conditions as agreed by the parties;
- 11) Signatures of the parties.

The authorized body may establish additional requirements to agreements concluded by individuals if relevant issues are not regulated by the Ukrainian legislation.

When entering into agreement a legal entity or individual may request the provider for its balance or certificate of its financial status certified by an auditor (audit firm) and a business plan unless otherwise envisaged by the Ukrainian legislation.

2. Financial institutions will be prohibited to increase interest rate or other payments, envisaged by credit agreement or debt repayment schedule at one's election, unless otherwise provided by law.

3. Financial institutions will be prohibited to request early repayment of unpaid portion of debt on credit and at one's election repudiate concluded credit agreement to the extent of mutuary dissent with financial institution's offer to increase interest rate or other payment, envisaged by credit agreement or debt repayment schedule.

4. Grounds and procedure for terminating agreements on provision of financial services as well as legal consequences for such termination will be specified by the civil legislation, laws on regulation of particular financial service markets, and agreements entered into under these laws and legislation.

Section III. Terms of creation and activity of financial institutions

Article 7. Business Commencement Terms

1. An entity shall acquire the status of a financial institution after the record in its respect has been made in the appropriate state register of financial institutions.

2. If laws of Ukraine require licensing to render some specific financial services, then a financial institution is entitled to provide such services no sooner it has obtained the appropriate licenses.

3. A financial institution shall not start providing financial services unless:

1. Its record keeping and registration system meets requirements established by law and other normative and legal acts;
2. Its internal regulations comply with Laws and regulations issued by agencies responsible for regulation and supervision of financial services market;
3. There is necessary staff in place, whose professional qualification and business reputation meet established requirements;

Article 8. Organizational Rules

1. Financial institutions may be set up in any legal forms unless laws regulating specific financial services markets include special rules and restrictions.
2. Laws of Ukraine regulating activities of business associations and legal entities of other legal forms will be applied to financial institutions with taking into consideration specific aspects defined by this Law and specialized laws regulating individual financial services markets.

Article 9. Capital

1. The minimum capital of financial institutions required for their foundation and general requirements to normative capital (*to be established by the Nation Bank of Ukraine for various purposes – translator's note*) needed for functioning shall be established by specialized laws on regulating specific financial markets.
2. When setting up a financial institution or increasing registered statutory (shared) capital, the statutory (shared) capital must be paid in the monetary form and placed in accounts with commercial banks, which are legal entities under the Ukrainian legislation unless otherwise envisaged by laws of Ukraine on regulation of particular financial service markets.
4. Sale and purchase of a share of the statutory (shared) capital will be made on terms and conditions
5. established by the Ukrainian legislation.

Article 10. Making Decisions under Conflicts of Interests

1. The head or officer of a financial institution will not be allowed to take part in preparing and making decision on assuming any commitment by a financial institution for his/her benefit.
2. The head, official or appointed expert of a financial institution may not participate in preparing and making decision in favor of an institution or a company in which their close relatives or the company they own in one or another way, have a business interest.
3. A person being an official or member of the managerial body of a financial institution shall not enter into agreements with this financial institution on providing him/her with financial services on conditions that differ from regular ones.
4. A person being a member of the managerial body of a financial institution shall not enter into agreement on providing professional services (works) to this financial institution unless owners' general meeting gives preliminary consent for entering into such agreement.

Article 11. Reliability of advertisement and information

1. Financial institutions will be prohibited to disseminate advertising and any other information that contains
2. false data on their activities in the sphere of financial services.

Article 12. Client's Right to Obtain Information

1. A client shall have the right for an access to the information on activities of a financial institution. At client's request, financial institutions will be obliged to provide the following information:
 - 1) Data on financial performance and economic status which are subject to mandatory publication;
 - 2) List of managers of a financial institution and its separated structural units;
 - 3) List of services rendered by a financial institution;
 - 4) Prices/fees for financial services;
 - 5) Number of shares held by member of the executive body of the institution and list of persons whose interest in the charter capital exceeds five percent;
 - 6) Other information on rendering financial services and the information, the right to obtain which is established by laws of Ukraine;

Article 13. Procedure for Reorganizing and Liquidating Financial Institutions

1. Financial institutions will be reorganized and liquidated based on requirements of relevant laws

and regulations issued by state agencies responsible for regulating activities of financial institutions and financial service markets.

Article 14. Accounting and Reporting

1. A financial institution is required to keep records of all its operations and submit reports in accordance with requirements of laws and regulations issued by state agencies responsible for regulating activities of financial institutions and financial service markets.

Article 15. Requirements to External Audits

1. Audits of financial institutions may be carried out by auditors that:

1) Have an appropriate certificate;

2) Have no property relationships with the financial institution they examine, have no indebtedness to this institution or other conflicts of interests;

3) Are entered into appropriate registers that are kept by bodies engaged in regulation of financial services markets. The procedure for maintaining the register shall be specified by a government body responsible for regulation of activities of financial institutions and financial service markets.

Article 16.

Associations of Financial Institutions

1. Financial institutions may combine their activities on a voluntary basis, unless it conflicts with the Ukrainian antimonopoly legislation and requirements of laws on regulation of individual financial services markets. The legal status, types, set up procedure, legal regime of functioning and termination of operations of such associations will be determined in accordance with laws of Ukraine.

2. An association of financial institutions shall acquire the status of self-regulatory organization on making relevant entry into corresponding register which is maintained by state bodies regulating activities of financial institutions and financial service markets within their competence.

3. Self-regulating organizations perform regulatory activity, within delegated to them authority, consistent with requirements of the Law of Ukraine On foundation of regulatory policy in the sphere of economic activity.

Article 17.

Preventing Limitation of Competition in Financial Services Markets

1. Financial institutions shall act with due regard to requirements of the antimonopoly legislation and legislation on protection from unfair competition.

Article 18. Preventing Legalization (Laundering) of the proceeds from crime

It is prohibited for financial institutions within rendering financial services to enter into the contractual relations with anonymous entities, establish and carry out of anonymous (numerical) accounts.

It is prohibited for financial institutions to enter into the contractual relations with the clients, both legal and natural entities, in the case of doubt occurred concerning person acts in not one's own name.

A financial institution shall identify, in accordance with Ukrainian Legislation:

clients that open accounts in financial institution and/or conclude the contracts on rendering of financial services;

clients which fulfil the operations which are subjected to financial monitoring;

persons authorized to act on noted above client's behalf.

Financial institution renders corresponding financial services only after establishing of identity of the clients and fulfilment measures in compliance with Legislation which regulates the relations in the sphere of prevention of the legalization (laundering) of the proceeds from crime.

Financial institution is entitled to require, and the client shall submit the documents and statements contemplated by Legislation, necessary for verifying of his/her identity. In the case of client's failure to submit necessary documents and statements contemplated by Legislation or deliberate submitting false statements about her/himself, the financial institution refuse to attend to client's request and/or rendering of financial services and/or does not open an account and in the case of earlier opened accounts the financial institution refuses to attend to client's request and/or does not conclude a contract on rendering of financial services

In the case of doubt that person does not acts in his/her name the financial institution shall also identify person in who's name the financial operation is going to be fulfilled.

In case the result of identification is causing the motivated suspicion concerning client submitting false information or deliberate submitting information with the purpose of confusion, the financial institution shall submit information on client financial operations to Specially Authorized Body of Executive Power on the matter of financial monitoring.

In order to identify the client who is a legal entity, the financial institution shall identify natural persons who are owners of this legal entity, have a direct or intermediate influence on it and get an economic benefit from its activity. In the case of legal entity is a company the financial institution shall identify natural person who has an essential share in such legal entity. The client shall submit statements contemplated by Legislation which are required by financial institution with the purpose of fulfilment of the requirements of Legislation which regulates the relations in the sphere of prevention of legalization (laundering) of proceeds from crime. In case of client's failure to submit such statements, the financial institution shall refuse to render services and/or shall not open an account and in the case of earlier opened accounts the financial institution refuses to attend to clients request and/or does not conclude a contract on rendering of financial services. In order to identify and take measures contemplated by Legislation to establish the identity of the client, who is legal entity, and ensuring the financial institution capacity to fulfil the rules of internal financial monitoring and the program of its implementation, including an exposure of suspicious financial operations, the financial institution is entitled to require an information contemplated by Legislation concerning identification of such person and his/her superiors, state power bodies which executing supervision and/or control of legal entity activity, from financial institutions and other legal entities as well as to fulfil measures contemplated by Legislation upon the acquisition of such information from other sources. Mentioned bodies of state power, financial institutions, and other legal entities shall submit such information to financial institution free of charge within ten working days from the date of acquiring the statement.

In order to identify the client, who is a natural person, and taking measures contemplated by Legislation for verification of his/her identity the financial institution is entitled to require an information on him/her in Bodies of State power, banks, other legal entities as well as to take measures contemplated by Legislation upon acquisition of such information on such person necessary for meeting the rules of internal financial monitoring and programs of its implementation including an exposure of suspicious financial operation. Mentioned bodies of state power, banks, and other legal entities shall submit such the information for financial institution free of charge within ten working days from the date of acquiring the statement.

Identification is not obligatory for every transaction, if the client was identified earlier in compliance with Legislation which regulates the relations in the sphere of prevention legalization (laundering) proceeds from crime.

Section IV. State Regulation of Financial Services Markets

Article 19. Purpose of State Regulation of Financial Services Markets

The purpose of state regulation of the financial services markets in Ukraine shall be:

1. Pursuing of a unified efficient state policy in the sphere of financial services;
2. Protection of interests of consumers of financial services;
3. Creation of favourable conditions for development and functioning of the financial services markets;
4. Creation of conditions for effective mobilization and placement of financial resources by the participants of financial services markets, with taking into account public interests;

5. Ensuring of equal opportunities for access to the financial services markets and protection of rights of their participants;
6. Compliance by participants of the financial services markets with legislation requirements;
7. Prevention of monopolization and creation of conditions for development of fair competition in the financial services markets;
8. Ensuring of transparency and openness of the financial services markets; and
9. Promotion of integration in the European and world financial services markets.

Article 20. Forms of State Regulation of Financial Services Markets

1. State regulation of activities on rendering financial services shall be exercised through:
 - 1) Maintenance of state registries of financial institutions and licensing of activities on rendering of financial services;
 - 2) Normative and legal regulation of financial institutions' activities;
 - 3) Oversight over financial institutions' activities;
 - 4) Taking of enforcement measures by authorized government agencies; and
 - 5) Taking of other measures on state regulation of the financial services markets.

Article 21. Agencies Responsible for State Regulation of the Financial Services Markets

1. The responsibility for state regulation of the financial services markets shall rest :
 - in respect to the banking services market - with the National Bank of Ukraine;
 - in respect to the market of securities and their derivatives - with the State Commission on Securities and Stock Market; and
 - in respect to other financial services markets - with a specially authorized body of the executive power in the sphere of regulation of financial service markets.

The Antimonopoly Committee and other state agencies shall check activities of participants of the financial services market and obtain information from them within their powers defined by the Law.
2. State regulation of activities in provision of financial services shall be exercised pursuant to this Law and other Laws of Ukraine.

Article 22. Cooperation and Coordination of Activities between/among State Regulators of Financial Services Markets

1. The National Bank of Ukraine, State Commission on Securities and Stock Market, and Authorized Body shall cooperate in accordance with the provisions of this Law.
2. The National Bank of Ukraine, State Commission on Securities and Stock Market, and Authorized Body shall inform each other on any observations and conclusions that are necessary for fulfilment of their obligations.
3. The National Bank of Ukraine, State Commission on Securities and Stock Market, and Authorized Body shall have the right to access information data bases of each other maintained with the purpose of regulation of financial services markets.
4. The Head of the state body responsible for regulation of the financial services markets or a person authorized by him shall have the right to participate in activities of other agencies involved in regulation of financial services markets, with the right of advisory vote when the issues of oversight over activities on rendering financial services are discussed.
5. The National Bank of Ukraine, State Securities and Stock Market Commission, and Authorized Body, with the purpose of cooperation and coordination of their activities, shall convene meetings at least on a quarterly basis or more frequently at the request of the Head of any of these agencies. Corresponding memoranda and/or interagency agreement shall be prepared/concluded based on results of such meetings. Decisions specified by these memoranda and agreements shall be binding for each state regulator of financial services.

Section V. Organizational Structure, Authorities, and Activities of the Specially Authorized Body of the Executive Power in the Sphere of Regulation of Financial Service Markets

Article 23. Activities of the Authorized Body

1. The Authorized Body shall be the central body of the state executive power working on a collective principle.
2. The Authorized Body cannot participate in financial markets as an issuer of internal or external government bonds or perform other activities in financial markets except for activities specified by this Law.
3. The Regulation on the Authorized Body shall be approved by the President of Ukraine at the proposal of the Cabinet of Ministers of Ukraine.
4. The Authorized Body shall be a legal entity with its own segregated property of state ownership.
5. The Authorized Body shall consist of the Chairman, his/her deputies, and at least three members of the Authorized Body – Directors of Departments (hereinafter – “Department Directors”) who will be appointed and dismissed by the President of Ukraine.
6. The structure of the central office of the Authorized Body shall be defined by the Regulation on the Authorized Body.
7. The Authorized Body may set up and liquidate its regional offices with the purpose to exercise its authorities. Regional offices of the Authorized Body shall not have the status of a legal entity and shall act on the basis of the Regulation approved by the Authorized Body.
8. The Authorized Body may decide to set up an Advisory Expert Council which will be a deliberative body acting on a permanent and voluntary basis that would participate in discussion of draft documents being developed and/or considered by the Authorized Body. The responsibility for approving the composition of the Advisory Expert Council and Regulation on the Advisory Expert Council shall rest with the Authorized Body.
9. Meetings will be a major form of activities of the Authorized Body which will be convened as necessary but at least on a monthly basis. The Regulation on the Authorized Body shall specify the procedure for making decisions by the Authorized Body.

Article 24. Chairman of the Authorized Body

1. The Chairman of the Authorized Body shall be appointed and dismissed by the President of Ukraine.
2. The President of Ukraine shall dismiss the Chairman of the Authorized Body in the following cases:
 - 1) The Chairman office term has ended;
 - 2) The court pleaded the Chairman guilty of a criminal offence and the court judgment came into effect;
 - 3) The Chairman has died or the court has declared the Chairman deceased or missing;
 - 4) The Chairman has ceased the Ukrainian citizenship or has moved from Ukraine for permanent residence;
 - 5) The Chairman has applied for resignation in a written form;
 - 6) For other reasons.
3. Authorities of the Chairman of the Authorized Body shall be terminated in case of his/her death.
4. The Chairman of the Authorized Body may be a person of excellent business reputation with higher education in economics or law with seven year experience of professional work.
5. The Chairman of the Authorized Body shall:
 - 1) Manage current activities of the Authorized Body and address all issues related to activities of the Authorized Body except those within the competence of the Authorized Body;
 - 2) Act without power of attorney on behalf of the Authorized Body within the limits established by the Ukrainian legislation;
 - 3) Represent the Authorized Body in its relationship with state agencies of other countries in respect to issues of surveillance of financial institutions activities and with international organizations;

- 4) Issue orders, instructions on the issues within his competence;
 - 5) Hire and dismiss employees of the Authorized Body, give bonus and impose disciplinary punishments; and
 - 6) Perform other functions necessary to ensure smooth operation of the Authorized Body.
6. The Chairman of the Authorized Body shall be held liable for activities of the Authorized Body to the President of Ukraine.

Article 25. Deputy Chairmen of the Authorized Body

1. Deputy Chairmen of the Authorized Body shall be appointed and dismissed by the President of Ukraine.
2. A Deputy Chairman of the Authorized Body may be a person of excellent business reputation with higher education with at least five year experience of permanent work in an area matching his/her functional duties in the Authorized Body.
3. Deputy Chairmen of the Authorized Body shall be responsible for ensuring coordination functions within the Authorized Body, performing research and methodological activities, and shall also address staffing, financial, IT, and equipment issues. The Regulation on the Authorized Body shall specify the number of Deputy Chairmen and distribution of responsibilities among them.

Article 26. Member of the Authorized Body – Department Directors

1. Department Directors will be appointed and dismissed by the President of Ukraine.
2. Department Director may be a person with excellent business reputation with higher education and at least five year experience of permanent work in an area matching his/her functional duties in the Authorized Body.
3. Authorities of Department Directors shall be terminated because of completion of their office terms or based on grounds envisaged by the labor and public service legislation.
4. Department Directors will be responsible for organizing and exercising regulation and surveillance of activities of individual types of financial institutions and financial service markets attributed to supervisory competence of the departments they head.
5. Department Directors, within their competence, shall be entitled to sign on behalf of the Authorized Body documents of a law application nature, address issues related to entering financial institutions to the register and licensing, take enforcement and other measures aimed at exercising their authorities specified by the Regulation on the Authorized Body.

Article 27. Tasks of the Authorized Body

Major tasks of the Authorized Body shall include:

- 1) Designing strategy for development and addressing of system issues related to functioning of financial services markets in Ukraine;
- 2) Exercising state regulation and oversight over provision of financial services and compliance with legislation in this sphere;
- 3) Protecting financial services consumers' rights through taking, within their authorities, enforcement measures with the purpose to prevent and eliminate violations of the legislation in the financial service market;
- 4) Summarizing practice of application of the Ukrainian legislation on financial services and markets and preparing proposals on improving this legislation;
- 5) Drafting and approving normative and legal acts within its competence;
- 6) Coordinating activities with the other state agencies; and
- 7) Introducing internationally acknowledged rules of financial service markets development.

Article 28. Authorities of the Authorized Body

The Authorized Body, within its competence, shall:

- 1) Draft and approve normative and legal acts that shall be obligatory for central and local bodies of executive power, bodies of local self-administration, participants of financial services markets, their associations, as well as check fulfilment of these normative and legal acts;
- 2) Register financial institutions and maintain the Register of financial institutions;
- 3) grants to financial institutions corresponding permissions according to the Laws on the matters of the regulation of the separate financial service markets as well as the licenses on carrying out of activity on rendering of financial services and approve the terms of carrying out of activity on rendering of financial services which execution requires a corresponding license or permit, approve procedure of control for its observance;
- 4) Establish capital requirements and other indicators and requirements aimed at limiting risks for all operations with financial assets;
- 5) Set fees for issuing licenses and registering documents and provide information at request of legal entities ;
- 6) Make conclusions on attributing operations to certain types of financial services;
- 7) Set restrictions on combining activities in provision of certain financial services;
- 8) Verify authenticity of information provided by participants in financial services markets;
- 9) Perform, independently or together with other competent supervisory authorities, on-site and off-site audits of financial institutions' activities;
- 10) Take enforcement measures and apply administrative sanctions in case of violation of the financial service legislation and regulations issued by the Authorized Body;
- 11) Appeal to court and arbitration court because of violation of the Ukrainian legislation on financial services;
- 12) Send to financial institutions and self-regulatory organizations obligatory resolutions requiring to eliminate violations of financial service legislation and request for necessary documents;
- 13) Send materials on offences detected by audits to law-enforcement bodies;
- 14) Send materials to the Antimonopoly Committee of Ukraine in the event of detecting violations of the antimonopoly legislation;
- 15) Require to convene a meeting of the participants of a financial institution;
- 16) Monitor capital flows in Ukraine and abroad through financial services markets;
- 17) Set requirements to software and special technical equipment used by the financial institutions in provision of financial services;
- 18) Establish a procedure for disclosing information and reporting by participants in financial services markets in accordance with the legislation of Ukraine; and
- 19) Determine professional requirements to top managers and chief accountants of financial institutions and require dismissal of persons who do not meet qualification requirement.
- 20) Approve, according to the Laws on the matters of the regulation of the separate financial service markets, financial institutions documents, which determine the terms of rendering of the financial services;

Decisions of the Authorized Body related to evaluation of efficiency and coordination of activities in regulation and supervision of individual financial service markets will be binding for Department Directors.

Normative and legal acts of the Authorized Body, who according to the Law is regulatory acts, are considered, passed and divulgated with requirements of the Law of Ukraine On foundation of regulatory policy in the sphere of economic activity normative and legal acts.

Article 29. Areas of Supervision

1. The major areas to be supervised by the Authorized Body shall be meeting of established criteria and normatives in respect to:

Liquidity;

Capital and solvency;

Profitability;

Assets' quality and risk of operations;

Quality of management systems and qualification of managerial staff;

Observance of rules for provision of financial services.

2. Procedures for preparation, submission and processing of data in respect to the activity of financial institutions in the light of the areas of supervision shall be established by the Authorized Body.

Article 30. Inspection

1. The Authorized Body, within its terms of reference, shall have the right to inspect financial institutions as well as entities/persons which/who are related or affiliated to them.

2. The Authorized Body shall establish the periodicity of inspections depending on the type of an institution.

3. The Authorized Body may engage external experts with appropriate qualification to carry out inspections.

4. The Authorized Body may investigate data on clients of financial institutions only for the purpose of implementing its supervision duties.

5. For inspection purposes, any person mandated by the Authorized Body to carry out an inspection in the place of location of the legal entity that is subject to the inspection shall have the right to call in officials of this legal entity for clarifications and to require all necessary information and written documents.

Article 31. Mandatory Observance of the Professional Secrecy

1. Materials that are provided for analysis and audit purposes as well as data and documents describing financial, property, and tax status of legal entities and individuals which are provided to the Authorized Body shall constitute professional secret and can be used for the only purpose of performance by the Authorized Body of its regular functions including legally specified data sharing.

2. Unauthorized disclosure of any data, materials, document through mass media in either oral or written form, in the first place, in respect to officials who used or were aware of such data, materials or documents shall be subject to prosecution unless such disclosure is conditioned by the necessity to prevent legalization of criminal money.

Article 32. Cooperation with Other Countries' Government Agencies on Oversight of Financial Institutions Activities and International Organizations

1. The Authorized Body, within its competence, shall cooperate with international organizations, state agencies and non-government organizations of other countries on issues attributed to their competence.

2. The Authorized Body may, within international cooperation mentioned in Item 1 of this Article and on mutual basis, provide and obtain information on supervision of financial markets and financial institutions which neither constitute state secret nor lead to disclose of professional secret.

3. The Authorized Body may, within international cooperation mentioned in Item 1 of this Article, provide information on activities of individual financial institutions in cases and according to the procedure specified by international agreements in which Ukraine participates.

Article 33. Reporting

1. The Authorized Body, with due regard to legislation requirements to protection of state and commercial secrets, shall disclose basic provisions of its annual reports in mass media.

Section VI. Licensing Activities of Financial Institutions

Article 34. Mandatoriness of Licensing

1. The Authorized Body shall issue licenses for the following activities of financial institutions:

Insurance activities;

Activities in providing accumulation pension provision services;

Provision of loans from raised funds;

Provision of any financial services involving direct or indirect raising of individuals' financial assets.

2. Activities specified in Part 1 of this Article shall be permitted no sooner than after obtaining a relevant license. Persons guilty of performing such activities without a license shall be held liable under Ukrainian laws.

3. A license for provision of financial services cannot be transferred to third parties.

Article 35. Documents to Be Submitted to a Licensing Agency to Obtain a License

1. An individual/entity wishing to be involved in certain economic activities in provision of financial services subject to licensing shall, in person or through an authorized entity or individual, submit to the Authorized Body an application of the established form for issuing the license.

An application for licensing shall show data on an applicant, in particular, name, location, bank account, ID number. If the applicant has branches or other segregated structural units which will perform economic activities based on the license the application must also show location of these branches of structural units.

2. An application for issuing the license shall come with a certificate of state registration of the applicant as a business or a copy of the certificate of entering the applicant in the Unified State Register of Ukrainian enterprises and organizations which is certified by a notary or issuer, documents, which list and contents is subjected to certain requirements according to the Laws on the matters of the regulation of the separate financial service markets, and the application for issuing the license for the rendering of the financial services, noted in Article 34 Part 1 items 3 and 4, shall be accompanied by the documents, which list and contents is subjected to the requirements of the Authorized Body.

3. An application for issuing the license and accompanying documents shall be accepted according to the checklist a copy of which showing the date of accepting the document and signed by an authorized person shall be given to the applicant.

4. Laws on regulation of individual financial service markets may establish other requirements to the list and content of documents required to receive a license.

5. An applicant shall be notified in a written form of refusing his/her application for a license with indication of reasons for the refusal within terms established for issuing the license. After elimination of reasons for which the application was refused the applicant may reapply for the license according to the procedure established by this Law.

Article 36. Decision on Issuing or Refusal to Issue a License

1. The Authorized Body shall supervise activities of corresponding financial institutions and make a decision on issuing or refusal to issue a license within thirty calendar days of the day of receiving the application with accompanying documents unless a specialized law regulating relationship in certain spheres of economic activities envisages different term for issuing a license for individual activities.

2. An applicant shall be send a written notification of issuing or refusal to issue the license with indication of reasons for the refusal within three business days of the day of making the decision.

3. The application for the license shall be refused on the following grounds:

Falsification of data in documents submitted by the applicant;

Failure of an applicant to meet the licensing requirements to certain type of economic activity subject to licensing.

4. In case of refusal because of detection of false data an applicant being an economic entity may reapply for the license no sooner than three months after the day of making the decision on the refusal.

5. In case of refusal because of failure to comply with licensing requirement to certain type of economic activity subject to licensing an applicant being an economic entity may reapply for the license as soon as the reasons for the refusal are eliminated.

6. A decision on refusal of an application for a license may be appealed judicially.

Article 37. Information Included in a License

1. The Authorized Body shall use a unified license form to be approved by the Cabinet of Ministers of Ukraine.
2. The license form shall contain both series and number and be subject to strict reporting requirement.
3. A license shall show:
 - 1) Name of issuer;
 - 2) Type of economic activity in provision of financial services for which the license is issued;
 - 3) Name of the legal entity;
 - 4) ID number of the legal entity;
 - 5) Location of the legal entity;
 - 6) Date and number of the decision on issuing the license;
 - 7) Position and name of a person who signed the license;
 - 8) Data of issuing the license.

A license shall be signed by the director of a relevant department or his/her deputy and certified by the Authorized Body's seal.

Article 38. Issuing a License

1. If the Authorized Body makes a positive decision on issuing a license it shall issue the license within five business days of the day of receiving a document certifying payment of the license fee.
2. The Authorized Body shall make a check mark on a copy of the description given to the applicant when accepting the application to confirm acceptance of documents certifying payment of the license fee by the applicant.
3. If the applicant fails to provide a document certifying payment of the license fee or apply to the Authorized Body for the issued license within thirty calendar days of the day of sending notification of issuing the license, the Authorized Body may withdraw the license.
4. Activities in provision of financial services based on a license issued by the Authorized Body may be performed throughout Ukraine.

Section VII. Enforcement Measures

Article 39. Taking Enforcement Measures

1. In case of breach of laws and other normative acts governing the provision of financial services, the Authorized Body shall take enforcement measures under the legislation in force.
2. The Authorized Body shall choose and take enforcement measures based on the analysis of data and information on the violation in question, with due regard to consequences of the violation and those likely to result from taking such measures.

Article 40. Enforcement Measures

1. The Authorized Body may take the following enforcement measures:
 - To oblige violator to take action to eliminate the violation;
 - To require the immediate convening of an extraordinary shareholders meeting of the financial institution ;
 - To impose penalties at rates specified by Article 41, 43 of this Law;
 - To suspend or withdraw the license for provision of financial services;
 - To dismiss the managerial staff from the operation of the financial institution and appoint a temporary administration;
 - To approve the financial institution's financial rehabilitation plan;
 - To raise the issue of liquidation of the concerned institution.
2. The procedure and terms for applying enforcement measures will be established by Ukrainian laws and regulations issued by the Authorized Body.

3. A resolution of the Authorized Body related to the application of enforcement measures in the form of a temporary administration shall be binding documents.

Article 41. Penalties to Be Imposed on Businesses – Legal Entities – for Offences in Financial Service Markets

1. The Authorized Body shall impose the following penalties on businesses:

For performing activities in financial service markets without a special license provided for by the current legislation – at the rate of up to 5,000 untaxable individuals' incomes but at most one percent of the charter capital of the offender;

For failure to provide on time or for deliberate provision of false information – at the rate of up to 1,000 untaxable individuals' incomes but at most one percent of the charter capital of the offender;

1)

For evasion from fulfillment or untimely fulfillment of instructions or decisions on eliminating violations in respect to provision of financial services – at the rate of up to 500 untaxable individuals' incomes but at most one percent of the charter capital of the offender;

2. A decision of the Authorized Body on imposing penalty may be appealed through the court.

3. Penalties imposed by the Authorized Body shall be collected judicially.

Article 42. Procedure for Imposing Penalties for Violating the Rules on Activities in Financial Service Markets by Businesses – Legal Entities

1. Penalties specified by Article 41 of this Law will be imposed by the Chairman of the Authorized Body, his/her deputies, department directors or the head of a regional office upon consideration of materials proving the fact of violation.

2. An authorized person who detected a violation specified in Article 41 shall execute a certificate which shall be sent together with other relevant documents to an official in a position to impose penalties within three days.

3. If in the course of audit an authorized person seized documents proving the fact of violation copies of these documents and a copy of the report on seizing these documents will be attached to the certificate of violation.

4. Documents proving the fact of violation may be seized for up to three days with mandatory execution of a report showing the date of seizing, name and position of a person who seized the documents, complete list of seized documents, and the day on which these document are to be returned under this Law.

5. The report shall be signed by an authorized person who seized the documents. At the completion of the audit a copy of the report on seizing shall be given to a representative of a business whose documents were seized.

6. Officials of the Authorized Body specified in Part 1 of this Article shall make a decision on imposing penalty within ten days of receiving documents specified in Parts 2, 3 of this Article. Resolution on imposing penalty shall be sent to a business on which the penalty was imposed and a bank with which this business's account is open.

Article 43. Liability for Administrative Offences Related to Activities in Financial Service Markets

1. Individuals – private businesses or officials – performing activities in financial service markets without a special license provided for by the current legislation will be penalized at the rate of 20 to 50 untaxable individuals' incomes.

2. Individuals – private businesses or officials – who failed to provide on time or deliberately provided false information to the Authorized body, should provision of such information is specified by the current legislation, will be penalized at the rate 50 to 100 untaxable individuals' incomes.

3. Individuals – private businesses or officials – who evade from fulfillment or fail to fulfill instructions of the Authorized Body on time will be penalized at the rate of 20 to 50 untaxable individuals' incomes.

4. In the event of detecting offences officials of the Authorized Body shall execute reports on detection of offences.
5. Penalties specified in Parts 1, 2, 3 of this Article will be imposed by the Authorized Body or its regional offices. The Chairman of the Authorized Body, his/her deputies, department directors or the head of a respective regional offices will have the right to consider administration offenses cases on behalf of these entities.
6. All proceedings related to imposing penalties specified in Parts 1, 2, 3 of this Law will be made under the Ukrainian Code on Administrative Offences (80731-10, 80732-10).

Article 44. Criminal Liability for Violating Legislation while Performing Activities in Provision of Financial Services

1. Officials guilty of violation of the legislation while performing activities in provision of financial services shall hold criminal liability under the law.

Article 45. Liability of the Authorized Body and Its Officials

1. Officials of the Authorized Body shall be held liable for non-performance of poor performance of their regular duties.
2. The Government shall reimburse participants of the financial service markets for losses incurred due to wrongdoing of the Authorized Body.

Article 46. Grounds for Appointing Temporary Administration

1. The Authorized Body may appoint a temporary administration of a financial institution subject to licensing by the Authorized Body in the following cases:
 - 1) A financial institution violates legal requirements of the Authorized Body on a regular basis;
 - 2) A financial institution fails to carry out 10% and over of its outstanding liabilities during 30 business days;
 - 3) Financial institution's managers have been arrested or recognized guilty on criminal charges;
 - 4) A financial institution has concealed accounts, assets, registers, reports and other documents;
 - 5) A financial institution refuses, in an justified manner, to disclose documents or information, provided for in this Law to authorized persons;
 - 6) There is a public conflict among managers of the financial institution;
 - 7) A financial institution solicits for the appointment of a temporary administration.
2. The temporary administration shall begin to fulfill its responsibilities immediately after the decision on its appointment has been adopted.
3. The temporary administration shall be headed by a person appointed by the Authorized Body.
4. Authorities temporary administration may last for at most one year of the day of appointment.

Article 47. Requirements to temporary administrator and terms of its appointment

1. The Authorized Body shall appoint individuals who will perform temporary administration functions. The following entities/individuals may act as a temporary administrator:
Legal entity involved in professional activities in temporary administration, provision of audit, legal or consulting services with at least three staff members duly certified by the Authorized Body to carry out the temporary administration of financial institutions;
Independent expert (contracted by the Authorized Body); or
Official of the Authorized Body.
2. Individuals may be admitted to participate in a temporary administration only if they have been granted a certificate of the Authorized Body to perform the temporary administration, have high professional and ethical characteristics, good business reputation, education in law or economics, and sufficient experience to discharge duties of a temporary administrator.
3. The Authorized Body may at any time preclude a temporary administrator from the fulfillment of his responsibilities if the latter does not comply with the requirements established by this Law.

4. The temporary administrator (except for official of the Authorized Body) and experts involved to ensure proper discharging of temporary administrator's duties shall be remunerated at the amount specified by contracts concluded with them.
5. The remuneration of a temporary administrator (except for official of the Authorized Body) and involved experts shall be financed by the financial institution to which he has appointed.
6. The amount of remuneration of a temporary administrator (except for official of the Authorized Body) shall not be lower than the average wage of the head of the concerned financial institution's for twelve months preceding the appointment of the temporary administration.
7. The temporary administrator shall establish remuneration of the involved experts within the budget of the temporary administration's approved by the Authorized Body.
8. Bonuses to the temporary administrator and experts may be paid within the budget and will be subject to approval by the Authorized Body.
9. Financial liability, life, and health of the temporary administrator shall be insured under the law and insurance contract.
10. The following individuals cannot be appointed as temporary administrators:
 - 1) Creditor, affiliated person or participant of the financial institution;
 - 2) Convicted or accused person;
 - 3) Person who failed to meet his/her liability to any financial institution.
11. In order to detect a conflict of interests prior to the appointment of a temporary administrator, the candidate shall provide the Authorized Body with information on his personal and business interests, in particular:
 - 1) Outstanding debt before the financial institution, any employment relationship with or stakeholding interest in the institution;
 - 2) Relationship with any financial institution as its affiliated person during the last five years;
 - 3) Failure to meet any liabilities to any bank or financial institution during the last five years;
 - 4) Other interests, that might preclude from unbiased discharging duties of temporary administrator;
 - 5) Absence of conflict of interest with the Authorized Body.
12. The Authorized Body shall make sure that there is no conflict of interest prior the appointment of a temporary administrator .
13. Should a conflict of interest arise after the appointment of a temporary administrator, the latter shall make every effort to eliminate this conflict of interest, and in parallel, notify the Authorized Body which shall decide whether the temporary administrator may continue performing its functions.
14. Damage made due to professional fault of the temporary administrator shall be covered under the Ukrainian legislation and insurance contracts.
15. A temporary administrator shall not:
 - 1) Perform activities if there is a conflict of interests unless Authorized Body is aware of the situation and has permitted to continue working;
 - 2) Accept directly or indirectly any services, presents and other valuables from persons who may be interested in certain actions connected to the appointment of the temporary administration;
 - 3) Use or permit to use property, that the temporary administrator is entitled to dispose, to his own benefit or to the benefit of third parties;
 - 4) Assume commitments on behalf of the Authorized Body without its prior written permission;
 - 5) Disclose business information unless this relates to discharging duties of a temporary administrator.
16. Temporary administrator's failure to duly exercise its authorities under this Law which resulted in losses incurred by the financial institution or its creditors, may be the basis for suspending performance of his function, withdrawing the certificate for temporary administration, and calling it to account.
17. If a financial institution and/or creditors have incurred losses resulting from failure of the temporary administrator to duly perform its duties, they seek for covering the losses through the court.

Section VIII. Final Provisions

1. This Law will come into effect on the date of publishing.
2. The Cabinet of Ministers shall draft the Regulation on the Authorized Body and submit it for consideration by the President of Ukraine within three months.

3. The Authorized Body, within a year of its setting up, shall introduce the State Register of Financial Institutions and enter existing financial institutions subject to regulation by the Authorized Body.
4. Financial institutions established before enactment of this Law's shall bring their activities in line with the requirements of this Law within a year of introduction of the State Register of Financial Institutions.
5. Until legislation has been brought into compliance with this Law, laws and other normative acts shall be applied insofar as they do not conflict with this Law, unless otherwise envisaged by this Law.
6. Other laws and regulations issued by state regulators in the sphere of financial services and markets shall be applied in respect to issues which are not regulated by this Law.
7. The Cabinet of Ministers of Ukraine, the National Bank of Ukraine, and the State Commission on Securities and Stock Markets, within a year of the date of publication of this Law shall:
Prepare and submit for consideration by the Supreme Rada of Ukraine, proposals on bringing Ukrainian laws in compliance with this Law;
Bring their normative and legal acts in compliance with this Law;
Ensure issuing of regulations necessary to implement this Law;
Ensure that ministries and other central bodies of the executive power bring their by-laws in compliance with this Law.
8. To complement Part 2 of Article 2 of the Law of Ukraine «On Licensing Certain Economic Activities» (1775-14) with “activities in provision of financial services” after the phrase “licensing of banking activities”.
9. To complement Article 6 of the Law of Ukraine «On Insurance» (85/96-BP) with the following Item 34:
“34) Financial liability, life, and health of temporary administrator and liquidator of a financial institution”.

*L. Kuchma, the President of Ukraine
City of Kyiv
July 12, 2001-08-14
№ 2664-III*

Annex 6

Law of Ukraine

On Securities and the Stock Market

*with amendments and supplements, introduced by the Laws of Ukraine
of September 17, 2008 No.514-VI,*

*...
of July 01, 2010 No. 2393-VI*

This Law shall regulate the relations that arise during placement and circulation of securities and conduct of professional activities in the stock market, in order to ensure transparency and effectiveness of the stock market functioning.

Section I GENERAL PROVISIONS

Article 1. Definition of Terms

1. Terms shall be used in the Law in the following meaning:

securities issue - a set of issuable securities of a certain kind of the same issuer, same nominal value, same form of issue and same international identification number that grant to their owners same rights, regardless of the time of purchasing and placement in the stock market;

delisting - a procedure of excluding securities from the register of a trade organizer for failure to meet the trade organizer rules, followed by termination of trading on the trade organizer or moving them to the category of securities admitted for trading without including them into the trade organizer's register;

issuance - a law-established sequence of the issuer's actions with regard to issue and placement of issuable securities;

endorsement - the signature on an order security that certifies the transfer of rights under the security to another person/entity;

endorser - an individual or legal entity which is the owner of the security and which endorses;

quoting - a mechanism of determining and/or fixing the market value of a security;

listing - a set of procedures to include securities into a trade organizer register and to ensure the securities and the issuer meeting the terms and requirements set forth in the trade organizer rules;

international identification number of securities - a number (code) permitting to identify securities or other financial instruments, which assignment is envisaged by Ukrainian laws;

securities circulation - execution of transactions relating to transfer of ownership rights to securities and rights under securities, except for agreements concluded at the time of securities placement;

primary owner - a person/entity which obtained ownership of securities directly from the issuer (or the person/entity which issued the securities) or the underwriter during placement of securities;

securities prospectus - a document that contains information on open (public) securities placement;

securities placement - alienation of securities by the issuer or the underwriter by way of conclusion of a civil and legal agreement with a primary owner;

financial instruments - securities, futures contracts, cash instruments, forward contracts, interest rate swaps, currency swaps or index swaps, options that grant the right to purchase or sell any of the above financial instruments, including cash instruments (currency options and interest rate options).

Article 2. Stock Market

1. Stock market (securities market) shall be a totality of stock market participants and their legal relations with regard to the placement, transference and record keeping of securities and derivatives.

2. Stock market participants shall be issuers, investors, self-regulatory organizations and professional stock market participants.

An issuer shall be a legal entity, the Autonomous Republic of Crimea or municipalities, as well as the State in the person of GOU-authorized bodies of State power that, on its behalf, places issuable securities and undertakes obligations thereunder to their owners.

Investors in securities shall be physical persons and legal entities, resident and nonresident, which have acquired ownership rights to securities for the purpose of getting a return on the invested funds and/or on the acquired rights assigned to securities' owners under legislation. Institutional investors shall be collective investment institutions (unit and corporate investment funds), investment funds, mutual funds of investment companies, non-State pension funds, insurance companies, and other financial institutions that perform transactions with financial assets in the interest of third parties at own cost or at the cost of said persons, and, in cases envisaged by legislation, at the cost of financial assets of other persons for the purpose of making a return or preserving the real value of said financial assets.

A self-regulatory organization of professional stock market participants shall be a non-for-profit association of professional stock market participants engaged in professional activities on the stock market in securities trading, asset management of institutional investor assets, depositary activities (registrar and custodian activities), created according to the criteria and requirements set by Securities and Stock Market State Commission.

Professional stock market participants shall be legal entities that, on the basis of licenses issued by Securities and Stock Market State Commission, carry out professional stock market activities, whose types are defined by this Law.

3. The stock market shall be divided into primary and secondary market.

The primary market of securities shall be a totality of legal relations related to securities placement.

The secondary market of securities shall be a totality of legal relations related to the circulation of securities.

Article 3. Securities and Their Classification

1. Securities shall be documents of the established form with relevant requisites that testify to the money and other property rights, determine interrelationships between the entity that has placed (issued) them and the owner and envisage carrying out obligations under the terms of their placement, and to the possibility of transfer to other persons of rights following from said documents.

2. According to the terms of placement (issue), securities shall be divided into issuable and non-issuable securities.

Issuable securities shall be securities that testify to equal rights of their owners within one issue with regard the person that undertakes respective obligations (issuer).

Issuable securities shall include:

- shares;
- corporate bonds;
- municipal bonds;
- government bonds of Ukraine;
- mortgage certificates;
- mortgage bonds;
- certificates of Funds of Real Estate Operations (hereinafter, FREO certificates);
- investment certificates; and
- treasury bills of Ukraine.

Securities that do not fall under the definition of issuable securities under this Law may be recognized as such by Securities and Stock Market State Commission if this does not conflict with special laws on these groups and/or types of securities.

3. By the form of existence securities shall fall into documentary and non-documentary.

Issuable securities of one issue can exist only in one form.

Non issuable securities can exist only in documentary form.

According to the form of issue securities may be bearer, registered or order.

Rights certified by a security shall belong to the following:

- bearer of the security (bearer security);
- person indicated in the security (registered security); or

- person indicated in the security, which can independently exercise these rights or appoint by its instruction (order) another authorized person (order security).

5. In Ukraine the following groups of securities shall be in civil circulation:

1) Equity securities shall be securities, which testify to participation of their owners in the statutory capital (except for investment certificates) that entitle their owners to participate in the issuer governance and receive a portion of profit in the form of dividends, and a portion of property in case of the issuer's liquidation. The following securities shall refer to equity securities:

- shares;
- investment certificates
- FREO certificates

2) Debt securities shall be securities that testify to the relations of borrowing and envisage the issuer's obligation to pay funds at a definite time in accordance with the obligation. The following securities shall refer to debt securities:

- corporate bonds;
- government bonds of Ukraine;
- municipal bonds;
- treasury bills of Ukraine;
- savings (deposit) certificates;
- promissory notes

3) Mortgage securities shall be securities with a mortgage coverage (pool of mortgages), which testify to the right of their owners to receive from the issuer their due funds. The following securities shall refer to mortgage securities:

- mortgage bonds;
- mortgage certificates;
- mortgage letters (zastavni);

4) Privatization securities shall be securities, which testify to the right of their owners to obtain free of charge a share of state enterprises, state housing stock and land resources in the process of privatization.

5) Derivatives shall be securities, whose framework of issue and circulation is linked with the right to purchase or sell securities, other financial and/or commodity resources within the term established by an agreement.

6) Securities of title to goods shall be securities, which entitle their holder to dispose of goods specified in these documents.

Article 4. Transfer of Rights under Securities

1. All rights certified by a security shall transfer to the person who acquired ownership of the security. A restriction on circulation of and/or exercise of rights under securities may be set forth only in cases and according to the procedure envisaged by law.

2. In order to transfer to another person the rights certified by a bearer security, it shall be enough to hand the security over to this person.

3. Rights certified by a registered security shall be transferred according to the procedure established by the laws of Ukraine.

4. Rights certified with an order security shall be transferred by way of endorsement. The endorser shall be responsible for the availability and exercise of this right.

Under an endorsement, all rights certified with a security shall transfer to the person to whom these rights are transferred (endorsee). The endorsement may be in the blank form (without indicating the person with regard to whom obligations shall be performed) or in the order form (with the indication of such a person).

5. Specific features of record keeping and transfer of ownership rights to securities shall be established by the legislation.

Article 5. Performance of Obligations under a Security

1. A person, who placed (issued) a security, and persons, who endorsed it, shall bear joint liability to its lawful owner. Should a claim be satisfied of the lawful owner of an order security with regard to performance of an obligation certified by this security by one or several persons of those who have such obligations, persons who endorsed this security shall acquire the right of recourse with regard to other persons, who have obligations under the security.

2. Refusal to perform obligations certified by a security for lack of grounds for the obligation or for its invalidity shall be prohibited.

Section II TYPES OF SECURITIES

Article 6. Shares

1. A share shall be a registered security that certifies property rights of its owner (shareholder) that relate to the joint stock company, including the right to receive a portion of profit of the joint stock company in the form of dividends and the right to receive a portion of property of the joint stock company in case of its liquidation, the right to manage the joint stock company as well as non-property rights envisaged by the Civil Code of Ukraine and the law that regulates establishment, operation and termination of joint stock companies, and the legislation on the joint investment institutes.

A share is undividable. The procedure for realization of the rights of share (shares) holder shall be specified by the Civil Code of Ukraine and the law that regulates establishment, operation and termination of joint stock companies.

2. A shareholder of private or public partnership has a privileged right to buy shares of additional issue.

A preemptive right of a shareholder shall be considered:

a right of a shareholder - owner of ordinary shares to purchase, in the process of private placement by the partnership, ordinary shares proportionally to the part of shares belonging to him/her in a total number of issued ordinary shares;

a right of a shareholder - owner of preferred share to purchase, in the process of private placement by the partnership, preferred shares of this or new class if the shares of such class provide to their holders a privilege regarding sequence of obtaining dividends or payments in the case of liquidation of the partnership, proportionally to the part of shares belonging to him/her in a total number of issued preferred shares;

The procedure for realization of privileged right to purchase shares of additional issue shall be stipulated by the State Securities and Stock Market Commission.

3. An issuer of shares shall be only a joint stock company. The procedure for making a decision by the relevant body of the joint stock company with regard to placement of shares shall be established by the law that regulates establishment, operation and termination of joint stock companies.

The shares can exist only in non-documentary form.

4. A share shall have a nominal value set in the national currency. Minimal nominal value of a share may not be less than one kopeck.

5. A joint stock company shall place only registered shares.

A share certificate shall indicate the security type, the name and location of the joint stock company, the series and number of the certificate, the number and date of issue, the international identification number of the security, the type and nominal value of the share, the name of the owner, the number of shares issued.

State Securities and Stock Market Commission can stipulate additional essential elements of a share certificate.

6. A joint stock company shall place shares of two types — common and preferred.

7. Common shares shall grant to their owners the right to receive a portion of the joint stock company's profit in the form of dividends, to participate in management of the joint stock company, to receive a portion of property of the joint stock company in case of its liquidation and other rights as envisaged by the law that regulates establishment, operation and termination of joint stock companies. Common shares shall grant equal rights to their owners.

Common shares shall not be convertible into preferred shares or other securities of a joint stock company.

8. Preferred shares shall grant to their owners preemptive rights versus owners of common shares to receive a portion of the joint stock company's profit in the form of dividends and to receive a portion of property of the joint stock company in case of its liquidation as well as the right to participate in governance of the joint stock company in cases envisaged by the charter and the law that regulates establishment, operation and termination of joint stock companies.

9. A joint stock company shall place preferred shares of different classes (with a different scope of rights) if envisaged by its charter. In this case, terms of their placement shall define the succession of receiving dividends and payments from property of the liquidated company per each class of preferred shares placed by the joint stock company and shall be set forth in the company's charter. Depending on the terms of placement, preferred shares of certain classes may be convertible into common shares or preferred shares of other classes.

The percentage of preferred shares in the statutory capital of a joint stock company may not exceed 25%.

10. Registration of a share issue shall be conducted by the Securities and Stock Market State Commission according to the procedure set by the Commission. Shares circulation shall be allowed after registration of a report on the results of shares placement and issue of a registration certificate of shares issue by the Securities and Stock Market State Commission.

11. Specifics of issuance, circulation and redemption of corporate investment fund's shares shall be defined by legislation.

Article 7. Bonds

1. A bond shall be a security that certifies a contribution of cash by its owner, determines the relations of borrowing between the bondholder and the issuer, confirms the issuer's obligation to return to the bondholder the nominal value of the bond, within the period envisaged by the terms of placement, and to pay return on the bond, unless otherwise envisaged by the terms of placement.

2. Bonds shall be placed in a documentary or non-documentary form.

3. An issuer may place according to the procedure established by Securities and Stock Market State Commission interest bearing, special purpose and discount bonds.

Interest bearing bonds shall be bonds that provide for payment of interest income.

Special purpose bonds shall be bonds, obligations under which may be met with goods and/or services in compliance with the requirements established by the terms of placement of such obligations.

Discount bonds shall be bonds that are placed at a price that is lower than their nominal value. The difference between the purchase price and the nominal value of a bond shall be payable to the bondholder at bond repayment and shall represent return (discount) on the bond.

4. Bonds may be placed with a fixed maturity, same for the whole issue. Early redemption of bonds on the request of their holders shall be permitted if this is envisaged by the terms of bond placement that determine the procedure of setting the price of the early redemption and the time period within which bonds may be presented for early redemption.

5. Bonds may be redeemed by cash or property, depending on the terms of the bond placement.

6. A bond shall have a nominal value, set in the national currency and, if envisaged by the terms of the bond placement, in foreign currency. Minimal nominal value of a bond may not be less than one kopeck.

7. The issuer may place registered bonds and bearer bonds. Bonds circulation shall be allowed after registration by Securities and Stock Market State Commission of a report about results of bonds placement and issuance of a registration certificate of bonds issue.

8. A bond certificate shall indicate the security type, the name and location of the issuer, the international identification number of the security, the nominal value of the bond, the total amount of the issue, the maturity, the amount and terms of interest payment (for interest bearing bonds), the date when the decision on bond placement was made, the series and number of the bond certificate, the signature of the issuer's manager or other authorized person, certified with the issuer's stamp.

Additional features of bond certificate may be established by Securities and Stock Market State Commission.

A registered bond certificate shall indicate the name of the holder.

A coupon (coupon sheet) shall be attached to a certificate of bearer interest bearing bonds. The coupon (coupon sheet) shall indicate the series and number of the certificate of the bond on which interest is payable, the name and location of the issuer, and the period of interest payment. A series number shall be indicated on each coupon (coupon sheet).

9. Bonds shall be sold for national currency and, if envisaged by the law and the terms of placement, for foreign currency.

Article 8. Corporate Bonds

1. Corporate bonds shall be placed by legal entities only after their statutory capital has been paid in full.

Corporate bonds shall confirm the issuer's obligations thereunder and shall not grant the right to participate in governance of the issuer.

2. Corporate bonds shall not be placed for the purpose of formation and replenishment of the issuing company statutory capital and to cover the operating losses by recording proceeds from sale of bonds as a result of current business activities.

3. A legal entity shall have the right to place bonds for the amount that does not exceed the amount of three-fold equity capital or the amount of the guarantee that is provided to it by third parties for this purpose.

4. The placement terms of bonds that are placed by a joint-stock company may provide for their conversion into shares of joint stock company (convertible bonds).

5. A decision on corporate bonds placement shall be made by the relevant management body of the issuer in accordance with the provisions of the laws that regulate the procedure of establishment, operation and termination of legal entities of a relevant organizational and legal form.

6. Registration of a corporate bond issue shall be conducted by Securities and Stock Market State Commission according to the procedure set by the Commission.

Article 9. Municipal Bonds

1. Municipal bonds shall include internal and external municipal bonds.

A decision on placement of municipal bonds shall be made by the Verkhovna Rada of the Autonomous Republic of Crimea or a municipal council, in accordance with the requirements set by the budget legislation.

2. Registration of an issue of municipal bonds shall be conducted by Securities and Stock Market State Commission according to the procedure set by it.

3. Specific features of repayment of and exercise of rights under municipal bonds shall be defined in the terms of placement thereof.

Article 10. Government Bonds of Ukraine

1. Government bonds of Ukraine may be:

- long-term - over 5 years;
- medium-term - from 1 to 5 years; and
- short-term - up to 1 year.

2. Government bonds of Ukraine shall be divided into bonds of internal government borrowings of Ukraine, bonds of external government borrowings of Ukraine and special-purpose bonds of internal government borrowings of Ukraine.

3. Bonds of internal government borrowings of Ukraine shall be government securities that are placed solely in the internal stock market and certify Ukraine's obligations to repay to the holders of these bonds the nominal value thereof and income, according to the terms of bond placement.

4. Special-purpose bonds of internal government borrowings of Ukraine shall be bonds of internal government borrowings, whose issuance is the source of financing the deficit of the government budget within the amount envisaged for this purpose by the Law "On the State Budget of Ukraine" for the relevant year and within the ultimate amount of government debt.

The major feature of special-purpose bonds of internal government borrowings of Ukraine shall be identification of the direction for the use of funds raised as a result of placement of such bonds, as envisaged by the Law "On the State Budget of Ukraine" for the relevant year.

Funds raised to the State Budget of Ukraine as a result of placement of special-purpose bonds of internal government borrowings of Ukraine shall be used solely to finance government or regional programs and projects on a pay-back basis within the scope envisaged by the Law "On the State Budget of Ukraine" for the relevant year. Financing shall be in compliance with the loan agreements concluded between the State, represented by the Ministry of Finance of Ukraine, and the recipient of funds. The terms of loan agreements shall correspond to the terms of issue of special-purpose bonds of internal government borrowings of Ukraine, with a mandatory indication of the date of servicing and repaying the loan as 5 days before the date of servicing and repaying special-purpose bonds of internal government borrowings of Ukraine.

5. Bonds of external government borrowings of Ukraine shall be government debt securities that are placed in the international stock markets and testify to Ukraine's obligations to repay to the holders of such bonds their nominal value and return, according to the terms of bond issue.

6. Issuance of government bonds of Ukraine shall be a part of the budgetary process and shall not be regulated by Securities and Stock Market State Commission.

7. Issuance of government bonds of Ukraine shall be regulated by the Law "On the State Budget of Ukraine" for the relevant year, which shall set the ultimate amounts of the government external and internal debt.

A decision to place bonds of external and internal government borrowings of Ukraine and the terms of issue thereof shall be made in accordance with the Budget Code of Ukraine.

Government bonds of Ukraine shall be placed in case of observance, at the end of the year, of the ultimate amounts of the government external and internal debt, as envisaged by the Verkhovna Rada of Ukraine in the Law "On the State Budget of Ukraine" for the relevant year.

8. The terms of placement and repayment of bonds of internal government borrowings of Ukraine and special-purpose bonds of internal government borrowings of Ukraine that are not envisaged by the terms of placement shall be set by the Ministry of Finance of Ukraine in accordance with the law.

9. The National Bank of Ukraine shall carry out operations on servicing the government debt in connection with placement of bonds of internal government borrowings and special-purpose bonds of internal government borrowings of Ukraine, repayment thereof and payment of return thereon as well as depository activities with regard thereto. The procedure of carrying out operations related to placement of these bonds shall be set by the National Bank of Ukraine with approval of the Ministry of Finance of Ukraine. Specific features of carrying out depository activities with regard to government bonds of Ukraine shall be set by Securities and Stock Market State Commission together with the National Bank of Ukraine.

10. Bonds of external government borrowings of Ukraine shall be placed, serviced and repaid by the Ministry of Finance of Ukraine, which may engage in this activity banks, investment companies, etc. The relations between the Ministry of Finance of Ukraine and these organizations shall be regulated by relevant agreements.

11. Expenses on preparation for placement as well as placement and repayment of government bonds of Ukraine and payment of return thereon shall be covered in accordance with the terms of the government bonds of Ukraine placement at the cost of the funds envisaged in the State Budget of Ukraine for such purposes.

12. Government bonds of Ukraine may be registered or bearer.

Government bonds of Ukraine shall be placed in a documentary or non-documentary form.

13. Bonds of internal government borrowings shall be sold for national currency, and bonds of external government borrowings shall be sold for currency of their nomination.

14. Return shall be payable and government bonds of Ukraine shall be repaid in cash or with government bonds of Ukraine of other types, as agreed upon by the parties.

Article 11. Treasury Bills of Ukraine

1. A treasury bill of Ukraine shall be a government security that is placed solely on a voluntary basis among individuals, that testifies to the debt of the State Budget of Ukraine to the holder of the

treasury bill of Ukraine, grants to the holders the right to receive cash income and is repayable according to the terms of placement of treasury bills of Ukraine.

The amount of issue of treasury bills of Ukraine together with the amount of issue of bonds of internal government borrowings of Ukraine may not exceed the ultimate amount of internal government debt and the amount of expenses associated with servicing of government debt, as determined by the Law "On the State Budget of Ukraine" for the relevant year.

Issuance of treasury bills of Ukraine shall be a part of the budgetary process and shall not be regulated by Securities and Stock Market State Commission.

Repayment of and payment of return on treasury bills of Ukraine shall be guaranteed with the revenue of the State Budget of Ukraine.

2. Treasury bills of Ukraine may be:

- long-term - over 5 years;
- medium-term - from 1 to 5 years; and
- short-term - up to 1 year.

3. The issuer of treasury bills of Ukraine shall be the State, represented by the Ministry of Finance of Ukraine by instruction of the Cabinet of Ministers of Ukraine.

4. Treasury bills of Ukraine may be registered and bearer.

Treasury bills of Ukraine shall be placed in a documentary or non-documentary form.

In case of placement of treasury bills of Ukraine in a documentary form, a certificate is issued.

A certificate of treasury bill of Ukraine shall indicate the security type, the name and location of the issuer, the amount of payment, the date of payment of cash return, the date of repayment, the venue of repayment, the date and venue of issue of the treasury bill of Ukraine, the series and number of the certificate of the treasury bill of Ukraine, the signature of the issuer's managers or other authorized person, certified with the issuer's stamp. A certificate of a registered treasury bill of Ukraine shall also indicate the holder's name.

Specific features of repayment of and exercise of rights under treasury bills of Ukraine shall be determined by the terms of placement thereof.

5. Decisions on placement of treasury bills of Ukraine shall be made in accordance with the Budget Code of Ukraine. The decision shall identify the terms of placement and repayment of treasury bills of Ukraine.

6. The terms of placement of treasury bills of Ukraine may provide for repayment thereof by way of reducing liabilities of the holder of the treasury bill of Ukraine to the State Budget of Ukraine by the value of this bill.

7. The procedure for determining the sale price of treasury bills of Ukraine at the time of placement thereof shall be set by the Ministry of Finance of Ukraine.

8. Specific features of depository activities with treasury bills of Ukraine shall be determined by Securities and Stock Market State Commission together with the National Bank of Ukraine.

Article 12. Investment Certificates

1. An investment certificate shall be a security that is placed by an investment fund, an investment company, an asset management company of a unit investment fund and testifies to the investor's ownership right to a stake in an investment fund, a mutual fund of an investment company, and a unit investment fund.

2. An issuer of investment certificates shall be an investment fund, an investment company or an asset management company of a unit investment fund.

3. The number of declared investment certificates of a unit investment fund shall be indicated in the securities prospectus.

The period of placement of investment certificates of an open-end and interval unit investment funds shall not be limited.

4. Investment certificates may grant to their holders the right to receive income in the form of dividends. Dividends on investment certificates of an open-end and interval unit investment funds shall not be accruable or payable.

5. Placement of derivative securities, whose underlying asset is the right to receive investment certificates, shall not be allowed.

6. Specific features of issuance, placement, circulation, record-keeping and redemption of investment certificates shall be determined by respective legislation.

Article 13. Savings (Deposit) Certificates

1. A savings (deposit) certificate shall be a security that certifies the amount of deposit with a bank and the rights of the depositor (certificate owner) to receive, after the end of a definite period, the deposited amount and interest, indicated in the certificate, from the issuer bank.

2. Savings (deposit) certificates shall be placed for a definite period (at interest envisaged by the terms of placement). Savings (deposit) certificates may be registered or bearer. Registered savings (deposit) certificates shall be placed in a non-documentary form and bearer ones - in a documentary form.

3. A savings (deposit) certificate in a documentary form shall indicate the security type, the name and location of the issuer bank, the series and number of the certificate, the date of issue, the deposited amount, the interest rate, the period of deposit, the signature of the bank's manager or other authorized person, certified with the bank's signature.

4. A savings (deposit) certificate shall be ceded by way of concluding an agreement between the person who cedes rights under the certificate and the person who obtains these rights.

5. Income on savings (deposit) certificates shall be payable at the time they are presented to the bank that placed these certificates.

In case of early presentation of a savings (deposit) certificate, the bank shall repay the deposited amount and interest (on deposit, at request), unless the terms of the certificate issue provide for other interest rate.

Article 14. Promissory Note

1. A promissory note shall be a security that testifies to an absolute pecuniary obligation of the maker or his order to a third party to pay, after the maturity, a definite amount to the owner of the promissory note (note holder).

2. Promissory notes may be common or transfer, and shall exist exceptionally in a documentary form.

3. Specific features of issuance and circulation of promissory notes, operations with promissory notes, repayment of obligations under promissory notes and enforce payment under promissory notes shall be determined by the law.

Article 15. Mortgage Securities, Privatization Securities, Derivative Securities and Securities of Title to Goods

1. Specific features of issuance, circulation and record-keeping of mortgage letters, mortgage certificates, mortgage bonds, FREO certificates, privatization securities, derivatives, securities of title to goods and the procedure for information disclosure regarding them shall be determined by legislation.

Section III PROFESSIONAL STOCK MARKET ACTIVITIES

Article 16. Types of Professional Stock Market Activities

1. Professional stock market activities shall be activities of legal entities on provision of financial and other services with regard to placement and circulation of securities, keeping records of rights under securities, management of institutional investors assets in compliance with the requirements set to such activities by the present Law and other laws.

It shall not be allowed to combine professional stock market activities with other types of professional activities, except for banking activities, unless otherwise envisaged by the law.

2. In the stock market, the following types of professional activities shall be conducted:

- activities on securities trading;
- activities on management of assets of institutional investors;

- depository activities; and
 - activities on organization of trading in the stock market.
3. Professional stock market activities shall be conducted solely on the basis of a license issued by Securities and Stock Market State Commission. The list of documents necessary to receive a license, the procedure for its issuance and termination shall be established by the Securities and Stock Market State Commission.
4. Professional activity of stock market participants, except for depositaries and stock exchanges, shall be conducted on condition of membership in at least one self-regulatory organization (SRO).

Article 17. Activities on Securities Trading

1. Professional activities on securities trading in the stock market shall be conducted by securities traders - business associations for which operations with securities are an exclusive type of activities, and also by banks.

Professional activities on securities trading shall include:

- brokerage;
- dealing;
- underwriting; and
- securities management.

A securities trader may conduct dealing activities if it has the statutory capital, paid in cash, of at least 500,000 hryvnias, brokerage activities if it has at least 1 million hryvnias, underwriting and activities on securities management - if it has at least 7 million hryvnias.

The stake of another trader in the statutory capital of a securities trader may not exceed 10%.

A securities trader shall be prohibited from re-selling (exchanging) securities issued by it.

2. Brokerage shall be conclusion by a securities trader of civil and legal agreements (in particular commission agreement and agency agreement) with regard to securities on his own behalf (on behalf of another person), on the instruction and for the account of another person.

The securities trader may become the security or guarantor to the third parties with regard to meeting the obligations under the contracts that concluded on behalf of clients of such a trader, for which the trader receives fee specified in the agreement of a securities trader with a client.

3. Dealing shall be conclusion by a securities trader of civil and legal agreements with regard to securities on his own behalf and for his own account with an objective of reselling them, except in cases envisaged by the law.

4. Underwriting shall be placement (subscription, sale) of securities by a securities trader on the instruction, on behalf and for the account of the issuer.

In case of public securities placement, an underwriter may undertaking an obligation, as agreed upon by the issuer, to guarantee sale of all or a portion of securities of the issuer to be placed. If a securities issue is publicly placed not in full, the underwriter may redeem unsold securities fully or partially at a fixed price indicated in the agreement on the basis of commercial representation according to the undertaken obligations.

In order to organize public securities placement, underwriters may conclude between themselves an agreement on joint activities.

5. Securities management shall be activities conducted by a securities trader on his own behalf for a fee during a definite period on the basis of an agreement on management of entrusted securities and cash funds intended for investment in securities as well as securities and funds owned by management initiator (settlor) and obtained in the process of such management, in the interests in this settlor or third parties determined by him/her.

A securities trader shall have the right to conclude agreements on securities management with natural persons and legal entities. The agreement value on securities management with one client that is a natural person shall amount at least 100 minimum wages.

The essential terms of an agreement on securities management shall be set by law and as agreed by parties.

A securities trader shall not conclude an agreement on securities management with an asset management company.

A securities trader shall manage securities according to the requirements of the Civil Code of Ukraine, the recent Law, other laws, and regulations of Securities and Stock Market State Commission.

6. An agency agreement, a commission agreement or an agreement on securities management shall be concluded with a securities trader in writing. The rights and obligations of a securities trader with regard to his client, the terms of conclusion of agreements regarding securities, the procedure of reporting by the trader to the client as well as the procedure and terms of paying a fee to the trader shall be determined in the agreement concluded between them.

A securities trader shall perform orders of clients under agency agreements, commission agreements and agreements on securities management on the most client-friendly conditions. Orders of clients shall be performed by a securities trader on the first-come first-served basis, unless otherwise envisaged by the agreement or order of the clients. Should a securities trader conclude agreements for his own account simultaneously with conclusion by him of agreements for the client's account execution of agreements for a client shall be a priority.

7. A securities trader shall keep records of securities and cash separately per each client and separately from his own securities, cash and property, according to the requirements set by Securities and Stock Market State Commission by approval of the Ministry of Finance of Ukraine and, in cases set by the law, also of the National Bank of Ukraine. Cash and securities of clients entrusted to securities traders may not be forfeited with regard to securities traders' liabilities, which are not connected with trader's execution of manager functions.

In order to conduct activities on securities management, a client's money shall be deposited on a separate current bank account of the securities trader separately from the securities trader own funds and other clients' funds according to the terms of the securities management agreement. A securities trader shall report to the clients about the use of their cash funds.

A securities trader shall have the right to use the clients' cash if envisaged by the agreement on securities management. An agreement on securities management may provide for division of profit from use of the client's cash, received by the securities trader, between the parties.

A securities trader shall be bound to submit the information about all his securities transactions to the selected stock exchange within the terms and according to the procedure established by the stock exchange regulations.

8. The following shall not be deemed professional activities on securities trading:

- placement by the issuer of its own securities;
- redemption by the issuer of its own securities;
- making settlements with promissory notes and/or mortgage letters by legal entities and physical persons entrepreneurs;
- purchase and sale (swap) of securities by legal entities on the basis of commission agreements or agency agreements through a securities trader licensed to conduct brokerage activities, as well as on the basis of agreements of sale and purchase, or exchange concluded directly with the securities trader.
- securities contribution to the statutory capital of legal entities.

9. The following operations may be carried out without participation of a securities trader:

- gift and inheritance of securities;
- operations related to execution of court decisions; and
- purchase of shares according to the privatization law.

10. Specific features of conclusion of agreements related to transfer of ownership right to shares issued by banks shall be determined by the law.

Article 18. Activities on Management of Assets of Institutional Investors

1. Activities on management of assets of institutional investors shall be professional activities of a stock market participant - an asset management company, which it conducts for a fee on its own behalf or on the basis of the relevant agreement on management of assets owned by institutional investors.

2. Activities on management of assets of institutional investors shall be regulated by a special legislation.

Article 19. Depository Activities

1. Depository activities shall be conducted by stock market participants according to the law on the Depository System of Ukraine.

Article 20. Activities of Trade Organizers in the Stock Market

1. Activities on organization of trading in the stock market shall be activities of a professional stock market participant (trade organizer) on creation of organizational, technological, informational, legal and other conditions for collection and dissemination of information on ask and bid prices, conduct of regular trades in financial instruments according to established rules, centralized conclusion and performance of agreements with regard to financial instruments, including clearing and settlements on them and resolution of disputes between members of the trade organizer.

2. Trade organizers shall be stock exchanges that comply with requirements of the present law. In order to perform their activities stock exchanges shall maintain an equity capital not less than 3 Mio hryvnias, and for stock exchanges that conduct clearing and settlements - not less than 6 Mio hryvnias.

Article 21. Establishment of a Stock Exchange and Rights of Its Members

1. A stock exchange shall be established and operate in the organizational and legal form of a company (except for full partnership, limited partnership and additional liability company) or a subsidiary of an association of securities traders and conducts its activities according to the Civil Code of Ukraine and laws that regulate establishment, operation and termination of legal entities, taking into account specific features determined by the present Law.

A stock exchange profit shall be directed for its development and is not a subject for distribution between its founders (members).

2. A stock exchange shall be established by at least 20 founders - securities traders that are licensed to conduct professional stock market activities or an association thereof that unites at least 20 securities traders. A share of one securities trader may not exceed 5% of the stock exchange statutory capital.

3. A stock exchange shall obtain a status of a legal entity from the moment of state registration. A state registration of a stock exchange shall be conducted according to the procedure established by the Law of Ukraine "About State Registration of Legal Entities and Natural Persons-Entrepreneurs". A stock exchange shall have the right to conduct activities on organization of trading in the stock market from the moment of receiving a license from Securities and Stock Market State Commission.

Only legal entities that were created and operate in compliance with the requirements of the present Law shall be allowed to use the word "stock exchange" and its derivatives.

4. Activities of a stock exchange as a trade organizer shall be temporarily suspended by Securities and Stock Market State Commission if the number of its members is less than 20 and if a stock exchange is established in the form of a subsidiary of an association of securities traders, when the number of members of such association is less than 20. If within 6 months no new members joined, the stock exchange's activities shall be terminated.

5. Members of a stock exchange may be solely securities traders that are licensed to conduct professional stock market activities and undertook an obligation to meet all rules, regulations and standards of the stock exchange.

In case of termination of a securities trader's license to conduct professional stock market activities its membership in the stock exchange shall be temporary suspended till it renews the license or submits a letter to the stock exchange to exclude him from the stock exchange membership. Other grounds for termination or suspension of membership in a stock exchange shall be determined by its rules.

Membership in a stock exchange shall be terminated in case of termination of the license to conduct professional stock market activities issued to the securities trader.

6. All members of a stock exchange shall have equal rights with regard to organization of activities of the stock exchange as a trade organizer.

Article 22. Stock Exchange Charter

1. The charter of a stock exchange shall be approved by the highest body of the stock exchange.
2. The charter of a stock exchange shall indicate the name and location of the stock exchange, the procedure for management and creation of its bodies and their authorities, the objective of activities, grounds and procedure for termination of operation of the stock exchange, and division of property of the stock exchange in case of its liquidation.

Article 23. Requirements to a Stock Exchange

1. A stock exchange shall disclose and submit to Securities and Stock Market State Commission information on the following:
 - the list of securities traders admitted to conclusion of agreements on securities sale and purchase on the stock exchange;
 - the list of listed securities;
 - the volume of trading in securities (the number of securities, the total value of concluded transactions, the price of securities per each issuer separately) for the period set by Securities and Stock Market State Commission.
2. Securities and Stock Market State Commission shall determine the procedure and forms of submission of information indicated in Part 1 of the present Article and shall control the disclosure of information by stock exchanges.

Article 24. Organization of Trading on a Stock Exchange

1. A stock exchange shall create organizational conditions for conclusion of securities transactions by way of quoting of securities on the basis of data on ask and bid received from the participants of stock exchange trades.

Stock exchange members and other persons, as envisaged by the law, shall be entitled to participate in stock exchange trades.

2. Stock exchange trades shall be conducted according to the stock exchange rules, which shall be approved by the stock exchange board and registered by Securities and Stock Market State Commission.

Article 25. Stock Exchange Rules

1. Stock exchange rules shall include procedure for the following:
 - organization and conduct of stock exchange trades;
 - listing and delisting of securities;
 - admittance of the stock exchange members and other persons, as envisaged by the law, to stock exchange trades;
 - quoting of securities and disclosure of their stock exchange price;
 - disclosure of information on activities of the stock exchange and making this information public;
 - resolution of disputes between the stock exchange members and other persons, which are entitled to participate in stock exchange trades according to the law; and
 - control over observance by the stock exchange members and other persons, which are entitled to participate in stock exchange trades according to the law and the stock exchange rules;
 - imposing sanctions for violation of stock exchange rules.

Article 26. Combining Certain Types of Professional Stock Market Activities

1. Combining certain types of professional stock market activities shall not be allowed, except in cases envisaged by the present Law and other legal acts that regulate the procedure for conducting specific types of professional stock market activities.
2. Trade organizers shall not conduct types of professional stock market activities other than activities on organization of trades in the stock market, unless otherwise provided by law. Trade organizers may execute clearing and settlement operations under the agreements with regard to derivatives concluded on such trade organizer.
3. Activities of a securities trader may be combined with activities of a securities custodian. Should a securities custodian be licensed to conduct activities on maintenance of registries of registered securities owners, the custodian shall be prohibited from carrying out any operations with securities the registry of the owners of which it maintains, except for operations of the registrar under the agreement with the issuer.
4. Activities on maintenance of registries of registered securities owners shall be an exclusive type of activities, which may be combined with activities of a securities custodian and a securities trader (taking into account the requirements of Part 3 of the present Article) as well as with activities of an asset management company in cases envisaged by law.
5. Combining activities on management of assets of institutional investors with other types of professional stock market activities shall be prohibited, except for activities on maintenance of registries of registered securities owners of collective investment institutions in cases envisaged by law.

Article 27. Requirements to Professional Stock Market Participants

1. Licensing requirements, including those to the amount of the statutory capital and owners' equity, the procedure to determine it, liquidity, qualification requirements to specialists of a professional stock market participant, the essential terms of agreements concluded in the process of professional stock market activities, other requirements and indicators that limit risks of professional stock market activities shall be set by the present Law, other laws of Ukraine that regulate specific types of professional stock market activities, and regulations of Securities and Stock Market State Commission.

Section IV ISSUANCE OF SECURITIES IN CASE OF OPEN (PUBLIC) AND CLOSED (PRIVATE) PLACEMENT

Article 28. Stages of Issuance of Securities in Case of Open (Public) and Closed (Private) Placement

1. Public (open) securities placement shall be their alienation on the basis of publicizing in mass media or advertising in some other way information about securities sale addressed to an indefinite number of persons.
In case of open (public) placement of securities among a circle of persons, which was not defined in advance, the issuance shall have the following stages:
 - 1) making a decision on open (public) securities placement by the issuer's authorized body;
 - 2) submission of the application and all the documents necessary for registration of securities issue and securities prospectus;
 - 3) registration of the securities issue and the securities prospectus with Securities and Stock Market State Commission;
 - 4) if necessary, making a decision on involving an underwriter for securities placement;
 - 5) assigning an international identification number to securities;
 - 6) concluding an agreement with a depository regarding servicing of the securities issue or with a registrar regarding maintenance of the registry of registered securities owners, except when the issuer independently keeps records of rights under securities, in accordance with the law, or in case of bearer securities;
 - 7) manufacturing of securities certificates in case of documentary securities;
 - 8) disclosure of the information contained in the securities prospectus;

- 9) open (public) securities placement;
- 10) approval of the securities placement results by the issuer's body authorized to make such decision;
- 11) approval of amendments to the charter with regard to increase of the statutory capital of a joint-stock company taking into account the shares placement results;
- 12) registration of amendments to the charter with the state registration authorities;
- 13) submission of the report on the results of open (public) securities placement;
- 14) registration of the report on the results of open (public) securities placement by Securities and Stock Market State Commission;
- 15) receiving a certificate on registration of the securities issue;
- 16) disclosure of the information contained in the report on the results of open (public) securities placement.

2. Private (closed) securities placement shall be securities placement by means of their direct proposal to a predetermined circle of persons, the number of whom shall not exceed 100.

Private (closed) placement of public joint stock company shares shall be shares placement by means of their direct proposal to the share holders of such company and to a predetermined circle of people, the number of whom shall not exceed 100.

In case of closed (private) securities placement among a predetermined circle of persons the issuance shall have the following stages:

- 1) making a decision on closed (private) securities placement by the issuer's authorized body;
- 2) in case of refusal of the share owner to use his preemptive right to purchase shares, if this envisaged by the terms of closed (private) securities placement, receiving a written confirmation of refusal from him;
- 3) submission of the application and all the documents necessary for registration of securities issue;
- 4) registration of the securities issue with Securities and Stock market State Commission;
- 5) assigning an international identification number to securities;
- 6) concluding an agreement with a depository regarding servicing of the securities issue or with a registrar regarding maintenance of the registry of registered securities owners, except when the issuer independently keeps records of rights under securities, in accordance with the law, or in case of bearer securities;
- 7) manufacturing of securities certificates in case of documentary securities;
- 8) closed (private) securities placement;
- 9) approval of the securities placement results by the issuer's body authorized to make such decision;
- 10) approval of amendments to the charter related to increase of the statutory capital of a joint-stock company taking into account the shares placement results;
- 11) registration of amendments to the charter with the state registration authorities;
- 12) submission to Securities and Stock Market State Commission of the report on the results of closed (private) securities placement;
- 13) registration of the report on the results of closed (private) securities placement by Securities and Stock Market State Commission;
- 14) receiving a registration certificate of securities issue.

3. Per each securities placement, the issuer shall make a decision, which shall be formalized with a protocol. The requirements to the content of the protocol shall be set by Securities and Stock Market State Commission. The issuer shall have no right to change the decision on securities placement with regard to the scope of rights under securities, the terms of placement and the number of securities of one issue, except when envisaged by laws and regulations of Securities and Stock Market State Commission.

It shall be prohibited to restrict access of securities owners to the original of the decision on securities placement, which shall be kept by the issuer.

3. Primary placement of shares of an open joint stock company shall be solely closed (private), among the founders.

Article 29. Registration of a Securities Issue and a Securities Prospectus

1. Securities and Stock Market State Commission, within 30 days after receiving an application and all necessary documents for registration of the issue and the securities prospectus, shall conduct registration of the issue and the securities prospectus simultaneously, or refuse in registration.
2. Registration by Securities and Stock Market State Commission of the issue and the securities prospectus shall not be viewed as a guarantee of the value of securities. Securities and Stock Market State Commission shall be liable only for the completeness of the information contained in the documents which it registered and for its compliance with the requirements of the law. Persons who signed documents submitted for registration of the issue and the securities prospectus shall be liable for the authenticity of the data contained in the documents.
3. The list of documents required for registration of the issue and the securities prospectus as well as the procedure of registration thereof shall be set by Securities and Stock Market State Commission. Additional requirements to registration of the issue and the securities prospectus of banks shall be set by Securities and Stock Market State Commission with approval of the National Bank of Ukraine.

Article 30. Requirements to a Securities Prospectus

1. A securities prospectus shall contain information on the issuer, its financial and business position and the securities with regard to which the decision on open (public) placement was made.
2. Requirements to disclosure of information on the issuer and its financial and business position shall be set by Securities and Stock Market State Commission.
3. Information on securities shall include the following information:
 - the kind, form of issue, type, number and nominal value of securities with regard to which the decision on open (public) placement was made;
 - the date when the decision on open (public) placement was made;
 - the dates of the beginning and the end of open (public) placement; and
 - the procedure and forms of payment of income on securities.
4. A securities prospectus shall contain other data envisaged by this Law and other laws that determine specific features of open (public) placement of specific types of securities and/or regulations of Securities and Stock Market State Commission.
5. A securities prospectus shall be signed by the issuer's manager (chairman of the executive body) and the auditor and shall be certified with the issuer's stamp. Persons who signed the securities prospectus shall thereby confirm the authenticity of the data contained therein, and the auditor shall confirm the authenticity of the data he audited.

Should the issuer use services of an underwriter with regard to open (public) placement of a securities issue, the securities prospectus shall be subject to approval by the underwriter.
Persons guilty of submission of inauthentic data in the securities prospectus shall be liable according to laws of Ukraine.
6. The securities prospectus shall be registered with Securities and Stock Market State Commission simultaneously with registration of the securities issue.
7. Upon registration, the issuer shall have the securities prospectus published in full in an official publication of Securities and Stock Market State Commission at least 10 days before the beginning of open (public) securities placement.
8. In case of changes in the securities prospectus, the issuer shall have them registered and have information on these changes published within 30 days after the securities prospectus was published, but at least 10 days before the beginning of open (public) securities placement. Should it be impossible to do within the established period, the changes shall also include information on extension of open (public) securities placement. A ground for refusal in registration of changes in the securities prospectus shall be non-compliance of the documents with the requirements of the law or violation of the procedure for making a decision on changes set by Securities and Stock Market State Commission.
9. Until registration and publishing of the information on changes in the securities prospectus, an issuer shall have no right to conduct open (public) securities placement.

Article 31. Keeping Records of Registered Securities Issues

1. Securities and Stock Market State Commission shall maintain the State Registry of Securities Issues according to the procedure set by the Commission.
2. Securities and Stock Market State Commission shall establish the procedure and ensure open and free access of the securities market participants to the information contained in the Register.

Article 32. Requirements to Closed (Private) Securities Placement

1. Specific features of closed (private) share placement shall be determined by the law that regulates establishment, operation and termination of joint stock companies and the law on collective investment institutions.
2. The issuer shall complete closed (private) securities placement within the period envisaged by the decision on closed (private) securities placement, but not later than within 2 months from the date of the beginning of placement.
3. During closed (private) placement, unit securities shall not be sold at a price that is less than their nominal value.
4. It shall be prohibited to establish a preemptive right to purchase securities for some investors versus other investors, except when envisaged by the law.
5. The actual number of placed securities shall be indicated in the report on the results of closed (private) securities placement, which shall be approved by the issuer's body authorized to make such decision and shall be submitted to Securities and Stock Market State Commission.
Within 60 days from the day of completing securities placement referred to in the prospectus of such securities issue, the issuer authorized to take appropriate decision, shall approve the results of securities placement.

Article 33. Requirements to Open (Public) Securities Placement

1. The issuer shall conduct open (public) securities placement independently or through an underwriter which concluded an underwriting agreement with the issuer.
An underwriting agreement shall comply with the requirements to a model agreement, approved by Securities and Stock Market State Commission.
2. It shall be prohibited to conduct open (public) securities placement earlier than 10 days after the securities prospectus was published according to this Law.
3. The issuer shall complete open (public) placement of securities within the period envisaged by the decision on open (public) placement, but not later than within one year from the date of the beginning of placement.
4. During open (public) placement, unit securities shall not be sold at a price that is less than their nominal value.
5. It shall be prohibited to establish a preemptive right to purchase securities for some investors versus other investors, except when envisaged by the law.
6. The number of openly (publicly) placed securities shall not exceed the number of securities indicated in the securities prospectus. The number of actually placed securities may be less than the number of securities indicated in the prospectus.
7. The number of actually placed securities shall be indicated in the report on the results of open (public) securities placement, which shall be approved by the issuer's body authorized to make such decision and shall be submitted to Securities and Stock Market State Commission.
Within 60 days from the day of completing securities placement referred to in the prospectus of such securities issue, the issuer authorized to take appropriate decision, shall approve the results of securities placement.

Article 34. Open (Public) Securities Placement with Participation of an Underwriter

1. During open (public) securities placement, the issuer shall have the right to use services of an underwriter.
2. Requirements to operations of an underwriter shall be set by Securities and Stock Market State Commission.

Article 35. Report on the Results of Securities Placement

1. The issuer shall file with Securities and Stock Market State Commission, within 15 days after registration of amendments to its charter with the State registration bodies, a report on the results of open (public) securities placement as well as other documents defined by Securities and Stock Market State Commission required for registration of the report.

State Securities and Stock Market Commission shall set requirements to disclosure of the information contained in the report on the results of open (public) securities placement.

2. Securities and Stock Market State Commission, within 15 days after receiving the required documents from the issuer, shall make a decision on registration of the report or refusal in registration.

3. A ground for refusal in registration of the report on the results of open (public) securities placement shall be violation of the requirements of the law connected with securities placement.

4. Securities and Stock Market State Commission within two weeks after registration of the report on the results of open (public) securities placement shall give a certificate on registration of the securities issue to the issuer.

5. In case of open (public) placement of bonds, within 15 days after the end of bond repayment the issuer shall submit to Securities and Stock Market State Commission a report on the results of bond repayment.

6. In case of closed (private) placement of securities, the issuer shall submit to Securities and Stock Market State Commission, within the period set by the Commission, a report on the results of closed (private) placement.

Within two weeks after the issuer submitted the report on the results of closed (private) securities placement, the issuer is given a certificate on registration of the securities issue.

Article 36. Unfair Securities Issuance

1. Unfair securities issuance shall mean actions that violate the issuance procedure set by this Law and represent a ground for making a decision on refusal in registration of securities prospectus and securities issue, suspension of open (public) securities placement.

2. Grounds for recognizing securities issuance unfair shall include:

- violation by the issuer of the requirements of this Law, non-compliance of the documents submitted by the issuer or data contain therein with the requirements of the law and/or the list set by Securities and Stock Market State Commission;
- violation of the procedure of making a decision on open (public) securities placement;
- including inauthentic data in the securities prospectus and documents submitted for registration of the securities issue and the securities prospectus; and
- regular or gross violation of investor rights by the issuer.

3. The procedure of making a decision on refusal in registration of the securities prospectus and issue, suspension of open (public) placement shall be set by Securities and Stock Market State Commission.

4. In case of unfair issuance, Securities and Stock Market State Commission shall have the right to temporarily suspend open (public) securities placement.

5. Suspended open (public) securities placement shall be renewed by decision of Securities and Stock Market State Commission only until the end of the period of securities placement, set in the securities prospectus, if the violations that caused suspension of open (public) placement have been eliminated.

6. Should the violations that caused suspension of open (public) placement have not been eliminated within 15 days after Securities and Stock Market State Commission made the corresponding decision, or documents that confirm elimination of the violations have not been sent to Securities and Stock Market State Commission, the Commission shall decide to invalidate securities issuance.

7. In case of admitting securities issue non-valid or failure to approve within the terms stipulated by the legislation the results of securities placement by the issuer authorized to take appropriate decision, or failure to introduce (to confirm) within the terms stipulated by the legislation amendments to the statute related to increase of statutory capital of joint stock company, including the results of securities placement, securities issuer shall return to the investors money (property, ownership rights)

that came as payment for placed securities, and the investors shall return to the issuer a certificate (certificates) of securities, in the case of its obtaining, within the terms stipulated by the issue prospectus, but not later than 6 months according to the procedure specified by State Securities and Stock Market Commission.

For violation of the terms referred to in paragraph 1 of part 7, the issuers and investors shall pay the fine in the size of double rate of the National Bank of Ukraine.

Article 37. Placement of Securities of Foreign Issuers on the Territory of Ukraine and Those of Ukrainian Issuers Outside Ukraine

1. Specific features of placement and circulation of securities of foreign issuers on the territory of Ukraine shall be determined by Securities and Stock Market State Commission according to the legislation of Ukraine.

2. Ukrainian issuers may place securities outside Ukraine only by permission of Securities and Stock Market State Commission, except for bonds of external government borrowings of Ukraine.

A permission to place securities of Ukrainian issuers outside Ukraine shall be granted if the following conditions are met:

- the securities issue is registered;
- the securities are admitted to trades on one of the Ukrainian stock exchanges;
- the number of securities to be placed outside Ukraine is within the limit set by Securities and Stock Market State Commission.

Article 38. Issuance of Securities of Collective Investment Institutions in Case of Open (Public) and Closed (Private) Placement

1. Specific features of issuance, placement, circulation and redemption of securities of collective investment institutions in case of open (public) and closed (private) placement thereof shall be determined by a special legislation.

Section V INFORMATION DISCLOSURE IN THE STOCK MARKET

Article 39. Requirements to Information Disclosure by Issuers

1. Issuers that have conducted open (public) placement shall timely and fully disclose information on the following:

- the issuer's financial and business position and performance within the period established by the law;
- any actions that may affect the issuer's financial and business position and cause a significant change of the price of its securities; and
- owners of large blocks of shares (10% and more).

2. Information on owners of large blocks of shares (10% and more) shall be filed with Securities and Stock Market State Commission by the person who keeps records of ownership rights to the issuer's shares in the National Depository System of Ukraine within the period, under the procedure and in the form set forth by Securities and Stock Market State Commission.

Information on owners of large blocks of shares (10% and more) shall be public and Securities and Stock Market State Commission shall make this information public by way of displaying it in the free-access SSMSC information database on the securities market.

Article 40. Regular Information on the Issuer

1. Regular information on the issuer shall be annual and quarterly reporting on the results of the issuer's financial and business activities to be filed with Securities and Stock Market State Commission (including reporting in the electronic form).

2. A reporting period for compiling annual information on the issuer shall be a calendar year.

The issuer's first reporting year may be less than 12 months and shall be calculated:

- for joint stock companies, from the date of state registration of the company until December 31 of the reporting year inclusive; and
- for bond issuers, from the date of registration of the bond issue until December 31 of the reporting year inclusive.

3. Annual information on the issuer must contain the following data:

- the name and location of the issuer, the amount of its statutory capital;
- the issuer's management body, its officials and founders;
- the issuer's business and financial activities;
- the issuer's securities (kind, category, type, number), placement and listing of securities;
- annual financial statements; and
- the auditor's opinion.

The issuer shall have the right to additionally submit other information.

4. Annual information on the issuer shall be public and shall be disclosed by the issuer no later than by 30 April of the year following the reporting year, by way of publishing it in one of the official publications of the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine or Securities and Stock Market State Commission and by way of displaying it in the free-access SSMSC information database on the securities market.

The issuer shall send a copy of the official publication in which annual information about him (issuer) was published to Securities and Stock Market State Commission.

5. A reporting period for compiling quarterly information on the issuer is quarters of the current year.

Quarterly information on the issuer must contain the following data:

- the name and location of the issuer, the amount of its statutory capital;
- the issuer's management body, its officials and founders;
- the issuer's business and financial activities;
- the issuer's securities (kind, form of issue, type, and amount);
- quarterly financial statements; and
- the issuer's participation in creation of other companies, institutions and organizations.

The issuer shall have the right to additionally submit other information.

6. The period, procedure and forms of submission of regular information on the issuer (annual and quarterly) shall be set by State Securities and Stock Market Commission.

Securities and Stock Market State Commission shall set additional requirements to disclosure of regular information on the issuer and shall take measures to ensure its disclosure.

7. Special features of filing and making public the regular information by collective investment institutions shall be established by legislation.

Article 41. Ad Hoc Information on the Issuer

1. Ad hoc information on the issuer shall be information on any events that may affect the issuer's financial and business position and cause a significant change of the value of its securities.

Ad hoc information shall include data on the following:

- a decision on placement of securities for the amount that exceeds 25% of the statutory capital;
- a decision on redemption of the issuer's own shares;
- listing/delisting of securities on a stock exchange;
- receiving a loan or credit for the amount that exceeds 25% of the issuer's assets;
- change of the composition of the issuer's officials;
- change of owners of shares which own 10% and more of voting shares;
- the issuer's decision on creation, termination of its branches, representative offices;
- a decision of the issuer's highest body on decrease of the statutory capital;
- initiation of bankruptcy proceedings against the issuer and court's decision about its sanation;
- a decision of the issuer's highest body or the court on termination or bankruptcy of the issuer.

2. The period, the procedure and the filing forms of ad hoc information about the issuer shall be set by Securities and Stock Market State Commission.

3. Ad hoc information on the issuer shall be public and shall be made public by way of publishing it in one of the official publications of the Verkhovna Rada of Ukraine, the Cabinet of Ministers of

Ukraine or Securities and Stock Market State Commission and by way of displaying it in the free-access SSMSC information database on the securities market.

4. Securities and Stock Market State Commission shall set forth additional requirements to disclosure of ad hoc information on the issuer and shall take measures to ensure its disclosure.

Article 42. Procedure of Disclosure of Information on the Record Keeping of Registered Securities by Participants of the Depository System of Ukraine

1. Information on keeping records of registered securities shall be disclosed by the participants of the National Depository System:

- at a written request of the owner of the information or by his written permission, except in cases envisaged by paragraphs 3 and 4 of this Part;
- in compliance with a court decision; and
- upon a written request of the Prosecutor's office, the security service, internal affairs bodies, Securities and Stock Market State Commission and the Antimonopoly Committee of Ukraine, and other governmental agencies in conformity with legislation, with regard to operations within systems of records of registered securities that are carried out by a specific legal entity or individual within a specific period.

2. A participant of the National Depository System shall be prohibited from providing information on the clients of another participant of the National Depository System, even if their data is indicated in the documents and agreements of the client.

3. Persons guilty of violation of the procedure of disclosure and use of information on keeping records of registered securities shall be liable according to the law.

Article 43. Disclosure of Information on Professional Stock Market Participants

1. Securities and Stock Market State Commission shall provide for making information on professional stock market participants public (the number, the date of issuance and the validity period of the license, powers under the license, the manager and the authorized person who acts on his behalf).

Article 44. Insider Information and Insiders

1. Insider information shall be any information on the issuer, its securities or transactions therein that is not made public and, if made public, may significantly affect the value of securities.

2. Information on valuation of securities and/or the issuer's financial and business position, if received solely on the basis of information that was made public or information from other public sources not prohibited by the law shall not be insider information.

3. Insiders shall be persons who have insider information because they are:

- (1) owners of the issuer's voting shares or stakes (units) in the issuer's statutory capital;
- (2) the issuer's officials; or
- (3) persons who have access to insider information due to performance of labor (official) duties or contractual obligations, regardless of their relations with the issuer, in particular:
 - legal entities that have contractual relations, or direct or indirect relations of control with the issuer;
 - individuals who have labor or contractual relations, or direct or indirect relations of control with the issuer, or legal entities or individuals which have contractual relations or relations of control with the issuer; and
 - government officials.

The issuer or professional stock market participants performing operations with securities of this issuer shall keep records of persons who have access to insider information.

4. Securities and Stock Market State Commission shall determine which information is considered insider information.

Article 45. Prohibition on Use of Insider Information

1. An insider shall be prohibited from the following:
 - concluding, with the use of insider information, for his own benefit or for the benefit of other persons/entities, agreements on purchase or alienation of securities to which insider information relates until this information is made public;
 - transferring insider information or providing access thereto to other persons, except in case of disclosure of information within the limits of performance of professional, labor or official duties and in other cases envisaged by the law; and
 - giving recommendations to any person with regard to purchase or alienation of securities with regard to which he/she has insider information until this information is made public.
 2. The procedure for disclosure of insider information shall be set by regulations of Securities and Stock Market State Commission.
- Professional stock market participants shall inform Securities and Stock Market State Commission of securities transactions that are suspected to be involving or be able to involve insider information.
3. Clause 1 of this Article shall also apply to persons who are not insiders, but have insider information and know or should know that this information was received from an insider.
 4. Liability for unlawful use of insider information shall be established by law. **Article 46.**

Advertising

Information in the Stock Market

1. Advertising information in the stock market shall be advertising:
 - of the issuer or securities being placed by the issuer or outstanding securities;
 - a professional stock market participant and its activities; and
 - securities transactions.
2. Advertising in the stock market shall not include information that under the requirements of this Law and of other regulatory acts is subject to mandatory disclosure.
3. Government agencies shall not engage in advertising in the stock market, except for advertising related to placement and circulation of government securities.

Section VI REGULATION OF THE SECURITIES MARKET

Article 47. Securities Market Regulation

1. Stock market regulation shall be performed by the State and by self-regulatory organizations.
2. State regulation of the securities market shall be performed by Securities and Stock Market State Commission, as well as by other governmental organizations within their jurisdiction as established by law.

Article 48. Self-Regulatory Organizations of Professional Stock Market Participants

1. Self-regulatory organizations of professional stock market participants shall be formed in conformity with the principle "one self-regulatory organization per each type of professional securities market activities."
Such a self-regulatory organization shall unite over 50% of professional stock market participants in one of the types of professional activities.
2. The association shall acquire the status of a self-regulatory organization from the day of its registration by Securities and Stock Market State Commission. The procedure for and the terms of the registration of the professional stock market participants SRO and the termination of the registration shall be set forth by Securities and Stock Market State Commission.
The objective of activities of self-regulatory organizations of professional stock market participants shall be to provide for activities of professional stock market participants, which are members of the self-regulatory organization, as well as to develop and approve rules, and standards of professional behavior and conduct of the relevant type of professional activities.

3. Self-regulatory organization of stock market participants shall acquire the powers delegated to it by Securities and Stock Market State Commission from the day of promulgation of the decision of Securities and Stock Market State Commission on the delegation of respective powers to a self-regulatory organization in an official printed organ of Securities and Stock Market State Commission.

4. The terms of making a decision on delegation of Securities and Stock Market State Commission powers on the stock market regulation to an organization-candidate of professional stock market participants shall be as follows:

- rules and standards of professional activities in the stock market in place that shall be mandatory for all members of the self-regulatory organization to comply with;
- the organization have a not-for-profit status; and
- the organization shall have assets worth at least UAH 600,000 at its disposal to ensure its statutory activities.

Article 49. Delegation of Powers on Stock Market Regulation to Self-Regulatory Organizations

1. With regard to each type of professional activities, Securities and Stock Market State Commission may delegate to a self-regulatory organization the following powers:

- collection, summarization and analytical processing of data on conduct of the relevant type of professional activities;
- inspections of the performance of the relevant type of professional activities, compliance with the requirements of the securities law, and rules and standards of professional conduct;
- submission to it of a request, mandatory for review, on the termination (suspension) of the license to perform a certain type of activities by a professional stock market participant; and
- certification of stock market specialists;
- issuance of licenses to persons that perform professional activities in the stock market.

Securities and Stock Market State Commission, in line with the procedure established by same, may delegate other powers to self-regulatory organizations.

2. Securities and Stock Market State Commission shall delegate to a self-regulatory organization powers on stock market regulation according to the procedure set by the Commission in response to the application of this organization.

Within one month after receiving an application from a self-regulatory organization, Securities and Stock Market State Commission shall make a decision on delegation or refusal in delegation of powers to the self-regulatory organization.

3. A decision on delegation of powers to a self-regulatory organization shall indicate the following:

- the name of the self-regulatory organization to which the powers are being delegated;
- the powers being delegated;
- the period for which the powers are being delegated; and
- the procedure of state control over execution of the delegated powers.

4. A decision on delegation of powers to a self-regulatory organization shall be subject to state registration with the Ministry of Justice of Ukraine, as a normative and legal act, and shall be made public according to the law.

5. The period of powers delegated to a self-regulatory organization shall be extended according to the same procedure as the one that is set for obtaining them.

6. A self-regulatory organization shall have the right to submit an application on delegation of additional powers thereto only upon the condition of satisfactory execution of powers that were previously delegated.

7. Self-regulatory organizations within their competence, delegated by State Securities and Stock Market Commission, shall undertake regulatory activity taking into consideration the requirements of the Law of Ukraine on the Bases of State Regulatory Policy in the Area of Economic Activity.

Section VII FINAL PROVISIONS

1. This Law shall come into effect in 30 days from the day of its promulgation, excepting:

clause 3 of article 8, which shall come into force within two years from the day of promulgation of this Law;

paragraph 2, Subitem 4 of Item 3, Section VII "Final Provisions", which shall come into force within two years from the day of promulgation of the present Law;

clause 1 of article 48, which shall come into force within three years after the day of promulgation of this Law.

2. After this Law comes into effect, the following laws shall become ineffective:

(1) the Law of Ukraine "On Securities and Stock Exchange" (The Bulletin of the Verkhovna Rada of Ukraine, 1991 No. 38, p. 508; 1992 No. 47, p. 645; 1995 No. 14, p. 90, p. 93; 1996 No. 40, p. 185; 1997 No. 45, p. 285; 1999 No. 26, p.213, No. 31, p. 252; 2003 No. 30, p. 247, No. 38, p.313; 2004 No. 13, p. 181, No. 19, p. 271; 2005 No.42, p.465; with amendments made by the Law of Ukraine dated December 15, 2005 No.3201-IV);

Resolution of the Verkhovna Rada of Ukrainian Soviet Socialist Republic dated June18, 1991 "On Making Effective the Law of Ukrainian SSR "About Securities and Stock Exchange" (The Bulletin of the Verkhovna Rada, 1991, No.38, p.509).

3. The following legal acts of Ukraine shall be amended:

1) the Commercial Code of Ukraine (The Bulletin of the Verkhovna Rada of Ukraine, 2001 No. 25-26, pg. 131; 2005 No. 5, pg. 119)) shall be amended with Article 232-1 reading as follows:

"Article 232-1. Disclosure or Usage of Information About the Issuer or Its Securities That Have Not Been Made Public"

Purposeful disclosure or other usage of unpublished or undisclosed in any other way information on the issuer, its securities or transactions therein (insider information) by a person who learnt this information through professional or official activities, in case this has caused a significant material loss to the State interests or the interests of legal entities or physical persons, -

shall carry restraint of liberty for up to three years or imprisonment for up to three years with deprivation of the right to occupy certain positions or engage in certain activities for up to three years".

2) Part 2 of Article 112 of the Criminal and Procedural Code of Ukraine after number "232" shall be supplemented with numbers "232-1";

3) the Commercial Code of Ukraine (The Bulletin of the Verkhovna Rada of Ukraine, 2003 No. 18-22, p. 144; with amendments made by the Law of Ukraine dated December 15, 2005 No.3201-IV):

- in the second sentence of clause 2 of article 163, the words "savings certificates" shall be replaced with the words "savings (deposit) certificates";

- clauses 4, 5, and 7 of article 164 shall be worded as following:

4. Business entities the exclusive activity of which is activity on management of assets of collective investment institutions shall have the rights to issue investment certificates.

5. Banking institutions depositing funds of legal entities and individuals shall furnish them with written certificates to confirm the depositors' right of depositors to get back the deposit principal and interest at the expiry of the established term (savings [deposit] certificates).

7. Business subjects shall have the right to issue, according to the procedure set by the law, promissory notes - debt securities that certify an absolute monetary obligation of the maker or his order to a third party to pay after the maturity period a definite amount to the owner of the promissory note (note holder).

- clause 2 of article 356 shall be omitted;

- clause 1 of article 360 shall read as follows:

1. In order to ensure the functioning of the securities market, a stock exchange shall be created. The procedure of creating and performing the stock exchange operations shall be determined by law.

4) in the Civil Code of Ukraine (The Bulletin of the Verkhovna Rada of Ukraine, 2003 No. 40-44, p. 356):

-clause 2 of article 158 shall be omitted;

- in clause 1 of article 194, the words "issued" and "issue" shall be replaced with the words "placed" and "placement" correspondingly;

- in item 3 of clause 1 of article 195 and of clause 2 of article 197, the word "issue" shall be replaced with the word "placement";

- in clause 3 of article 195, the word "to be issued" shall be replaced with the word "to exist";

-in clause 1 of article 198:

-in the first sentence, the word "issued" shall be replaced with the word "placed";

-in the second sentence the word "owner" shall be supplemented with the word "order";

5) in the Law of Ukraine "On State Regulation of the Securities Market in Ukraine" (The Bulletin of the Verkhovna Rada of Ukraine, 1996 No. 51, pg. 292; 1999 No. 38, pg. 339; 2001 No. 21, pg. 103; 2002 No.16, pg.114, No.17, pg.117, No.29, pg.194; 2004 No.13, pg.181; 2005 No.42, pg.465, 466; No.48, pg.481; with amendments made by laws of Ukraine dated December 15, 2005 No.3201-IV and December 22, 2005 No.3273-IV):

- paragraphs 3, 4, and 6 - 8 of article 1 shall be omitted;

- the title of article 4 and parts 1 and 2 of this article shall read as follows:

"Article 4. Securities Market Activities That Shall Be Subject to Licensing.

Securities and Stock Market State Commission, under the procedure established by same, shall grant licenses to engage in the following types of activities:

1) brokerage activity - entering by a securities broker into civil law contracts (particularly commission and agency agreements) on securities on his/its behalf (or on behalf of another person), on the order of and at the cost of another person;

2) dealership activity - entering by a securities broker into civil law securities contracts on his/its behalf and at its/his cost for resale purposes, except for cases envisaged by law;

3) underwriting - placement (subscription, sale) of securities by the broker of these securities on the order of, on behalf of and at the cost of the issuer;

4) securities management activity - activity performed by the securities broker on its/his behalf for a fee for the duration of a specified period based on an agreement to manage the securities given and, upon consent of the principal, the cash funds to invest in securities, as well as the securities and cash funds earned in the process of managing owned by management initiator (settlor), in his interests or in the interests of third persons specified by him;

5) asset management activity - professional activity of a stock market participant - an asset management company, - performed by it for a fee on its behalf or based on a corresponding asset management agreement to manage assets owned by institutional investors;

6) mortgage coverage management activity - activity performed for a fee by a bank or by another financial institution under a respective mortgage coverage management agreement;

7) depositary activity of a securities depositary - activity to provide services such as security safekeeping, servicing securities transactions on the accounts of securities custodians, as well as issuers' operations with their securities;

8) depositary activity of a securities custodian - activity to provide services such as securities custody and servicing securities transactions on the accounts of securities owners;

9) registered securities owners registers keeping activity - collecting, recording, processing, safekeeping, and giving access to data that make up the register system of registered securities owners on registered securities, their issuers, and owners;

10) stock market trading organization activity - activity of a professional stock market participant (trade organizer) with regard to providing organizational, technological, informational, legal, and other conditions to collect and disseminate ask and bid information, to conduct regular trading of financial instruments by established rules, to centralize conclusion and execution of financial instruments contracts, including clearing and settlement of same; and to resolve disputes between trade organizer members;

11) clearing and settlement activity - activities to determine mutual obligations under securities contracts and to settle same.

Securities and Stock Market State Commission, under the procedure established by same, in the event of professional securities market participants engaging in several types of activities envisaged by clause 1 of this article, shall issue one form of license for such activities.

In clause 2 of article 7: Item 13 shall read as follows:

"13) shall exercise control over compliance with legislation and shall appoint government representatives on stock exchanges, at depositaries, and trade-and-information systems;"

item 14-1 shall be added to read as follows:

"14-1) shall set forth a standard sample and issue certificate of registration of the association of professional stock market participants as a self-regulatory organization";

article 17 shall be omitted;

6) in the Law of Ukraine "On Advertising" (The Bulletin of the Verkhovna Rada of Ukraine, 2004 No. 8, pg. 62):

- to add the following paragraph to clause 4 of article 25:

"to use information on income on securities or the amount of profit received by the issuer in the past without indication that this profit does not guarantee receiving income in the future";

- to add the following paragraphs to clause 1 of article 26:

"the Ministry of Finance of Ukraine - with regard to advertising of government securities;

Securities and Stock Market State Commission - with regard to advertising in the stock market."

7) Paragraph 2, clause 1 of article 27 of the Law of Ukraine dated December 22, 2005 "About Mortgage Bonds" words "activity of mortgage coverage manager and mortgage coverage" shall be added following the words "circulation of mortgage bonds";

8) in sub-item "cb" of clause 3, article 3 of the Cabinet of Ministers Decree 7-93 "On State Duty" dated 1/21/93 (The Bulletin of the Verkhovna Rada of Ukraine, 1993 No. 13, pg. 113; 1995 No. 30, pg. 229; 2004 No. 2, pg.6 with amendments made by the Law of Ukraine dated December 22, 2005 No. 3273-IV), the word "concession" shall be added after the words "as well as for notarization of agreements".

4. Stock market participants, within 3 years after this Law comes into effect, shall bring their activities in compliance with this Law.

Stock market participants that are licensed to conduct professional stock market activities shall conduct their activities in accordance with the issued license within 3 years after this Law comes into effect. Stock market participants that are licensed to conduct activities on organization of securities market trading shall conduct activities on organization of trading in the stock market as trade organizers.

After the license expires, conduct of the relevant type of professional activities shall be allowed if a new license is obtained in accordance with this Law.

5. The Cabinet of Ministers of Ukraine, together with the National Bank of Ukraine, within 3 months from the date of promulgation of the present Law shall prepare and submit to the Verkhovna Rada of Ukraine a draft law of Ukraine on amendments to the Law of Ukraine "On Payments Systems and Money Transfer in Ukraine" with regard to opening an account by a securities trader for his client with the purpose to conduct activities on securities management.

6. This Law shall not apply to securities issues, decisions on which had been approved prior to this Law coming into force.

President of Ukraine

Victor Yushchenko

City of Kyiv February 23, 2006 No.3480- IV

Annex 7

LAW OF UKRAINE

On Banks and Banking

*with amendments and supplements, introduced by the Laws of Ukraine
of September 20, 2001 No. 2740-III,*

*...
of June 01, 2010 No. 2289-VI*

Part I. GENERAL PROVISIONS

Chapter 1. GENERAL PROVISIONS

Article 1. Subject and Purpose of the Law

This Law defines the structure of the banking system, economic, organizational and legal fundamentals for establishment, operation, reorganization and liquidation of banks.

The purpose of this Law is to provide legal support for stable development and operation of banks in Ukraine in order to create an appropriate competitive environment in the financial market, protect legitimate interests of bank depositors and clients, introduce favorable conditions for the development of the economy of Ukraine, and support the domestic commodity producers.

Article 2. Definition of Terms

The terms used in this Law shall have the following meaning:

"Underwriting" shall mean purchase of securities in the primary market followed by their further resale to investors; concluding an agreement to guarantee full or partial sale of issuer's securities to investors, their full or partial redemption at a fixed price with subsequent resale, or obligating the buyer to do everything in his/her power to sell as many securities as possible without assuming the obligation to purchase any of the unsold securities.

"Affiliate of a bank" shall mean any legal entity in which the bank holds qualifying holding or which holds a qualifying share in the bank.

"Bank" shall mean a legal entity, which has an exclusive right, under the National Bank of Ukraine license, to perform the following general banking operations in aggregate: attraction of deposits and funds of households and legal entities, allocation of these funds on its own behalf, terms and at its own risk, and opening and servicing accounts of individuals and legal entities.

"Bank with foreign capital" shall mean a bank where the share of capital, owned by at least one non-resident, is equal to or exceeds 10 percent.

"Banking activity" shall mean deposit-attraction activity in respect of the funds of individuals and legal entities and allocation of these funds on the bank's own behalf, terms, and at its own risk, opening and servicing accounts of individuals and legal entities.

"Bank credit" shall mean any obligation of a bank to extend a certain amount of money, any guarantee, any obligation to acquire the right to claim debt, or any extension of the debt maturity, which occurs in exchange for the borrower's commitment to repay the debt amount, as well as an obligation to pay interest and other charges due on this amount.

"Banking license" shall mean a document issued by the National Bank of Ukraine pursuant to the procedure and subject to the terms specified hereunder, and on the basis whereof banks and branches of foreign banks are eligible for banking activity.

"Banking payment instrument" shall mean an instrument containing the details identifying its issuer, the payment system, in which it is used and, as a rule, its holder. Relevant documents are formed with the help of banking payment instruments for the transactions performed using the banking payment instruments, on the basis whereof funds are transferred or other services rendered to the holders of such instruments.

"Bank accounts" shall mean the accounts which show bank's own funds, claims, commitments of a bank in relation to its clients and counteragents, and which enable transfer of the funds by using the banking payment instruments.

"State Register of Banks" shall mean the register maintained by the National Bank of Ukraine which contains information of state registration of all banks.

"Deposit" shall mean the funds in cash or a non-cash form in the currency of Ukraine or a foreign currency which are placed by clients into their personal accounts with a bank according to an agreement with the bank for a specified period of time or without specification of such a period of time, and which are subject to repayment to the depositor under the laws and regulations of Ukraine and terms and conditions of the agreement.

"State registration of a bank" shall mean granting a bank the legal entity status in accordance with the requirements of Chapter 3 of the present Law.

"Business reputation" shall mean the aggregate confirmed information about a person enabling to draw a conclusion about his/her professional and managerial skills, integrity and compliance of his/her activities with law.

"Economic ratios" shall mean the indicators, established by the National Bank of Ukraine, being mandatory for all banks.

"Foreign" shall refer to a citizen or a legal entity of any country other than Ukraine.

"Qualifying holding" shall mean direct, indirect, independent or joint holding of 10 or more percent of the authorized capital or the voting rights granted by purchased shares (stakes) of a legal entity or the ability to exert decisive influence on management or activities of a legal entity irrespective of the formal ownership.

"Capital of a bank" shall mean a residual value of bank assets after deduction of all its liabilities.

"Subscribed capital" shall mean the amount of capital for which written commitments were received from the bank stakeholders (shareholders) to contribute funds in accordance with their subscription to the shares (stakes).

"Assigned capital" shall mean an amount of money in a freely convertible currency granted by a foreign bank to its branch for accreditation thereof;

"Authorized capital" shall mean paid-in and registered subscribed capital.

"Regulatory capital (own funds)" is made up of the fixed and additional capital, weighted for risks, determined by regulations of the National Bank of Ukraine.

"Client of a bank" shall mean any individual or legal entity that uses services of a bank.

"Control" shall mean direct or indirect, individual or joint holding of a share in a legal entity which is equivalent to 50 or more percent of the authorized capital or votes of the legal entity, or a possibility to exert decisive influence on management or activities of the legal entity pursuant to an agreement or through any other means.

"Funds" shall mean the money in the national or a foreign currency or its equivalent.

"Bank's creditor" shall mean a legal entity or an individual who has a written confirmation of a claim to the borrower with regard to latter's property obligations.

"Liquidation of a bank" shall mean a procedure for terminating the functioning of a bank as a legal entity pursuant to the provisions of the present Law.

"Liquidator" shall mean a legal entity or an individual, who exercises functions as to the termination of a bank's activity and satisfaction of creditors' claims.

"Liquidation estate" shall mean all types of property assets (property and property ownership rights) of a bank, which it owns as of the day when the liquidation procedure has been initiated, as well as those discovered during the liquidation process.

"Moratorium" shall mean the suspension of fulfillment of the bank's obligations to creditors and obligations to pay taxes and charges (mandatory payments), as well as the suspension of actions aimed at ensuring the fulfillment of these commitments.

"Bank insolvency" shall mean the inability of a bank to satisfy legal claims of creditors in proper time and in full due to absence of funds or a decrease in the size of its capital to an amount equal to less than one-third of the minimum size of the regulatory capital of the bank.

"Regulations of the National Bank of Ukraine" shall mean the regulations issued by the National Bank of Ukraine within its powers for enforcing this and other laws of Ukraine.

"Bank subdivision" shall mean a structural unit of a bank, which has not the status of a legal entity and exercises the functions, defined by the bank.

"Representative office of a bank" shall mean a separate territorial structural subdivision of a bank which shall represent and protect interests of the bank without performing banking operations.

"Reorganization of a bank" shall mean merger, takeover, spin-off or break-up of a bank, transformation of its organizational and legal form resulting in the transfer, assumption of its property, funds, rights and liabilities by legal successors.

"Banking settlement operations" shall mean movement of funds on bank accounts which is performed pursuant to client instructions or as a result of the actions, which have led to the legal transfer of assets ownership rights within the scope of law.

"Affiliated party" shall mean a legal entity the holders of qualifying holding wherein are at the same time the holders of qualifying holding within a bank.

"Systemic bank" shall mean a bank with liabilities equal to at least 10 percent of total liabilities of the banking system.

"Provisional administration" shall mean a procedure applied by the National Bank of Ukraine in the course of banking supervision under the circumstances stipulated by the present Law.

"Provisional administrator" shall mean an individual or a legal entity, appointed by the National Bank of Ukraine to exercise the provisional administration.

"Bank's authorized person" shall mean a person, who, on the basis of the statute (rules and regulations) or an agreement, is empowered to represent a bank and take certain actions of legal nature on behalf of the latter.

"Participants in a bank" shall mean bank founders, shareholders of a bank being a joint stock company (public corporation), and stakeholders in a cooperative bank.

"Branch of a bank" shall mean a separate structural subdivision of a bank without the legal entity status which performs banking operations on behalf of the bank.

"Financial holding group" shall mean a financial institution that meets the requirements of Article 12 of the present Law.

"Financial rehabilitation of a bank" shall mean recovery of bank's solvency and suiting the financial indicators of its activity to the requirements of the National Bank of Ukraine.

Article 3. Application (Scope) of the Law

The present Law regulates the relations that arise in the course of establishment, registration, activity, reorganization and liquidation of banks.

The provisions of the present Law and Regulations of the National Bank of Ukraine shall be applicable both to banks and foreign bank branches.

Provisions of the present Law shall be applicable to the representative offices of foreign banks operating in the territory of Ukraine, unless otherwise established by the effective international treaties (agreements) ratified by the Verkhovna Rada of Ukraine, as well as to branches of Ukrainian banks abroad and to the bank related parties specified in Article 52 of the present Law.

Appropriate provisions of the present Law shall also be applicable to some liabilities and responsibilities of other persons, whose activity is connected with operation of banks.

Article 4. Banking System of Ukraine

The banking system of Ukraine consists of the National Bank of Ukraine and other banks, as well as the branches of foreign banks, which have been established and operate on the territory of Ukraine in compliance with the present Law provisions.

The banks in Ukraine may operate as universal or specialized banks. In terms of their specialization, banks may be classified as savings, investment, mortgage and settlement (clearing) banks.

Each bank may independently determine areas of its activity and specialization by types of operations. The National Bank of Ukraine shall regulate activities of the specialized banks through the economic ratios and regulations that support the operations performed by these banks.

Each bank may acquire the specialized bank status when more than 50 percent of its assets are represented by assets of the same type. The bank shall acquire the status of specialized savings bank if more than 50 percent of its liabilities represent the household deposits.

The National Bank of Ukraine shall exercise its regulatory and supervisory activities pursuant to the provisions of the Constitution of Ukraine, the present Law, the Law of Ukraine "On the National Bank of Ukraine," other legislative acts and its own regulations.

Article 5. Economic Independence of Banks

Banks shall have the right to independently hold, use and manage the property they own.

The State shall not be held responsible for commitments of the banks, and banks shall not be held responsible for commitments of the State, unless otherwise provided for by law or an agreement.

The National Bank of Ukraine shall not be held responsible for commitments of the banks, and banks shall not be held responsible for commitments of the National Bank of Ukraine, unless otherwise provided by law or an agreement.

State power and local self-government bodies shall not be allowed to influence in any way the management or employees of banks during the exercise of official duties by them, or to interfere with the bank activities, except when expressly specified by law.

The damage inflicted on a bank as a result of such interference shall be subject to compensation pursuant to the procedures specified by law.

Article 6. Organizational and Legal Form of a Bank

In Ukraine, banks shall be created in the form of a public corporation (open joint stock company) or a cooperative bank.

The laws on businesses shall be applicable to the banks to the extent they are not contrary to the present Law.

Article 7. State Banks

A State bank is a bank in which the State owns 100 percent of the authorized capital.

A State bank shall be established pursuant to a decision of the Cabinet of Ministers of Ukraine. In so doing, the expenditures shall be provided for in the Law on the State Budget of Ukraine for the respective year for the formation of the authorized capital of the State bank. The Cabinet of Ministers of Ukraine shall obtain a positive opinion of the National Bank of Ukraine in respect of the foundation of the State bank. Obtaining the National Bank of Ukraine opinion shall also be obligatory in case of the liquidation (reorganization) of a State bank, with the exception of the liquidation resulting from the State bank insolvency.

The Statute (rules and regulations) and activities of the State bank shall meet the requirements of the present Law, other Laws of Ukraine and regulations of the National Bank of Ukraine.

The Statute of the State bank shall be approved by a Resolution of the Cabinet of Ministers of Ukraine.

The National Bank of Ukraine shall perform the state registration of State banks under the requirements of the present Law and its own regulations.

The State shall exercise and realize ownership rights in respect of shares (stakes), which belong to it in the authorized capital of the State bank through management bodies of the State bank. The Cabinet of Ministers shall exercise management of the State bank in cases specified in the present Law, other laws and the Statute of the State bank.

The Supervisory Council and Board shall be the management bodies of the State bank.

The Revision Commission, whose personal composition and staff number may be determined by the Supervisory Council of the State bank, shall be a controlling body of the State bank.

As the highest management body of the State bank, the Supervisory Council shall oversee the State bank Board activities in order to preserve the funds attracted as deposits, guarantee their repayment to depositors and protect interests of the State as a State bank shareholder, and exercise other functions stipulated by the present Law.

The Supervisory Council of the State bank shall be made up of the members appointed by the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine. The part of the Supervisory Council formed by the Verkhovna Rada shall comprise at least one representative of the parliament opposition. In order to represent the interests of the State, representatives of executive bodies and other persons that meet the requirements set forth in this Article may be included in the Supervisory Council of the State bank. The term of office of the State bank Supervisory Council members shall be five years.

The President of Ukraine shall appoint five members of the State bank Supervisory Council through the adoption of a corresponding Enactment (Decree).

The Verkhovna Rada of Ukraine shall appoint five members of the State bank Supervisory Council through the adoption of a corresponding Resolution.

The Cabinet of Ministers of Ukraine shall appoint five members of the State bank Supervisory Council through the adoption of a corresponding Resolution.

The member of the State bank Supervisory Council shall be a citizen of Ukraine who has received formal higher education in economics or law, or has an academic degree in the field of economics, finance and/or law having experience of work in the legislative bodies or on the managerial positions in the central executive bodies of Ukraine which ensure implementation and realization of the state financial, economic and legal policy, or in banking institutions, or else has experience of research and practical work in the area of economics, finance or law. A person who is a member of the Supervisory Council or other management body of a bank (except a state one) or a member of his/her family of the

first degree of relation, or a person who has been convicted for financial abuse with (outstanding) conviction not cancelled or overturned as prescribed by law may not be a member of the Supervisory Council of a State bank. Appointment of a person to the position of a member of the Supervisory Council of a State bank is not permitted if it can lead to a conflict of interests.

The members of the State bank Supervisory Council shall exercise their functions without receiving any remuneration.

The Supervisory Council of the State bank shall be headed by the Chairman elected by the Supervisory Council from among its members.

Meetings of the Supervisory Council shall be effective if attended by at least 10 of its members.

Supervisory Council decisions shall be adopted by a simple majority of votes of those present at the meeting of the State bank Supervisory Council. The Statute and internal regulations of the State bank may define the procedure of the Supervisory Council convocation, voting, decision taking and execution (implementation).

Powers and authorities of the appointed State bank Supervisory Council and/or of each of its members may be terminated upon the decision of the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine with regard to the members appointed by them, but not earlier than one year after the appointment. In case a provisional administrator is appointed for a State bank, the powers of the Supervisory Council shall be suspended in compliance with Article 78 of the present Law.

In its activities, the State bank Supervisory Council shall abide by this Law, other effective laws of Ukraine, and the Statute of the State bank. The Supervisory Council shall not interfere in the everyday activity of the State bank.

The competence of the State bank Supervisory Council shall cover decision-making on the issues stipulated by Items 1, 5 and 6 of Article 38 and Items 1-7 of Article 39 of the present Law, as well as the other issues whose regulation is prescribed by this Law.

Decisions on changing the size of State bank authorized capital and suspension of its activities shall be taken by the Cabinet of Ministers of Ukraine. In so doing, the Cabinet of Ministers of Ukraine shall have obtained a positive opinion from the National Bank of Ukraine regarding the intention to change the size of the State bank authorized capital.

Powers of the executive body of the State bank shall be determined by its statute (by-laws). Candidates for the positions of the Chairman and members of the executive body shall be agreed with the National Bank of Ukraine in accordance with the requirements of the present Law.

The bank, established according to the procedure set forth in Part 2 of this Article, has the right to add the word "State" to its name and to use the imprint of the Coat of Arms of Ukraine and the State Flag of Ukraine.

In case a decision has been taken by the State concerning the partial or complete alienation of its shares (stakes) in a State bank, such a bank shall be deprived of the State bank status. The shareholders shall bring the Statute and activities of this bank in compliance with the requirements of this Law and regulations of the National Bank of Ukraine.

Article 8. Cooperative Banks

The cooperative bank shall be established pursuant to the procedures stipulated by the present Law. The Laws on the cooperative societies shall be applied to the cooperative banks to the extent when they do not contradict the present Law.

The cooperative banks shall be established under the territorial principle and divided in the local and central cooperative banks.

The minimum number of participants in the local (within an oblast) cooperative bank shall be not less than 50 persons. If this number has decreased and the cooperative bank in question is unable to increase it to the minimum needed within a year, the activity of such a bank shall be terminated by changing its organizational and legal form or through the liquidation.

The local cooperative banks shall be participants in the central cooperative bank.

In addition to the functions stipulated by the present Law, the central cooperative bank shall engage in the centralization and re-allocation of resources accumulated by the local cooperative banks, and supervise the activities thereof at the regional level.

The General Meeting of participants (stakeholders), the Supervisory Council, and the Board shall be the management bodies of the cooperative bank. The Revision Commission shall be the cooperative bank's control body. The management and control bodies of the cooperative bank shall be set up and exercise their powers in accordance with the present Law.

The authorized capital of the cooperative bank shall be divided into stakes. The minimum size of the cooperative bank authorized capital shall be established by the National Bank of Ukraine under the present Law.

Each cooperative bank participant shall have the right to one vote irrespective of the size of his/her participation in the bank capital (share, stakes).

Cooperative bank profits or losses resulting from the performance in the fiscal year shall be divided among the participants in proportion to the size of their stakes.

The restrictions imposed by the present Law on bank operations with related parties shall not be applicable to operations of the cooperative bank.

Article 9. Bank Associations

The banks shall have the right to set up bank associations of the following types: the bank corporation, bank holding group, and financial holding group. The banks may participate in the industrial and financial groups on terms of due compliance with the requirements of the antimonopoly laws of Ukraine.

The bank associations shall be set up by prior arrangement with the National Bank of Ukraine and be subject to the State registration through introduction of a relevant entry in the State Register of Banks.

The procedures for obtaining a permit for setting up a bank association and for the State registration thereof shall be established by the National Bank of Ukraine.

A bank may participate in only one bank association. The participants in a bank association shall indicate the name of the bank association before their own names.

The participants in a bank association shall have the right to leave the association while retaining mutual obligations and adhering to the terms of the agreements concluded with other economic entities (companies).

The bank association shall publish information, in the official periodicals - "Uriadovyi kurier" or "Holos Ukrainy", - on the setting up of the bank association using the form approved by the National Bank of Ukraine, as well as on changes in this association, and on the termination of its activities, and also consolidated reporting following the scope and format specified by the National Bank of Ukraine.

Participants in a bank association shall be liable for the obligations assumed by other participants therein under the agreements concluded between them.

The bank association shall be liquidated pursuant to a decision of the participants therein or upon the initiative of the National Bank of Ukraine following a court order if its activity has contradicted the antimonopoly laws, or poses a threat either to interests of the bank depositors or to stability of the

banking system. The liquidation of a bank association shall not terminate the activity of the banks having participated therein.

Article 10. Bank Corporation

The bank corporation is a legal entity (bank), whose founders and shareholders shall be only banks. The bank corporation shall be set up to concentrate capital of the banks participating in the corporation, increase their general liquidity and solvency, as well as to ensure coordination and supervision over activities of the participating banks.

The bank corporation shall be subject to registration at the National Bank of Ukraine and entered into the State Register of Banks. The authorized capital of the bank corporation shall meet the general requirements of the National Bank of Ukraine as to the authorized capital of a newly established commercial bank.

The requirements of the National Bank of Ukraine on granting licenses to a bank corporation to perform certain operations shall be established at the level of general requirements to be met by the commercial banks, proceeding from the size of consolidated capital.

The Founders' Agreement and Statute of the corporation shall include provisions on ensuring fulfillment of financial liabilities by the corporation and its members and on responsibility for the results of their joint activity with the aim of ensuring interests of creditors and depositors.

The banks that have become the members of a bank corporation shall delegate to the corporation the powers to perform certain operations and ensure centralization of the exercise of certain functions. The following functions shall be subject to the centralization within the bank corporation:

- Settlements both among members of the corporation and beyond its framework.
- Operations in the money and capital markets.
- Opening and maintenance of the correspondent accounts (in the national and foreign currency).
- Monitoring of the credit risks.
- Development and adoption of common for the bank corporation members rules and procedures of performing operations and internal reporting.
- Formation of external reporting.
- Internal audit.

The list of the centralized functions may be extended upon agreement of the banks that are corporation members. The transfer of powers as to the centralized exercise of the above-mentioned functions from the member banks to the bank corporation shall be itemized both in the statutes of corporation member banks and in the statute of the bank corporation itself.

The bank corporation shall exercise the functions of a settlement center for the corporation member banks, and shall not service clients (households and legal entities, with the exception of banks and other financial institutions) directly. All corporation member banks shall perform their settlements and payments (both in the national and foreign currency) exclusively through their correspondent accounts, opened with the National Bank of Ukraine, or directly with the bank corporation.

The banks that have become participants in a bank corporation shall preserve their legal independence within the limits specified by their Statutes and the Statute of the bank corporation. The banks that have become participants in a bank corporation may not enter other bank associations, except upon consent of the corporation (an exception is participation in the professional associations set up on a non-commercial basis). The banks that have become participants in a bank corporation shall indicate the corporation membership in all their documents, concluded agreements, etc.

The name of the bank corporation shall be determined by the group founders arbitrarily in compliance with the requirements of the present Law.

Article 11. Bank Holding Group

The bank holding group is a bank association, which consists exclusively of banks.

The parent bank of the bank holding group shall own at least 50 percent of the share (stake) capital or votes of each of the other participants in the group being its subsidiary banks.

The subsidiary bank may not hold shares of the parent bank. In cases, when the subsidiary bank has acquired ownership rights to the parent bank shares, it shall alienate them within one month.

Bank holding groups may only be set up under condition that the Founders' Agreement stipulates imposing of additional organizational functions on the principal bank of the group with respect to the group member banks, as well as establishment of a joint activity management system.

Banking supervision over the activity of the bank holding group shall be carried out on both an individual and consolidated basis. The parent bank shall submit the consolidated financial and statistical reports of the group under the present Law requirements.

The parent bank of the bank holding group shall bear responsibility for liabilities of its members within its contribution to the capital of each of them, unless otherwise provided for by agreements between them or by the law.

Article 12. Financial Holding Group

The financial holding group shall consist predominantly or exclusively of the institutions that render financial services, including at least one bank. The parent company shall be a financial institution.

The parent company shall own more than 50 percent of the share (stake) capital of each financial holding group participant.

The financial holding group parent company shall submit the consolidated financial and statistical reports of the group to the supervision bodies under the present Law requirements.

The financial holding group parent company shall have the right, in the course of execution of its activities in respect of management and coordination of activities of the group members for enforcement of legislation and regulations of the National Bank of Ukraine, to establish the rules that are mandatory for members of the financial holding group.

The financial holding group parent company shall be responsible for obligations of all group members within its contribution to the capital of each of them, unless otherwise provided for by the concluded agreement between them or by law.

Article 13. Bank Unions and Associations

In order to protect and represent interests of its members, develop interregional and international relations, ensure research and information exchange as well as the professional interests, develop the recommendations related to banking activities, the banks shall have the right to set up non-profit unions or associations.

The unions or associations shall not have the right to perform banking or entrepreneurial activities, and may not be established in order to receive profit.

The association (union) of banks is a contractual association of banks, which has no right to interfere with activity of the member banks of the association (union).

Part II. ESTABLISHMENT, STATE REGISTRATION, LICENSING AND REORGANIZATION OF BANKS

Chapter 2. ESTABLISHMENT OF BANKS

Article 14. Bank Participants

Resident and non-resident legal entities and individuals, as well as the State in the person of the Cabinet of Ministers of Ukraine or the bodies authorized by it may be participants in a bank.

Owners of qualifying holdings in the bank shall have an irreproachable business reputation and a satisfactory financial position.

Requirements as to the business reputation and satisfactory financial standing of the founders and shareholders (stakeholders) that are going to acquire a qualifying holding in the bank are established by the present Law and regulations of the National Bank of Ukraine.

The legal entities, in which the bank has a qualifying holding, as well as public associations, religious and charity organizations may not become bank participants.

Article 15. Name of the Bank

The bank shall have a full and abbreviated official names in Ukrainian and in foreign languages. The bank name shall contain the word "bank," as well as a reference to the organizational and legal form of the bank.

The bank shall have a seal with its full official name.

The word "bank" and its derivative words may only be used in the name of those legal entities that have been registered by the National Bank of Ukraine as a bank and have a banking license. An exception is made for international organizations, which operate on the territory of Ukraine in conformity with the international agreements, ratified by the Verkhovna Rada of Ukraine, and the effective laws of Ukraine.

It is not allowed to use a bank name that repeats the name of an existing bank or misleads one as to the types of activity the bank performs. The use of the words "Ukraine", "State", "Central", "National" and derivatives thereof in the name of a bank is possible only upon consent of the National Bank of Ukraine.

The National Bank of Ukraine shall have the right to refuse the usage of the proposed name of a bank due to the reasons set forth in this Article.

A bank sub-division shall only use the name of the bank of which it is a sub-division. The name of the location of this subdivision may be added to the name of the bank structural sub-division.

Article 16. Bank Statute

The Statute of a bank shall be drawn up with taking into account the provisions of the present Law, the Law of Ukraine "On Economic Partnerships" and other laws of Ukraine.

The bank Statute shall contain without fail the following information:

- 1) The name of the bank.
- 2) The location of the bank.
- 3) The organizational and legal form of the bank.
- 4) Type of the operations to be performed by the bank.
- 5) The size and procedure for formation of the bank authorized capital, type of the bank shares, their face value, form of share issuance (documentary or non-documentary), number of shares to be bought by the shareholders.
- 6) The structure of the bank management, management bodies, their authority and procedure of decision taking.
- 7) The procedure for reorganization and liquidation of the bank in accordance with Chapters 5 and 17 of the present Law.

- 8) The procedure for introducing amendments to the bank Statute.
- 9) The size and procedure for the formation of reserves (provisions) and other general funds of the bank.
- 10) The procedure for the profit distribution and cover of losses.
- 11) The provisions on conducting bank audits.
- 12) The provisions on bank bodies of the internal audit.

A decision on the introduction of amendments to the bank statute shall become valid from the moment these amendments are registered by the National Bank of Ukraine.

Registration of the amendments to the bank Statute shall be performed according to the procedure established by the National Bank of Ukraine.

Chapter 3. STATE REGISTRATION AND LICENSING OF BANKS

Article 17. State Registration of Banks

The state registration of banks shall be conducted by the National Bank of Ukraine (NBU) in accordance with the requirements of the present Law and NBU regulations.

The persons authorized by the bank founders shall submit the following documents for State registration to the National Bank of Ukraine:

- 1) Registration application.
- 2) Founders' Agreement (with the exception of State bank).
- 3) Bank statute.
- 4) Decision on bank establishment (the meeting of founders minutes), or the Resolution of the Cabinet of Ministers on the establishment of a State bank.
- 5) Business plan identifying the types of activity planned for the following year and a strategy of bank's activities for the next three years in accordance with the requirements established by the National Bank of Ukraine.
- 6) Information on the financial position of those participants that are likely to hold a qualifying holding in the bank. In case the bank founder is a legal entity, information shall be furnished with on the members of the Board of Directors and holders of qualifying holding in this legal entity.
- 7) Accounting and financial reports of the legal entities that are to hold a qualifying holding for the last four reporting periods (quarters), and for the individuals that are to hold a qualifying holding - the statement from the State Tax Administration on income for the last reporting period (year).
- 8) Information on the number of members of the Supervisory Council, Board (Board of Directors), and Revision Committee.
- 9) Copy of the payment document confirming payment of the registration fee established by the National Bank of Ukraine.
- 10) Notarized copies of foundation documents (articles of partnership) of the members being the legal entities that are to hold qualifying holding in the bank.
- 11) Copies of the report on private stock floatation (placement) - for the banks established as an open joint stock company (public corporation).
- 12) Data on professional skills and business reputation of the bank Chairman and members of the Board (Board of Directors) and the Chief Accountant.

The National Bank of Ukraine, within one week after the documents for state registration are submitted, shall open a temporary account for accumulation of the subscription fees of the founders and other bank participants.

The decision on state registration or denial of the registration shall be taken by the National Bank of Ukraine not later than within three months from the moment the full package of documents, specified in this Article, has been submitted.

The National Bank of Ukraine has the right to require corrections to be introduced to the submitted documents.

The registration of banks is performed through an appropriate entry in the State Register of Banks. After that the bank shall acquire the status of legal entity.

The National Bank of Ukraine shall issue the State Registration Certificate to the bank in the NBU-established form.

Article 18. Grounds for the Denial of the State Registration

The National Bank of Ukraine may refuse to register a bank in the following cases:

- 1) Violation of the bank establishment procedure.
- 2) Foundation documents of the bank fail to comply with the laws of Ukraine.
- 3) An incomplete package of the documents necessary for the State registration has been submitted, or these documents have failed to meet the requirements of the present Law or NBU regulations.
- 4) The National Bank of Ukraine has a proof of the lack of irreproachable business reputation or of satisfactory financial position of at least one of the founders that possess qualifying holding in the bank.
- 5) Professional skills and business reputation of the Chairman of the executive body and Chief Accountant of the bank, as well as members of the bank executive body, fail to meet the requirements of the National Bank of Ukraine.

The National Bank of Ukraine shall inform the bank's authorized persons of incompleteness of the document package and/or inadequacy of professional skills and business reputation of the Chairman of the Board (Board of Directors) and Chief Accountant not later than one month after the day the documents are submitted.

The National Bank of Ukraine shall take a justified decision on the denial to register a bank. A copy of the decision on the denial to register the bank, certified by the National Bank of Ukraine, shall be sent to the bank's authorized person by a recommended letter or submitted with the delivery confirmed by signature.

The denial to register a bank may not be made on grounds other than those listed in this Article.

Article 19. Banking License

The bank has the right to perform banking activities only upon obtaining a banking license.

No one shall have the right to simultaneously engage in attracting deposits and other funds subject to repayment, extending loans and servicing accounts without a banking license as well as to operate an account. The persons, culpable of carrying out banking activities without a banking license, shall bear criminal, civil or administrative responsibility in accordance with the laws of Ukraine.

The banking license shall be issued by the National Bank of Ukraine upon the application of a bank, provided there are documents confirming the following:

the availability of paid-in and registered subscribed bank capital in the amount, established by the present Law;

the bank has appropriate banking equipment, computers, software, and premises in compliance with the NBU requirements;

there are at least three persons, appointed members of the Board (Board of Directors) of the bank, who have appropriate education and experience necessary to manage the bank.

The National Bank of Ukraine may refuse to issue the license if the bank has failed to meet conditions set forth in this Article within one year from the date of the State registration of the bank. In this event the State registration of the bank will be cancelled and the bank liquidated.

The decision to grant or to deny a banking license shall be taken by the National Bank of Ukraine within one month from the day it has received the full package of the documents listed in this Article. In case of bank reorganization on the basis of provisional administration results the decision on granting the banking license shall be taken by the National Bank of Ukraine within three days after receipt of the full package of the documents above.

The banking license may not be transferred to third parties.

Article 20. Grounds for Revocation of the Banking License

The National Bank of Ukraine may revoke the banking license exclusively in the following cases:

- 1) It is revealed that the documents submitted for receipt of the banking license contain untrue information.
- 2) The bank has performed no banking operation during one year from the day the banking license is granted.
- 3) In case of the violation of the present Law or NBU regulations, which has led to a significant loss of assets and insolvency of the bank.
- 4) On the basis of a conclusion of the provisional administrator on the inability to bring the bank into legal conformity with the requirements of the present Law and NBU regulations.
- 5) The impracticality of implementing the plan of the provisional administration as to the reorganization of the bank.

The National Bank of Ukraine shall immediately inform the bank that its banking license has been revoked. The bank shall, within three days after receiving the corresponding decision, return its banking license to the National Bank of Ukraine.

The bank, on the day of receiving the decision to revoke the banking license on the grounds set forth in Item 1, part I of this Article, shall terminate all banking operations and take measures to ensure the fulfillment of its obligations to its depositors and other creditors in compliance with the agreements concluded and provisions of the present Law.

The decision of the National Bank of Ukraine to revoke a banking license shall be published in "Uriadovyi Kuryer" or "Holos Ukrainy" newspapers. The revocation shall be the cause of action for filing a claim to the court on liquidation of the bank.

Article 21. Preliminary Permit for Establishing a Bank with Foreign Capital

In order to establish a bank with foreign capital, its founders shall obtain the preliminary permit from the National Bank of Ukraine. In order to obtain the status of a bank with foreign capital for an operating bank, its Board (Board of Directors) shall obtain the preliminary permit from the National Bank of Ukraine.

In order to obtain the preliminary permit for establishing a bank with foreign capital or to obtain the status of a bank with foreign capital for a bank, the following documents shall be submitted to the National Bank of Ukraine:

- 1) application for obtaining the preliminary permit;
- 2) information on the panel of founders, their business reputation and availability of the funds needed for establishment of such a bank;
- 3) permit of the foreign controlling body to participate in the establishment of a bank in Ukraine or written assurance of the foreign founder as to the absence, in the legislation of his/her country of origin, of a requirement to obtain such a permit;
- 4) information on the underwriter and its business reputation, an agreement with the underwriter in case the bank has taken a decision to sell the bank shares in international markets through underwriting.

The application shall be considered by the National Bank of Ukraine within one month from the day it is received. The denial of the National Bank of Ukraine to issue the permit shall be delivered in writing and with an appropriate explanation.

Article 22. Particular Features of Registration of the Banks with Foreign Capital

Should a bank intend to obtain the status of a bank with the foreign capital and in case a foreign investor acquires a qualifying holding in the bank, the foreign investor, or upon his/her instruction the shares issuing bank, underwriter or any other legal entity or individual that has the commission from the foreign investor, shall submit the following documents for registration of the bank in addition to the documents listed in Article 17 of the present Law:

- 1) A notarized copy of the decision, from the place it is issued, of the authorized management body of the foreign investor on participation in a bank in Ukraine.
- 2) A written consent on participation of the foreign investor in the bank in Ukraine issued by the state or other authorized controlling body of the country, where the head office of the foreign investor has been registered, should the legislation of that country require the mentioned consent, or a written assurance from the foreign investor as to the absence of the requirement for a prior permit to make investments abroad.
- 3) A notarized extract from the trade (banking) register, from the place it is issued, or other official document, which confirms the registration of the foreign participant in the country, where the head office of the foreign investor has been registered.
- 4) A notarized copy of the foreign audit firm opinion, from the place it is issued, on the financial position of the foreign investor at the end of the last full calendar year. In case the indicated conclusion is provided by a foreign audit firm, not included in the list of foreign audit organizations, recognized by the National Bank of Ukraine, such a conclusion shall be confirmed by a Ukrainian audit organization.

The documents listed in Items 1, 2 (except the written assurance of the foreign investor), 3, and 4 in Part I of this Article shall have been legalized pursuant to the established procedure, unless otherwise is provided by the international agreements ratified by the Verkhovna Rada of Ukraine.

In cases the foreign investor is an individual, the following documentation shall be submitted:

- 1) A written consent to the participation of the foreign investor in a bank in Ukraine, issued by a state or other authorized controlling body of the country, whose legislation requires such a permit; or written assurance of the foreign investor as to the absence of requirements for prior permits for investments abroad in the laws of the country of residence. The written consent shall have been legalized at a Consulate of Ukraine, unless otherwise is stipulated by an effective international agreement ratified by the Verkhovna Rada of Ukraine.

- 2) A form containing, in particular, information that the individual has no previous convictions.

In case the documents indicated in this Article are written in a foreign language, they shall be supplemented with a notarized translation into Ukrainian.

The National Bank of Ukraine shall have the right to reject the registration of a bank with qualifying foreign holding if at least one of the documents, specified in this Article, is not available or any of them has not been executed properly. The rejection shall be delivered in writing with indication of the corresponding reasons.

Chapter 4. BRANCHES AND REPRESENTATIVE OFFICES OF BANKS

Article 23. Procedure for Establishment of Branches and Representative Offices of Banks in the Territory of Ukraine

A bank shall be entitled to establish branches and representative offices in the territory of Ukraine if it is not inconsistent with the requirements for establishing branches and representative offices imposed by regulations of the National Bank of Ukraine.

The National Bank of Ukraine shall include the information on bank branches and representative offices to the State Register of Banks of Ukraine upon the written notification from the bank.

Not later than 10 days before the branch starts servicing customers, the bank shall submit to the National Bank of Ukraine a notification on establishment of a branch comprising the following information:

- 1) Intrabank registration code of the branch;
- 2) Full name of the branch;
- 3) Whereabouts of the branch;
- 4) Volume and types of activities (transactions) to be performed by the branch;

The notification of the branch establishment shall be supplemented with the following documents:

- 1) Decision of the bank's authorized body on the establishment of the branch.
- 2) Branch Regulation (Standing Orders) approved by the authorized body of the bank.
- 3) Written assurance of branch's compliance with the requirements imposed by this Law and by regulations of the National Bank of Ukraine, including those to the premises and equipment of the bank branch and professional qualification and business reputation of the branch managers.

The National Bank of Ukraine shall have the right to make a decision on termination of the bank's branch operations effected in favour or by order of clients if the information about establishment of the branch comprises untrue data or if activity of the branch fails to meet the requirements of the Law or regulations of the National Bank of Ukraine.

The bank shall submit to the National Bank of Ukraine a notification of establishing a representative office within two weeks after the decision is taken to establish the representative office.

The notification about establishment of the representative office shall be supplemented by the following documents:

- 1) Decision of the bank's authorized body on establishment of the representative office.
- 2) Representative Office Regulation (Standing Orders) approved by the authorized body of the bank.

The bank is obliged to send to the National Bank of Ukraine a copy of its decision on amending the Regulation of a branch or representative office within two weeks after approval thereof by the authorized body of the bank.

The Bank is obliged to inform the National Bank of Ukraine of termination of activities of a branch or representative office within three days after the decision is taken.

Article 24. Procedure for Establishment of Foreign Bank Branches and Representative Offices in the Territory of Ukraine

Foreign banks shall have the right to open branches and representative offices in the territory of Ukraine.

A foreign bank shall have the right to open a branch in Ukraine, provided:

- 1) the country where the foreign bank has been registered belongs to the countries that participate in the international cooperation in the area of preventing and combating legalization (laundering) of proceeds from crime and terrorism financing and cooperates with the Financial Action Task Force (FATF);
- 2) banking supervision in the country where the foreign bank has been registered complies with the Core Principles of Banking Supervision of the Basel Committee on Banking Supervision;
- 3) the National Bank of Ukraine and the supervisory authority of the country where the foreign bank has been registered have signed an Agreement on Cooperation in Banking Supervision, Harmonization of its Principles and Terms;
- 4) minimum amount of the assigned capital of the branch for the time of its accrediting is not less than 10 million Euro;
- 5) the foreign bank has issued a written commitment to unconditional fulfillment of the obligations arising from its branch activities in the territory of Ukraine.

The National Bank of Ukraine shall carry out accreditation of foreign bank branches in Ukraine.

Accreditation of the foreign bank branch shall be effected by means of an appropriate entry in the State Register of Banks and by granting a banking license.

Accreditation of a foreign bank branch shall be the base for its banking activity.

The following documents shall be submitted for accreditation of a foreign bank's branch:

- 1) application of the foreign bank for establishment of a branch specifying its whereabouts in Ukraine;
- 2) document confirming state registration of the foreign bank in its home country;
- 3) decision by an authorized body of the foreign bank on establishment of the branch;
- 4) regulation (standing orders) of the branch approved by the authorized body of the foreign bank;
- 5) information about professional suitability and business reputation of the manager and chief accountant of the foreign bank's branch;
- 6) a copy of Statute (by-laws) of the foreign bank;

- 7) financial statements of the foreign bank for the last three years approved by an independent auditor;
- 8) written permit for establishment of a foreign bank branch in Ukraine granted by a state or other authorised regulatory body of the country where the foreign bank has been registered or a written assurance of the foreign bank as to absence of any legal requirements to obtain such a permit;
- 9) notification from the supervisory authority of the foreign country on effecting the supervision of the foreign bank's activities;
- 10) written obligation of the foreign bank on unconditional fulfillment of the obligations arising from its branch activities in the territory of Ukraine.
- 11) documents confirming transfer of funds in the amount of the assigned capital of the branch;
- 12) a copy of the payment order for transferring the fee for accreditation of the foreign bank's branch as charged by the National Bank of Ukraine.

Activity of the foreign bank branch shall meet the requirements set by this Law and regulations of the National Bank of Ukraine. The National Bank of Ukraine shall regulate activity and set the economic ratios for foreign banks' branches according to the requirements of the Ukrainian laws.

The National Bank of Ukraine shall have the right to refuse accreditation of a foreign bank's branch on the following grounds:

- 1) the documents submitted are non-compliant with the requirements of this Law and regulations of the National Bank of Ukraine;
- 2) premises and equipment of the branch do not meet the requirements of the National Bank of Ukraine;
- 3) candidates for the posts of the manager and chief accountant of the branch do not meet the proficiency and business reputation requirements of this Law and regulations of the National Bank of Ukraine;
- 4) financial or legal problems have been detected in activity of the foreign bank, which might have negative consequences for clients or potential clients of the bank as a result of establishment of the branch.

The National Bank of Ukraine shall make a decision on the foreign bank's branch accreditation or refusal within three months from submittal of all required documents. The refusal shall be made in written and specify the reasons thereof.

Activities and taxation of the foreign bank branch shall be effected in compliance with the Laws of Ukraine applied to the banks of Ukraine.

The National Bank of Ukraine shall have the right to introduce provisional administration and initiate the liquidation procedure as to a foreign bank branch according to the procedure determined in the laws of Ukraine.

The National Bank of Ukraine shall carry out accreditation of representative offices of foreign banks in the territory of Ukraine according to the terms and conditions specified in this Law and in regulations of the National Bank of Ukraine.

Accreditation of the representative office of a foreign bank shall be effected by means of an appropriate entry in the State Register of Banks.

The following documents shall be submitted for accreditation of a foreign bank's representative office:

- 1) application of the foreign bank on establishment of the representative office signed by an authorised person;
- 2) document confirming state registration of the foreign bank in its home country;
- 3) regulation (standing orders) of the representative office approved by the authorised body of the foreign bank;
- 4) Power of Attorney from the foreign bank to the representative office Head for exercising representative functions;
- 5) a copy of the payment document on transfer of the fee for accreditation of the foreign bank's representative office as charged by the National Bank of Ukraine.

The National Bank of Ukraine may refuse to provide a foreign bank's representative office with accreditation in case of violations of the registration procedure, non-conformity of the submitted documents with the laws of Ukraine or with regulations of the National Bank of Ukraine, untrue

information submitted or exceeded authority in relation to the spheres of activities of the representative office.

The National Bank of Ukraine shall make a decision on the foreign bank's representative office accreditation or refusal thereof within one month from submittal of all required documents.

The refusal shall be made in writing and specify the reasons thereof.

The foreign bank shall inform the National Bank of Ukraine of any amendments to the documents or information mentioned in Items 4 - 6 part 6 and Items 3 - 4 part 14 of this Article. The amendments shall be proved by appropriate documents.

The official documents submitted to the National Bank of Ukraine shall have been duly legalized pursuant to the established procedure, unless otherwise is provided by the effective international agreements, ratified by the Verkhovna Rada of Ukraine, and shall be accompanied with a notarized translation into Ukrainian.

Article 25. Subsidiary Banks, Branches and Representative Offices of a Ukrainian Bank in the Territory of Other Countries

Ukrainian banks are entitled to establish subsidiary banks, branches and representative offices in the territory of other countries on the basis of the NBU permit. The same requirements are set forth for opening subsidiary banks, branches and representative offices of Ukrainian banks in the territory of other states as those for opening branches and representative offices of the banks in the territory of Ukraine, provided the National Bank of Ukraine has granted the permit for investments abroad in connection with the establishment of a branch or a representative office of the bank in the territory of other country.

In order to establish a subsidiary bank, branch or representative office of a Ukrainian bank abroad, the bank shall provide the National Bank of Ukraine with a business plan and economic justification (feasibility study) of the expediency for establishing the subsidiary bank, branch or representative office of the bank abroad.

The subsidiary bank, branch or representative office of a Ukrainian bank in the territory of other country shall undergo registration in conformity with the legislation requirements of the respective country.

Within one month the bank shall inform the National Bank of Ukraine of opening of a subsidiary bank, branch or representative office in the territory of other country and provide copies of the appropriate documents on their registration.

Chapter 5. REORGANIZATION OF A BANK

Article 26. Ways of Bank Reorganization

A bank may be reorganized by bank owners' decision or, in the case of provisional administration, by a decision of the National Bank of Ukraine or else by a decision of the provisional administrator approved by the National Bank of Ukraine.

The reorganization may be carried out by a merger, takeover, splitting, separation, and transformation.

In the case of bank reorganization through transformation the canons of law on legal entity winding-up shall not apply to such jural relationship. In the course of the bank reorganization through transformation the creditors are not entitled to require from the bank to terminate or fulfill before the appointed time any obligation.

Article 27. Conditions for Bank Reorganization

The procedure for reorganization of banks by a decision of the National Bank of Ukraine or provisional administrator is set forth by the present Law and regulations of the National Bank of Ukraine.

The reorganization upon the decision of bank owners shall be carried out in accordance with the laws of Ukraine on companies (economic partnerships) provided the prior permit has been obtained from

the National Bank of Ukraine and the bank reorganization plan has been approved by the National Bank of Ukraine.

Should a bank be reorganized through transformation upon decision of the bank owners, the bank reorganization plan is not indispensable.

The National Bank of Ukraine shall determine the list of documents to be submitted in order to obtain the permit for reorganization and approval of the bank reorganization plan.

The National Bank of Ukraine shall not give the permit for the bank reorganization in the event there are sufficient grounds to believe that the reorganization poses a threat to the interests of depositors and other creditors, and the bank, established as a result of the reorganization, is likely to fail to meet the requirements regarding economic ratios, bank registration and licensing procedure.

The National Bank of Ukraine shall grant the permit or issue a rejection for the reorganization of the bank within one month from the moment the application of the bank for reorganization is received.

Article 28. Decision on Reorganization

The decision on reorganization of a bank, with the exception of transformation, shall include the following data on:

- 1) An agreement on reorganization in case of a merger or takeover.
- 2) The appointment of commission members to carry out the reorganization.
- 3) The appointment of members of the Revision Commission to take an inventory, review valuables in the books of the bank (banks).
- 4) The appointment of an independent auditor that has the NBU certificate.
- 5) The timetable for reorganization.
- 6) The panel of the Board (Board of Directors) after the reorganization.

The reorganization shall begin after the National Bank of Ukraine approves the reorganization plan, which, apart from all other necessary measures, shall provide for submitting to the National Bank of Ukraine the appropriate documents necessary for the state registration of the new bank or for registration of the changes and amendments to the foundation documents of the existing bank.

The bank shall be considered reorganized at the moment the National Bank of Ukraine introduces amendments to the State Register of Banks.

Article 29. Agreement on Merger or Takeover

The agreement on merger or takeover shall be concluded in writing by the banks being reorganized through the merger or takeover.

The agreement on merger or takeover shall contain provisions that regulate the issues set forth in Article 28 of the present Law.

The agreement on merger or takeover shall enter into force the moment it has been approved by a 2/3 majority of shareholders (participants) at the general meeting of each of the banks.

Part III. CAPITAL, GOVERNANCE AND REQUIREMENTS TO ACTIVITIES OF BANKS

Chapter 6. CAPITAL, FUNDS AND RESERVES OF A BANK

Article 30. Structure of the Bank Capital

The capital of the bank shall include:

- 1) Main (fixed) capital.
- 2) Additional (tier 2) capital.

The main capital of a bank includes the paid-in and registered authorized capital and disclosed reserves (provisions) that are formed or increased at the expense of the retained profit, share premiums and additional contributions of shareholders to the capital, the general risk provisioning fund formed for undetermined risk in banking operations, with the exception of losses in the current year and intangible assets. The disclosed reserves also include other funds of the same quality, which shall correspond to the following criteria:

- 1) Payments to the funds shall be made from the profits after taxation or from profits before taxation, adjusted for all potential tax obligations.
- 2) The funds and cash inflow and outflow shall be separately disclosed in the published statements of the bank.
- 3) The bank shall have the funds available to cover losses to be instantly used in unlimited amounts if losses are incurred.
- 4) The losses may not be covered directly from the funds. They shall be entered to the profit and loss account.

If approved by the National Bank of Ukraine, the additional capital may include:

- 1) Undisclosed reserves (apart from the fact that such reserves are not shown in the published balance sheet of the bank, they shall be of the same quality and nature as the disclosed capital reserve).
- 2) Revaluation reserves (fixed assets and unrealized value of the "hidden" revaluation reserves resulting from long-term holding of the securities recorded in the balance sheet at the historical cost of their acquisition);
- 3) Hybrid (debt/capital) capital instruments that shall meet the following criteria:
 - they are unsecured, subordinated and fully paid;
 - they may not be repaid on the initiative of the holder;
 - they may freely participate in the cover of losses without demanding that the bank terminates trading transactions;
 - they allow delay in servicing obligations as to the interest payments in case the level of profitability does not allow performing such payments.

4) The subordinated debt (ordinary unsecured debt capital instruments, which under contract conditions may not be withdrawn from the bank earlier than after a 5 year period, and in case of bankruptcy or liquidation shall be returned to investors after reimbursement of claims of all other creditors). In such a case, the amount of subordinated debt included into capital shall annually decrease by 20% of its initial value within the last 5 years of the contract.

The National Bank of Ukraine has the right to determine, in the form of its resolutions, other components of the additional capital as well as conditions and the procedure for its formation. The additional capital may not exceed 100% of the main capital.

Article 31. Authorized Capital at the Moment of Bank Registration

The minimum size of the bank authorized capital at the moment of registration may not be less than Euro 10 million.

The recalculation of the amount of authorized capital into UAH shall be done on the basis of the official foreign exchange rate, established by the National Bank of Ukraine as of the day of signing the foundation agreement.

At year-end, on the basis of financial statements, banks shall adjust the size of the authorized capital using the UAH devaluation or revaluation index at the expense and within the limits of bank gross income or gross expenditures applying the techniques developed by the National Bank of Ukraine.

The National Bank of Ukraine shall have the right to establish, at the moment of registration, a differentiated minimum size of the authorized capital for some banks depending on their specialization. This size shall not be less, however, than the amount specified in this Article.

Article 32. Procedure for Formation of the Authorized Capital of a Bank

The authorized capital of a bank shall be formed in accordance with the requirements of the present Law, the legislation of Ukraine and foundation documents of the bank.

The formation of the authorized capital and bank capitalization may be carried out through money contributions, except the cases envisaged by the Law of Ukraine "On Priority Measures to Avoid Negative Consequences of the Financial Crisis and Amendments to Some Acts of Law of Ukraine" during its effect period. The money contributions for the formation and increase of the authorized

capital of a bank by Ukrainian residents shall be made in Hryvnias, whereas non-residents may pay the contributions in a foreign hard currency or in Hryvnias.

The authorized capital of the bank shall not be formed from unconfirmed (unverified or dubious) sources.

The bank shall have the right to increase its authorized capital after all participants have fully fulfilled their commitments in respect of payment for their shares or stakes and the previously declared subscribed capital has become fully paid.

A bank shall not have the right to reduce the size of the regulatory capital lower than the established minimum without approval of the National Bank of Ukraine. The capital of the bank may not be less than the authorized capital.

It is prohibited to use budget funds for the bank capital formation if these funds are earmarked for other purposes.

Article 33. Bank Shares and Stakes

Banks may issue their own shares and announce subscription to stakes in compliance with the Ukrainian legislation on companies (economic partnerships) and securities with taking into account the peculiarities defined by the present Law.

Banks are not allowed to issue the shares to bearer.

Existence of losses is not an obstacle for announcing subscription to shares or stakes of the bank or increase of its authorized capital.

Banks shall have the right to purchase their own shares or stakes with further written notification to the National Bank of Ukraine of the contracts concluded, which shall be sent within 5 days after the date of signing the contract. The banks may not purchase their own shares if this can lead to a decrease in the regulatory capital to a level lower than the floor.

The bank shall, 15 calendar days prior to signing such an agreement, notify the National Bank of Ukraine in writing of its intention to acquire 10 and more per cent of own shares or stock of the total issue. The National Bank of Ukraine shall have the right to prohibit such purchase of bank's own shares or stock if this can result in a deterioration of the bank's financial condition.

The issuer bank shall sell its own shares in the primary market directly or through underwriters. The Bank shall be permitted to act as an intermediary for the purchase and sale of its own shares or stake.

Article 34. Qualifying Holding

A legal entity or an individual, wishing to acquire a qualifying holding in a bank or increase it so that this entity or person would directly or indirectly own or control 10%, 25 %, 50% and 75% of the authorized capital or voting rights of the bank management bodies, shall obtain the written permission from the National Bank of Ukraine.

To obtain such a permission, the applicant shall submit the information, specified in NBU regulations, concerning the financial standing and business reputation of the future owner of the qualifying holding of the bank.

The National Bank of Ukraine shall approve or reject the application for a permit to purchase or increase the qualifying holding of the bank within one month upon receipt of a complete package of required information. The refusal to grant the permit for the purchase or increase of a qualifying holding in the bank shall be delivered in writing specifying the appropriate reasons.

The National Bank of Ukraine shall not grant permission for the acquisition or increase of a qualifying holding in a bank in accordance with part 1 of this Article in the following cases:

- 1) The person who will acquire the qualifying holding has not irreproachable business reputation. If the applicant is a legal entity, this criterion shall cover members of the executive body and Supervisory Council of the legal entity, as well as the holders of qualifying holdings which are individuals.
- 2) Lack of own funds in an amount, sufficient to make the declared contribution.
- 3) The purchase or increase of a qualifying holding will threaten either interests of depositors and other creditors of the bank, or development of the competitive environment in the banking system.

If a person holds a qualifying holding in a bank, or increases his/her/its participation in the bank to the level set forth in part 1 of this Article without obtaining the written permission from the National Bank of Ukraine, the latter is entitled to prohibit direct or indirect, full or partial using by such a person the voting rights of the acquired shares (stake) and any participation in the management of bank affairs.

In case there is a prohibition to exercise voting right according to the acquired shares (stakes), the right to participate in the voting shall be transferred to an authorized person, appointed by the National Bank of Ukraine upon the petition of the bank. The authorized person shall, in the process of the voting, act in the interests of the competent and prudential management of the bank.

The decisions of the General Meeting of participants which have been taken with the use of the temporary prohibited voting rights of acquired shares (stakes) shall not have legal force.

Article 35. Adequacy of Capital

Banks, as well as owners of qualifying holdings shall maintain the normative ratio of the regulatory capital to risk-weighted assets, i.e. meet the capital adequacy requirement. Banks are obliged to maintain their regulatory capital at a level, which is not less than 8% of risk-weighted assets and off-balance sheet liabilities. For a bank, which starts its operational activity, this norm shall be at least 15% within the first 12 months and not less than 12% within the next 12 months. The National Bank of Ukraine also has the right to set a minimum ratio of the regulatory capital to the total assets.

The procedure for calculating the bank capital adequacy ratio and a minimum size of the bank's regulatory capital is determined by the present Law and regulations of the National Bank of Ukraine.

If the level of the regulatory capital of a bank reaches a level lower than that established by the National Bank of Ukraine, the bank shall, within one month beginning from the day the decrease of capital has been discovered, submit to the National Bank of Ukraine for review an action plan on the procedure and terms of restoring the regulatory capital.

The bank shall be prohibited to pay dividends or distribute capital in any other way, if such payments or distribution result in a violation of the capital adequacy ratio.

If in the previous year the bank's activity has been unprofitable, the bank may pay the dividends or distribute the capital in any way within an amount that does not exceed 50% of the difference between the bank capital and the regulatory capital.

Article 36. Reserves and Other Funds of the Bank

Banks shall form a reserve fund to cover possible unforeseen losses in all asset items and offbalance sheet liabilities.

The payments provided for the reserve fund shall not be less than 5% of the bank's profit until the reserve fund reaches 25% of the bank's regulatory capital.

Should the activity of the bank pose a threat to interests of depositors and other creditors of the bank, the National Bank of Ukraine has the right to require an increase in reserves and annual contributions thereto.

Banks shall form other funds and reserves to cover losses in assets in conformity with the NBU regulations.

Chapter 7. BANK MANAGEMENT

Article 37. Bank Management and Controlling Bodies

The bank management bodies are the General Meeting of bank participants, the Supervisory Council and the Board (Board of Directors) of the bank.

The Revision Commission and Internal Audit of the bank shall be its controlling bodies.

Article 38. General Meeting of Participants

The supreme management body of the bank shall be the General Meeting of participants.

The General Meeting of bank participants shall have the authority to take decisions on the following matters:

- 1) Definition of basic trends in bank's activities and approval of reports on the implementation thereof.
- 2) Introduction of amendments to the bank's Statute.
- 3) Changes in the size of the bank's authorized capital
- 4) Appointment and dismissal of the Chairmen and members of the bank Supervisory Council and Revision Commission.
- 5) Approval of annual results of bank activities including the bank subsidiaries, approval of the reports and conclusions of the revision commission and external auditors.
- 6) Distribution of profits.
- 7) Termination of bank activities, appointment of the liquidator, approval of the liquidation balance sheet.

The bank's Statute may include other issues within the competence of the General Meeting of participants. The powers set forth in Items 1-7 of this Article belong to the exclusive competence of the General Meeting of participants. Other powers of the General Meeting of participants may be delegated to the competence of the bank Supervisory Council.

Article 39. Bank Supervisory Council

The Supervisory Council of the bank shall be elected at the General Meeting of participants from among the bank participants or their representatives. The members of the bank Supervisory Council may not be the members of the Board (Board of Directors) or the Revision Commission of the bank. The Supervisory Council of the bank shall exercise the following functions:

- 1) Appoints and dismisses the Chairman and members of the Board (Board of Directors) of the bank.
- 2) Controls the activity of the Board (Board of Directors) of the bank.
- 3) Appoints the external auditor.
- 4) Sets forth a procedure for revision and control over financial and economic activity of the bank.
- 5) Takes decisions on cover of losses.
- 6) Takes decisions on establishment, reorganization and liquidation of subsidiaries, branches and representative offices of the bank, approves their statutes and regulations.
- 7) Approves the terms of compensation (remuneration) and incentives for the Board members.
- 8) Prepares proposals on the issues to be considered at the General Meeting of participants.
- 9) Uses other authorities delegated by the General Meeting of participants.

The powers and working procedures for the bank Supervisory Council shall be determined by the bank Statute or the Regulation (Standing Orders) on the Board of the bank, approved by the General Meeting of participants.

Article 40. Bank Executive Body

The Board of the bank (Board of Directors) shall be the executive body of the bank. It shall manage everyday activities of the bank, formation of the funds needed for its activities in compliance with the Statute, and be responsible for the efficiency of its work in accordance with the principles and procedures established by the bank Statute, decisions of the General Meeting of participants and the Supervisory Council.

Within its competence the Board (Board of Directors) may act on behalf of the bank being accountable to the General Meeting of participants and the Supervisory Council of the bank.

The Board (Board of Directors) of the bank shall act on the basis of the regulations (standing orders) approved by the General Meeting of participants or by the Supervisory Council of the bank.

The Chairman of the Board (Board of Directors) of the bank shall superintend the work of the executive body and has the right to represent the bank without any commission (instructions).

Article 41. Revision Commission

The Revision Commission shall exercise control over financial and business activities of the bank.

The Revision Commission shall:

- 1) Control adherence of the bank to the laws of Ukraine and NBU regulations.
- 2) Review reports of internal and external auditors, and prepare respective proposals for the General Meeting of participants
- 3) Submit proposals to the General Meeting of participants or the Supervisory Council of the bank on any issues within the competence of the Revision Commission, which concern the financial safety and stability and protection of interests of bank clients.

The Revision Commission shall be elected by the General Meeting of participants of the bank from among the participants or their representatives. The Revision Commission shall report to the General Meeting of participants of the bank.

The members of the Revision Commission may not be the persons employed by the bank.

The Revision Commission shall review financial and business activities of the bank by the instruction of the General Meeting of participants, the Supervisory Council, or upon a request of a participant (participants) who jointly hold over 10% of votes.

The Revision Commission shall be entitled to involve external and internal experts and auditors in the revisions and audits.

The Revision Commission shall report on the results of audits and revisions to the General Meeting of participants or the Supervisory Council of the bank. The Revision Commission shall prepare conclusions in respect of the reports and bank balance sheets. The General Meeting of participants shall not have the right to approve the financial statements of the bank without a conclusion of the Revision Commission.

The members of the Revision Commission may take part, with the right of a deliberative vote, in meetings of the Supervisory Council and the Board (Board of Directors) of the bank..

Meetings of the Revision Commission shall take place as required, at least once a year.

The extraordinary meetings of the Revision Commission may be convened by the Supervisory Council of the bank or upon the initiative of the shareholders, who hold over 10 percent of the votes.

Decisions shall be taken by a majority of votes of the Revision Commission members.

The powers of the Revision Commission of the bank shall be defined by the bank Statute, while the procedure of its operations - by the Regulations (Standing Orders) on the Revision Commission, which are shall be approved by the General Meeting of bank participants (shareholders).

Article 42. Requirements to Bank Managers

Managers of the bank shall be the Chairman, his/her Deputies and Members of the Bank Council, the Chairman, his/her Deputies and Members of the Board (Board of Directors), Chief Accountant, his/her Deputy and Managers of bank separate structural divisions.

The managers of banks shall be competent individuals who meet the following requirements:

- 1) Formal higher education in economics, law or management, as appropriate for the position to be occupied (this requirement does not apply to the Supervisory Council members).
- 2) Banking experience on the respective position, not less than three years (this requirement does not apply to the Supervisory Council members).
- 3) Irreproachable business reputation.

The Chairman of the Board (Board of Directors) of the bank and the Chief Accountant shall take office after the National Bank of Ukraine gives its consent thereto in writing.

The Chairman of the Board (Board of Directors) of the bank and the Chief Accountant shall have previous experience of managerial work within a bank.

Article 43. Obligations in Respect to Protection of Bank Interests

Bank managers, in exercising their duties under the present Law, shall act in the best interests of the bank and its clients, and shall place the bank's interests before their own.

In particular, the bank managers shall:

- 1) Demonstrate appropriately responsible attitude to the exercise of their professional duties
- 2) Make decisions within the authorities vested.
- 3) Take no advantage of their professional status for their personal benefit.
- 4) Ensure preservation and transfer of the bank property and documents when bank managers are dismissed.

Article 44. Risk Management

The bank shall set up a standing unit for analysis and management of risks, which shall be responsible for setting limits in respect to specific operations, risk limits for counterparts, countries of the counterparts, and balance sheet structure in accordance with resolutions of the Board (Board of Directors) on the issues of risk policy and profitability of bank operations.

In order to ensure additional measures of risk management, the banks shall create standing committees, in particular:

- 1) The credit committee that shall evaluate the quality of bank assets on a monthly basis and prepares proposals on formation of the reserves for possible losses resulting from their depreciation.
- 2) The assets and liabilities management committee that shall, on a monthly basis, review the costs of liabilities and the profitability of assets, and take decision on the interest margin policy, review decisions on matching maturity of assets and liabilities, and provide appropriate bank units with recommendations on elimination of the arising time discrepancies.
- 3) The tariff committee that shall, on a monthly basis, analyze the correlation between the cost of services and the competitiveness of existing tariffs, and be responsible for the bank's policy in the area of operational income.

Banks shall independently take decisions on setting up bodies of the financial risk management in order to ensure favorable financial conditions for the protection of interests of depositors and other creditors.

Article 45. Internal Audit

Banks shall establish the Internal Audit Service, which is a body of ongoing control of the Board (Board of Directors) of the bank.

The Internal Audit Service shall exercise the following duties:

- 1) Supervision of everyday activities of the bank.
- 2) Control over compliance with laws, regulations of the National Bank of Ukraine and decisions of bank management bodies.
- 3) Reviews of results of everyday financial activities of the bank.
- 4) Analysis of information and reports on activities of the bank, on professional activities of its employees, and cases of abuse of power by bank officials.
- 5) Development of conclusions and recommendations to the Supervisory Council as to the results of audit reviews
- 6) Other functions associated with supervision and control over activities of the bank.

The Internal Audit Service shall be accountable to the Supervisory Council of the bank and report to it, acting on the basis of the regulation (standing orders) approved by the Supervisory Council.

The Internal Audit Service shall have the right to study all documents of the bank, and supervise the work of any division of the bank. The internal audit service is authorized to require written explanations from some bank officials in respect to weaknesses detected in their work.

The candidate for the position of the Internal Audit Manager shall be agreed upon with the National Bank of Ukraine.

The Internal Audit Service shall not be held responsible for and shall not have authority over the operations which it audits.

The Internal Audit Service shall be responsible for the scope and accuracy of the reports submitted to the Supervisory Council on the issues pertaining to its competence, as stipulated by this Law.

Internal Audit employees, when appointed to their positions, shall sign a written commitment of non-disclosure of information on the bank activities and keeping the bank secrecy as per Article 10 of this Law.

Article 46. Obligations to Inform the National Bank of Ukraine

The Board (Board of Directors) of the bank shall, within 3 banking days, inform the National Bank of Ukraine of the following:

- 1) Dismissal of any manager (managers) of the bank and recommended nomination for this position.
- 2) Changes in the legal address and location of the bank and its separated structural subdivisions.
- 3) Losses in an amount that exceeds 15% of the bank's capital.
- 4) When the capital decreases to a level lower than that of the regulatory capital.
- 5) There is at least one reason for appointment of the provisional administrator or liquidator.
- 6) Termination of banking activities.
- 7) If a bank manager, an individual owner of qualifying holding, or a representative of a corporate holder of qualifying holding are accused of felony.

The National Bank shall have the right to define a list of other information which may be important for banking supervision purposes.

Chapter 8. REQUIREMENTS TO BANK ACTIVITIES

Article 47. Banking Operations

Banks shall have the right to conduct the following operations based on a banking license:

- 1) To take deposits from legal entities and individuals.
- 2) To open and maintain current accounts of clients and correspondent banks, including transfer of funds from these accounts by means of payment documents and posting funds to these accounts.
- 3) To place attracted funds in their own name, under their own terms and on their own account.

In addition to the above operations listed in part 1 of this Article, the bank has the right to perform the following operations and contracts:

- 1) Operations with foreign currency.
- 2) Issue of their own securities.
- 3) Organization of the purchase and sale of securities upon instructions of clients.
- 4) Performance of operations in the securities market on their own behalf (including underwriting).
- 5) Granting guarantees, warranties and other liabilities in favor of third persons which envisage their execution in cash.
- 6) Acquisition of the right to claim the fulfillment of liabilities in the cash form for the delivery of goods and rendering of services, accepting the risk of satisfying these claims and receipt of payments (factoring).
- 7) Leasing.
- 8) Custody services and renting of safety boxes for storing valuables and documents.
- 9) Issue, purchase, sale and servicing of checks, bills of exchange and other negotiable payment instruments.
- 10) Issue of bank payment cards and performance of operations with using these cards.
- 11) Provision of consulting and information services with regard to banking operations.

The operations, defined in Items 1-3, part 1 of this Article, belong to banking operations exclusively, the aggregate performance whereof is permitted only to the legal entities possessing a banking license. Other legal entities have the right to effect operations, which are set forth in Items 23, part 1 of this Article, on the grounds of the license to perform specific banking operations, whereas other operations and agreements stipulated by this Article may be conducted in accordance with the procedure set forth by laws of Ukraine.

Banks may also conduct the following operations if they obtain the written permission from the National Bank of Ukraine:

- 1) Investment in the authorized funds and shares of other legal entities.
- 2) Issuance, circulation, repayment (distribution) of the state and other lotteries;
- 3) Transportation of currency valuables and collection of funds;
- 4) Operations, on behalf of clients or on their own behalf:
 - with money market instruments;

- with the instruments based on exchange and interest rates;
 - with financial futures and options.
- 5) Trust management of funds and securities, under agreements with legal entities and individuals.
 - 6) Depository activity and the maintenance of registers of registered securities holders.

The National Bank of Ukraine shall establish a procedure for granting permission to banks to conduct the operations set forth in Items 1-4, part 2 of this Article. Such permission shall be granted if:

- 1) The bank's regulatory capital meets the NBU requirements, which shall be confirmed by an independent auditor.
- 2) The bank is not subject to any coercive actions.
- 3) The bank has submitted a plan, specifying how such activity will be carried out, and this plan has been approved by the National Bank of Ukraine.
- 4) The National Bank of Ukraine concludes that the bank has sufficient financial capacity and expertise to perform this activity.

The bank shall have the right to implement other agreements in compliance with the Ukrainian legislation.

The National Bank of Ukraine shall have the right to set forth special requirements, including the requirement to raise the level of the regulatory capital of the bank or other economic ratios, related to a particular type of the activities stipulated in this Article.

The commercial banks shall independently set the interest rates and commission fees on their operations.

Article 48. Restrictions of Bank Activities

Banks shall be prohibited from carrying out activities in the sphere of material production, trade (with the exception of sale of the commemorative, jubilee and investment coins) and insurance, but may act as an insurance intermediary.

The specialized banks (with the exception of the savings bank) shall be prohibited from attracting deposits from individuals in amounts exceeding 5% of the bank capital.

The bank may own real estate whose total value shall not exceed 25 percent of the bank capital. This restriction does not include the following:

- 1) Premises that ensure technological banking functions.
- 2) Property that has been transferred into the bank ownership owing to realization of pledge holder rights under a contract of pledge terms.
- 3) Property acquired by the bank in order to prevent losses, on condition that the bank shall alienate this property within one year from the moment of obtaining the ownership rights.

Article 49. Lending Operations

In this Article, the lending operations mean the operations, listed in Item 3, part 1, and Items 3 - 7, part 2 of Article 47 of the present Law.

Banks may conclude consortium crediting agreements in order to provide joint financing. Within the framework of such an agreement, the participating banks shall determine the terms of extending credit and appoint a bank responsible for implementation of the agreement. The member banks shall bear risks on the extended credit proportionally to their contributions to the consortium.

The bank shall have a subdivision exercising the functions of lending and management of crediting-related operations.

The banks shall be prohibited to directly or indirectly extend credit to acquire their own securities. The use of securities of their own emission as collateral may be possible only with the NBU permission.

When granting credits, the banks shall adhere to the general principles of lending, including the evaluation of creditworthiness of borrowers and the availability of collateral, and adhere to the requirements concerning risk concentration, established by the National Bank of Ukraine.

The bank may not extend credits at an interest rate lower than the interest rate on credits obtained by the bank itself, and the one it pays on deposits. Exceptions are possible only in cases when such an operation does not result in losses to the bank.

The bank has the right to extend unsecured loans on condition that the economic ratios are met. Granting of non-interest bearing credits is prohibited except in the cases specified by the law. In case of untimely repayment of a loan and interest thereon, the bank shall have the right to issue an order on the forced payment of debt obligations, if this is envisaged by the agreement.

Article 50. Direct Investments by Banks

Banks shall carry out direct investments and operations with securities in conformity with the laws of Ukraine on securities and investment activity, and in accordance with the NBU regulations.

Banks shall have the right to make investments only on the basis of the written permission from the National Bank of Ukraine, which is granted in accordance with the rules set forth in Article 47 of the present Law.

Any bank shall have the right to make investments without the written NBU permission in the following cases:

- 1) An investment in any legal entity amounts to not more than 5% of the bank's regulatory capital.
- 2) The legal entity into which an investment is made is engaged exclusively in activities connected with rendering financial services.
- 3) The bank's regulatory capital fully complies with the NBU regulations on investments.

The procedure for informing of investment, stipulated in part 3 of this Article, shall be established by the National Bank of Ukraine.

It is prohibited for banks to invest funds in an enterprise or institution whose statute stipulates full liability of its owners.

Direct or indirect participation of the bank in the capital of any enterprise or institution shall not exceed 15% of the bank's capital. Total investments of the bank shall not exceed 60% of its own capital.

These restrictions shall not apply to:

- 1) Shares and other securities acquired by the bank to realize the right of collateral holder, but they are not to be held by the bank for more than one year.
- 2) Shares issued by one bank and acquired by another bank in order to create a financial holding group.
- 3) Securities owned by the bank for not more than one year, and obtained as a result of underwriting.
- 4) Shares and other securities acquired by the bank at the expense and on behalf of its clients.

The requirements set forth in Part 2 and 6 do not apply to activities of the investment banks.

Article 51. Bank Settlement Operations

In order to perform banking activity, banks shall open and service the correspondent accounts with the National Bank of Ukraine, other banks in Ukraine and abroad, as well as banking accounts for legal entities and individuals in Hryvnias and foreign currency.

Bank settlements shall be carried out in the cash and cashless form in accordance with the rules established by the NBU regulations.

The cashless settlements shall be carried out on the basis of settlement documents in a paper or/and electronic form.

As the payment instruments, banks in Ukraine may use the payment orders, payment requests, request orders, bills of exchange, cheques, banking payment cards and other debit and credit payment instruments used in international banking practice.

The payment instruments shall be properly prepared and contain data on the issuer, payment system where they are used, legal grounds for the settlement operation and, as a rule, holder of the payment instrument and fund recipient, value date, and other information necessary for effecting the settlement by the bank in full conformity with instructions of the account owner or the other initiator of the settlement operation stipulated by law.

In the course of the settlement operation, the bank shall check the accuracy and formal adequacy of the document.

Effecting payments under the agreements concluded by enterprises, established in the prescribed manner by state authorities, authorities of the Autonomous Republic of Crimea or local governments

and authorized to receive state funds, taking with them the obligations and payments, including government, state, utilities and commercial companies, the authorized capital of which state, governmental, municipal enterprises and economic entities (partnerships), the authorized capital of which state or municipal share fraction (shares, participatory interest) exceeds 50 percent, their subsidiaries, as well as enterprises and companies in the authorized capital of which 50 percent or more owned by the state, including governmental, and utilities and companies in the authorized capital of which state or municipal share fraction (shares, participatory interest) exceeds 50 percent, associations of such enterprises (business companies), banks verify the existence of the report on the implementation of procurement and other documents confirming that such enterprises and economic associations of the Law of Ukraine "On the implementation of public procurement".

Article 52. Agreements with Bank-Related Parties

The agreements concluded with the related parties of the bank may not provide for more favorable terms than the agreements concluded with other persons. The agreements concluded between the bank and related parties thereof, should they contain more favorable conditions, shall be declared invalid by the court since the moment of their conclusion.

For the purposes of this Law, the related parties are:

- 1) Bank managers.
- 2) Owners of qualifying holdings in the bank.
- 3) Close relatives, spouses, children, parents of any person specified in Items 1) and 2).
- 4) Affiliated persons of the bank, managers and holders of qualifying holding in such affiliated persons, as well as their close relatives.

The conditions considered more favorable can be:

- 1) Acceptance of collateral that is of a lower value than that required from other clients.
- 2) Purchase of low-quality property or property at a higher price from a related party.
- 3) Making an investment in securities of a related party which the bank would not have invested in other institution.
- 4) Payment for goods or services from a related party at a price higher than usual, or under the circumstances when the same goods or services would never be procured from other party.

The bank may conclude agreements with related parties, which provide for the interest rates and commission fees for banking operations lower than usual, and the interest rates on deposits, which are higher than usual, if the bank's net profit allows this without harming the bank's financial development.

It is prohibited for the bank to extend loans to any person with the purpose of: repaying obligations of this person to a related party of the bank; acquiring assets of a bank-related party; acquiring the securities, placed or underwritten by a bank-related party, with the exception of the goods manufactured by this party.

By issuing its order, the National Bank of Ukraine may impose restrictions on the amount under agreements with the related parties.

Article 53. Ensuring Competition within the Banking System

It is prohibited for banks to conclude the agreements in order to limit competition and monopolize crediting terms, other banking services, and establishment of the interest rates and commission fees.

It is prohibited for the bank to set the interest rates and commission fees lower than the cost of services in this bank.

It is prohibited for the bank to take any other actions for introduction of the unfair competition to its practice.

Instances of the unfair competition in rendering any banking services or conducting operations by a bank shall be the grounds for prohibiting this bank from further providing such services or performing operations.

Article 54. Credibility of Advertising

Banks are prohibited from distributing any form of advertising that contains untrue information of their activity in the area of banking services.

The National Bank of Ukraine has the right to apply coercive actions to the banks and other persons violating the requirements of this Article.

Chapter 9. BANK RELATIONS WITH CLIENTS

Article 55. Regulation of the Bank Relations with Clients

The relations between a bank and its clients are regulated by the laws of Ukraine, NBU regulations and agreements (contracts) between the clients and the bank.

The bank shall make every effort to avoid conflicts of interest of the bank employees and clients, and conflicts of interest of the bank clients.

The banks are prohibited from demanding that clients acquire any product or service from the bank or from a bank's affiliate or related party as a mandatory condition to render banking services.

The banks are prohibited from changing unilaterally the terms and conditions of the agreements (contracts) concluded with their clients, in particular to increase the interest rate under the loan agreements or decrease it under the deposit agreements (except the demand deposits), excepted the cases envisaged by law.

Article 56. Right of Clients to Information

The client shall be entitled to have access to the information on bank's activities. The banks shall furnish with the following information upon the request of clients:

- 1) Data, which are subject to mandatory disclosure, on financial indicators of the bank's activities and its economic position.
- 2) The list of bank managers and its separated subdivisions, as well as legal entities and individuals, which hold the qualifying holding in the bank.
- 3) The list of services rendered by the bank.
- 4) The price of banking services.
- 5) Other information and consultations pertaining to rendering the banking services.
- 6) Data on the number of bank shares (stakes) owned by the executive body members of the bank and a list of the persons whose share within the authorized capital exceeds 5%.

Article 57. Insurance of Natural Persons' Deposits

The deposits of individuals in commercial banks shall be guaranteed in accordance with the procedure foreseen by the laws of Ukraine.

The deposits of individuals in the State Savings Bank shall be guaranteed by the State.

Article 58. Bank's Responsibility for its Obligations

The bank shall be liable for its obligations with all its assets in accordance with the laws of Ukraine.

The bank shall not be held responsible for non-fulfillment or untimely fulfillment of its obligations in case of a moratorium to satisfy claims of creditors, suspension of settlement operations, arrest of bank's own funds on its accounts by the authorized bodies of state power.

The bank participants shall be liable for the bank's obligations in accordance with the laws of Ukraine and the Statute of the bank.

Qualifying holding owners are obliged to take timely appropriate measures in order to prevent bank insolvency (bankruptcy).

Qualifying holding owners, bank managers (except the managers of separated structural subdivisions of the bank) shall bear responsibility for the fictitious bankruptcy, bankrupting (making bankrupt) or concealment of steady financial incapacity of the bank in accordance with the laws of Ukraine.

Article 59. Arrest, Suspension and Termination of Operations with Accounts

Property and other funds of a bank, placed in its accounts, as well as funds and other valuables of legal entities and individuals, placed with a bank, may be arrested (seized) only upon the court decision on charging funds or arrest according to the procedure established by law. The property and funds may be released from the arrest by a State Executor resolution or by a court decision.

The suspension of own expenditure transactions of the bank on its accounts as well as suspension of debit transactions of the legal and natural persons shall be executed only in case of seizure according to part one of this Article with the exception of cases prescribed by the Law on Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing.

It is prohibited to arrest (seize) the correspondent accounts of the bank.

A decision of the court on withdrawal of the funds placed in accounts of legal entities or individuals shall be executed immediately and unconditionally, with the exception of cases when a moratorium is imposed in accordance with this Law.

Chapter 10. BANKING SECRECY AND CONFIDENTIALITY OF INFORMATION

Article 60. Banking Secrecy

The information on activities and financial position of a client, which has become known to the bank in the course of servicing the client and maintaining relations with the client or to third parties through rendering services to the bank, the disclosure whereof can inflict material or moral damage to the client, shall be the banking secrecy.

In particular, the banking secrecy includes:

- 1) Information of clients' banking accounts, including the correspondent accounts of banks with the National Bank of Ukraine.
- 2) Operations effected in favor or upon instructions of the client, and contracts executed by the client.
- 3) Financial and economic position of clients.
- 4) Security systems of the bank and clients.
- 5) Information on organizational and legal structure of corporate clients (legal entities), their managers and areas of activities.
- 6) Information on client's commercial activities or commercial secrecy, any project, inventions, product samples, and other commercial information.
- 7) Information on the reporting of a specific bank, with the exception of the publicly disclosed information.
- 8) Codes used by banks to protect information.

The information on banks or clients collected in the process of banking supervision shall constitute the banking secrecy.

The provisions of this Article do not cover the general information on banks, subject to publication. The list of information subject to the mandatory publication shall be defined by the National Bank of Ukraine and additionally by the bank itself upon its discretion.

The National Bank of Ukraine shall issue regulations on safekeeping, protection, usage and disclosure of the information that constitutes the bank secrecy and provide guidelines on application of these regulations.

Article 61. Obligations as to Protecting the Banking Secrecy

The banks shall ensure the protection of banking secrecy by means of:

- 1) Limiting the number of persons who have access to the information that constitutes the banking secrecy.
- 2) Organizing special handling and processing of the documents containing banking secrets.
- 3) Using technical means to prevent unauthorized access to the electronic and other information carriers.

4) Application of the provisions aimed at protecting the banking secrecy which envisage responsibility for its disclosure in the agreements and contracts concluded between the bank and its client.

When hired, bank employees shall sign a commitment to keep the banking secrets confidential. Managers and employees of banks shall not disclose the confidential information that has become known to them during the exercise of their official duties, or use it for their own benefit or for the benefit of any third party.

The private persons and organizations, which, in exercising their functions or rendering services to a bank, have directly or indirectly obtained the confidential information, shall not disclose such information or use it for their own benefit or for the benefit of a third party.

If losses are inflicted on the bank or on its clients due to the leak of information on the bank or its clients from the bodies authorized to exercise the banking supervision functions, the bodies guilty of such disclosure shall reimburse these losses.

Article 62. Procedure for Disclosing Banking Secrets

Information on legal entities and individuals, which constitutes banking secrets, shall be disclosed by banks:

- 1) in response to a letter of inquiry or by written permission of the owner of such information;
- 2) in response to a written order of the court or by the court decision;
- 3) to bodies of the Office of Public Prosecutor, the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine and the Antimonopoly Committee of Ukraine - in response to their written order concerning operations on accounts of a particular legal entity or an individual entrepreneur for a specified period of time;
- 4) to bodies of the State Tax Service of Ukraine - in response to their written order on issues of taxation or foreign exchange control, with regard to operations at accounts of a particular legal entity or an individual entrepreneur for a specified period of time.
- 5) to the special central agency of executive power on financial monitoring issues on its request on financial transactions related to financial transactions subject to financial monitoring (analysis) in accordance to AML/CTF legislation as well as on participants of mentioned transactions.
- 6) to state executive bodies in response to their written request to provide information on implementation of court decisions concerning the account status of the specific legal entity or individual economic entity.

A request of a relevant state agency for obtaining information which contains banking secrets shall:

- 1) be presented on a letterhead of the established form of the state body;
- 2) be signed by the manager (or deputy manager) of the state body and sealed with the official stamp;
- 3) contain the reasons stipulated by this Law to obtain such information;
- 4) carry references to the provisions of the Law, in accordance with which the state body has the right to obtain such information.

The bank shall issue statements of accounts (deposits) in the event of death of their owners to persons specified by the owner of the account (deposit) in his/her bequest for the bank, to state notary offices or private notaries, and foreign consulate offices on inheritance issues on accounts (deposits) of deceased owners of accounts (deposits).

The bank is prohibited from providing information on clients of another bank, even if their names are mentioned in documents, agreements and operations of the client.

The bank shall have the right to provide the information, which constitutes the banking secrecy, to other banks and National Bank of Ukraine within the limits required to grant credits and bank guarantees.

The bank is entitled to disclose the information containing the banking secrecy to the person (including the person that is authorized to act on behalf of the state) in whose favour the bank assets and liabilities are to be alienated when taking the actions envisaged by the program of financial rehabilitation of the bank or during the liquidation procedure. The National Bank of Ukraine (provisional administrator) is entitled to furnish the Ministry of Finance of Ukraine with the

information containing the banking secrecy about the banks in whose capitalization the state is to participate.

Restrictions with regard to obtaining the information containing banking secrets, which are stipulated by this article, shall not apply to employees of the National Bank of Ukraine or persons authorized by them, who, within the powers provided by the Law of Ukraine "On the National Bank of Ukraine," exercise functions of banking supervision or foreign exchange control.

In accordance with an international treaty of Ukraine or under the principle of reciprocity, the National Bank of Ukraine shall have the right to provide information received from supervision activity to the banking supervision authority of another country and to receive such information from the banking supervision body of another country. The information provided (received) may be used exclusively for the purposes of banking supervision or prevention of legalization (laundering) of proceeds of crime or terrorism financing.

Regulations of part two and four of this Article shall not apply to disclosure of information about financial transactions to the specially authorised executive body responsible for financial monitoring, in cases stipulated by law.

Persons found guilty of violating the procedure for disclosing and using banking secrets, shall bear responsibility in accordance with law of Ukraine.

Chapter 11. PREVENTION OF LEGALIZATION (LAUNDERING) OF PROCEEDS FROM CRIME

Article 63. Prevention of Legalization (Laundering) of Proceeds from Crime

Banks shall be obliged to develop, introduce and regularly update the rules of internal financial monitoring and program of its implementation with taking into account requirements of the laws concerning prevention of legalization (laundering) of proceeds from crime.

National Bank of Ukraine supervising the activity of the banks shall perform the inspections of the banks on compliance to AML/CTF legislation requirements and sufficiency of the measures aimed at prevention money laundering or terrorist financing.

Article 64. Obligations Concerning Customer Identification

Banks shall be prohibited from establishing and maintaining any anonymous (numbered) accounts.

Banks shall be prohibited to establish correspondent relations with banks, other financial institutions – non-residents that have no permanent location and don't perform activity in the place of their registration and/or don't subject to relevant supervision in the country (territory) of their location as well as with banks and other financial institution – non-residents that maintain such correspondent relations.

Banks are prohibited from entering into any contractual relations with legal entities or individual customers if doubts arise that such a person is acting not in his/her/its own name.

According to legislation of Ukraine, banks shall identify the following persons:

- customers establishing accounts with the bank;
- customers performing transactions subject to financial monitoring;
- customers conducting cash transactions without opening an account on amount that equals or exceeds UAH 150 000 or the equivalent amount in foreign currency;
- persons authorised to act on behalf of the above customers.

An account may be established and the above transactions may be performed only after identification of customers and taking the measures required by the laws regulating relations in the area of prevention of legalization (laundering) of proceeds from crime.

Any bank shall have the right to require and the client shall be obliged to submit the documents and statements required for identification, types of activity, and financial standing. If a client fails to submit the documents or statements required or submits intentionally the untrue information, the bank shall refuse to service the client. If during the identification procedure the information submitted by the client can be reasonably suspected to be incorrect or intentionally misleading the bank shall

submit information on the client's financial transactions to a special authorized government agency in charge of financial monitoring.

For identification of the legal person except state and municipal enterprises bank shall be obliged to identify natural persons who own significant share in this legal person as well as natural persons with direct or indirect influence on this legal person. The client shall submit the statements specified in the applicable laws required by the bank in order to comply with the current laws regulating relations in the area of prevention of legalization(laundering) of proceeds from crime. In the event that the client fails to submit the statements, the bank shall not open any new accounts and/or shall discontinue any services provided for existing accounts. For identification and taking measures that in the bank's opinion shall be appropriate for confirmation of identity of the client which is a legal entity and for bank's compliance with rules of internal financial monitoring and developing the implementation program thereof, including identification of financial transactions subject to financial monitoring, the bank shall be entitled to require the information concerning identification of this person and managers thereof, from the state bodies, banks, and other legal entities, as well as to perform actions, aimed at obtaining the information from other sources. The aforementioned state bodies, banks, other legal entities shall undertake to provide such information to the bank for free within 10 (ten) business days from the date the request has been submitted.

For identification and taking measures that in the bank's opinion shall be appropriate for confirmation of identity of the client who is an individual, the bank shall be entitled to require the information concerning identification of this person from the state bodies, banks, and other legal entities, as well as to perform actions aimed at obtaining such information about this person needed for bank's compliance with rules of internal financial monitoring and developing the implementation program thereof, including detection of financial operations subject to financial monitoring. The Agencies, banks, other legal entities shall undertake to provide such information to the bank for free within 10 (ten) business days from the date the request has been submitted.

Identification of a client is not obligatory in every transaction performed if the client has been identified earlier according to requirements of the laws regulating relations in the area of prevention of legalization (laundering) of proceeds from crime.

Article 65. Documents Safekeeping

All documents on the financial transactions subject to financial monitoring and the results of identification of the persons having performed such transactions shall be kept by the bank during five (5) years from the date of performing these transactions.

Results of the identification of the account owner and the person authorized to act in his/her name shall be kept by the bank during five (5) years from the date of closing the account.

Part IV. BANKING ACTIVITY REGULATION. BANKING SUPERVISION

Chapter 12. AUTHORITY OF THE NATIONAL BANK OF UKRAINE AS TO BANKING ACTIVITY REGULATION AND BANKING SUPERVISION

Article 66. Forms of Banking Activity Regulation

State regulation of banking activity shall be performed by the National Bank of Ukraine in the following forms:

I. Administrative regulation.

- 1) Registration of banks and licensing of their activity.
- 2) Establishment of requirements and limitations for activity of the banks.
- 3) Enforcement of administrative or financial sanctions.
- 4) Supervision over activity of banks.
- 5) Recommendations in respect to activity of the banks.

II. Indicative regulation.

- 1) Setting the mandatory economic ratios.

- 2) Determination of mandatory reserve requirements to banks.
- 3) Defining deductions to the provisions against risks from banking operations with assets.
- 4) Defining the interest rate policy.
- 5) Refinancing of banks.
- 6) Correspondent relations.
- 7) Management of gold and foreign exchange reserves, including the currency interventions.
- 8) Operations with securities in the open market.
- 9) Import and export of capital.

Article 67. Purpose, Organization, Grounds and Scope of the Supervision

The purpose of banking supervision is stability of the banking system and protection of interests of depositors and creditors of the bank as to the safekeeping of client's funds on banking accounts.

Supervisory activity of the National Bank of Ukraine covers all banks, their subdivisions, affiliated and related parties of the banks on the territory of Ukraine and abroad, offices of foreign banks in Ukraine, as well as other legal entities and individuals in their compliance with requirements of this Law as to performing banking activity.

In the course of banking supervision, the National Bank of Ukraine has the right to require that the banks and managers thereof eliminate banking legislation violations, fulfill NBU regulations in order to avoid or to overcome undesirable consequences, which could jeopardize safety of the funds, entrusted to these banks or inflict damage on a proper banking activity.

The National Bank of Ukraine is entitled to introduce a special mode of control over activities of a bank and to appoint the bank's curator. The special control mode is an additional instrument of banking supervision used, as a rule, together with the coercive measures stipulated by Article 73 of the present law. During the provisional administration of a bank or the special mode of control over a bank the National Bank of Ukraine is entitled to forbid the bank to make use of the correspondent accounts for settlements and / or to demand the bank to settle only through a consolidated correspondent account.

In the course of banking supervision, the National Bank of Ukraine may use services of other institutions under separate agreements.

In case the banking license is revoked, the National Bank of Ukraine informs thereof the relevant bodies of other countries, where this bank has had branches or correspondent and other accounts.

The National Bank of Ukraine shall carry out the banking supervision on an individual and consolidated basis and apply coercive measures for violation of the banking legislation requirements.

In case the National Bank of Ukraine considers issues of enforcement measures application to a specific bank, the Chairman of the Board (Board of Directors) or Chairman of the Supervisory Council of this bank shall be invited to give explanations. An exception is the cases of appointment of the provisional administrator or revoking of the bank license and appointment of the liquidator.

In the course of supervision over the institutions, which carry out banking activity in other countries, the National Bank of Ukraine shall co-operate with the relevant bodies of those countries. Notifications sent by the relevant bodies of other countries, may only be used for the following purposes:

To check a license of an institution for carrying out activity.

To check the right for carrying out the banking activity.

Chapter 13. ACCOUNTING, REPORTING AND AUDITING

Article 68. General Principles of Accounting and Reporting in the Banks

The banks shall organize accounting in accordance with the internal accounting policy, developed on the basis of the rules and regulations established by the NBU in accordance with International Accounting Standards and regulations (standards) of Ukraine.

The accounting shall ensure a timely and full reflection of all the banking operations and provide true information to users on the status of assets and liabilities, financial performance and changes therein.

The financial statements of every bank shall show the results of its activity for the reporting period.

Article 69. Reporting of Banks

The bank is obliged to submit to the National Bank of Ukraine its financial statements and statistical reporting on its activity, operations, liquidity, solvency, profitability as well as the information of its affiliated persons with the aim to assess the bank's financial position.

The National Bank of Ukraine has the right to request consolidated statements from banks.

The National Bank of Ukraine shall establish the following for the banks:

- 1) Reporting forms and methodology for their preparation.
- 2) Frequency and time frame for submission of the reports.
- 3) Structure of explanatory notes.
- 4) Minimum information subject to publication and time limits for its submission.
- 5) Methods for the preparation of consolidated statements.

The National Bank of Ukraine has the right in certain cases to require the submission of onetime and interim reports.

Each owner of the qualifying holding in the bank, who is a legal entity, shall submit an annual report to the National Bank of Ukraine within the defined term on its activity. The report shall contain the following information:

- 1) Types of activity carried out by the legal entity.
- 2) Information on the economic entities, in which this legal entity's participation exceeds 10 percent, in particular: the name and address of the legal entity, size of the stake owned by this person, and types of activity.
- 3) Balance sheet and income statement of that entity at the end of the last fiscal year.

The National Bank of Ukraine has the right to request the submission of other periodical reports or information from the bank's qualifying holding owner in order to supervise the security and stability of the bank's financial position and to ensure adherence to the provisions of this Law.

The fiscal year of the bank is a calendar year beginning on January 1st.

The financial statements of banks to be submitted to the National Bank of Ukraine must be audited annually. The audit of any bank is to be performed by an auditor that has the certificate of the National Bank of Ukraine to audit banking institutions.

The auditor's report shall contain the following:

- 1) Bank balance sheet.
- 2) Profit and loss account.
- 3) Statement of movements of capital.
- 4) Schedule on assets and liabilities maturity.
- 5) Information on the adequacy of bank reserves and capital.
- 6) Information on the adequacy of accounting, internal audit and bank's control mechanisms.
- 7) An opinion whether the submitted financial statements reflect the bank's real financial position.

Article 70. Publication of the Financial Statement

The bank shall publish its quarterly balance sheets and the profit (loss) statement in "The Uriadovyi kurier" or "Holos Ukrainy" during the month following the reporting quarter.

The Bank shall publish its annual financial statements confirmed by auditors before June 1, of the year following the reporting year in the newspapers "The Uriadovyi kurier" or "Holos Ukrainy".

Chapter 14. BANK INSPECTIONS

Article 71. Bank Inspections

Every bank shall be subject to on-site inspections by inspectors of the National Bank of Ukraine or by auditors appointed by the National Bank of Ukraine.

Inspections shall be performed with the purpose of identifying the level of safety and stability of the bank's operations, reliability of the bank's reporting and compliance with the Ukrainian laws on banks and banking and the National Bank of Ukraine regulations.

Any inspection shall be performed in accordance with the plan, approved by the National Bank of Ukraine. The planned examination shall be conducted not more than once a year. The NBU shall inform the bank of conducting the planned inspection not later than in ten days prior to its beginning.

Banks shall ensure free access to all the documents and information, observing the rules set in this Article, to the National Bank of Ukraine inspectors and other persons authorised by the latter, and during the on-site examination - the possibility of free access to all the premises during the working hours.

The management of the bank shall appoint a competent official to furnish the inspectors with the required documents and explanations, and provide the representatives of the National Bank of Ukraine Banks Supervision Service with an office space for work.

The National Bank of Ukraine may take a decision to perform an extraordinary examination of the bank if sound grounds for doing so exist. Such a decision shall be signed by the National Bank of Ukraine Governor or by the person, authorised by the Governor.

When exercising its supervisory authority, the National Bank of Ukraine shall have the right to obtain from banks, free-of-charge, the information about their activity, as well as explanations on separate issues of the bank's activity.

If the inspection materials contain no data on the breach of the legislation, they may not be transferred for the verification to third parties.

In the course of inspections of banks, the National Bank of Ukraine shall have the authority to inspect any reporting of any affiliate of the bank with regard to its relationship with the bank for the purpose of determining the effect of such relationship on the bank position. For inspection purposes, affiliates shall facilitate the National Bank of Ukraine efforts in line with this Article and in the same manner as applied to the banks.

Article 72. Examinations and Inspections of Persons Subject to the National Bank of Ukraine Supervision

The National Bank of Ukraine has the right to inspect the persons subject to the National Bank of Ukraine supervision in order to check for the compliance with the legislation on banking activity. In the course of these inspections, the National Bank of Ukraine has the right to demand any information from these persons needed for the inspection. The persons being inspected shall submit to the National Bank of Ukraine the required information within the period of time defined by the National Bank of Ukraine.

The persons that can be subject to inspection by the National Bank of Ukraine include:

- 1) The holders of a qualifying holding in a bank, if the National Bank of Ukraine believes, that this person (entity) does not meet the requirements set forth in this Law as for the qualifying holding or negatively affects the bank's financial stability and security.
- 2) A person who has acquired a qualifying holding without the National Bank of Ukraine written permission.

A person (entity) in respect of which there is information that he/she/it has conducted or conducts banking activity without a license may also be subject to the National Bank of Ukraine inspection.

Article 73. Enforcement Measures

In case a bank or other persons (entities) under the National Bank of Ukraine supervision in compliance with this Law, violate the banking legislation of Ukraine, any regulation of the National Bank of Ukraine, or perform risky operations, which threaten the interests of the bank's depositors or other creditors, the National Bank of Ukraine has the right to use the adequate enforcement (coercive) measures, including:

- 1) A written warning requiring the termination of such violations, and adoption of measures to correct the situation; reduction of the bank's expenses; limitation of unwarranted high interest payments on the attracted funds; reduction or alienation of inefficient investments.
- 2) Convention of the general shareholders' meeting, a meeting of the Supervisory Council of the bank, a meeting of the Board (Board of Directors) of the bank to agree on the action plan for the bank's financial rehabilitation or reorganization plan
- 3) A written agreement with the bank under which the bank or the bank-authorized person assumes an obligation to redress violations, improve the financial condition of the bank, etc.;
- 4) Issuance of the instructions concerning:
 - a) Suspension of the payment of dividends or the distribution of the capital in any other form;
 - b) Imposition of increased individual economic ratios for the bank in question;
 - c) Increase in the loan loss provisions and allowances for other assets;
 - d) Limitation, termination or suspension of some high risk operations performed by the bank;
 - e) Imposing a ban on the provision of unsecured loans;
 - f) Imposition of fines on:
 - g) Bank managers (directors) in an amount up to one hundred untaxed minimum incomes of citizens;
 - h) Banks under the Regulations approved by the National Bank of Ukraine Board but only in an amount not more than one percent of the registered authorized fund;
 - i) Temporary prohibition for the qualifying holding owner to use of his/her/its voting rights in case he/she/it has seriously or repeatedly violated requirements of this Law or the National Bank of Ukraine regulations;
 - j) Temporary removal of a bank's official from his/her office and prohibition to hold any position in case of serious or repeated violation of requirements of this Law or of the National Bank of Ukraine regulations;
 - k) Compulsory Bank reorganization;
 - l) Appointment of the provisional administration.

In the event of the violation of this Law or the National Bank of Ukraine regulations which has caused a significant loss of assets or income and brought about the insolvency of a bank, the National Bank of Ukraine shall have the right to revoke the bank's license and initiate the bank liquidation procedures under the present Law.

If any official person or a holder of a qualifying holding or a representative of the legal entity, that holds a qualifying holding, have been accused of committing a crime, but the *corpus delicti* has not been proven, and only a minor infringement on this Law or the National Bank of Ukraine Regulations has been found to occur, or if this person is found guilty of any such criminal offence without imprisonment, the National Bank of Ukraine has the right to issue an order discharging that person from his/her position with the bank or prohibit the exercise of his/her voting rights in the bank.

The person discharged from office or temporarily stripped of the voting rights in the bank pursuant to the National Bank decision may be acquitted or his voting right renewed only subject to the prior permission of the National Bank of Ukraine.

The resolution of the National Bank of Ukraine on the appointment of the provisional administration is an executive document.

Article 74. Procedure for Enforcement Measures and Sanctions in Case of Violation of the Banking Legislation

Fines shall be imposed on bank management and officials, as well as on the individuals being in possession of a qualifying holding, pursuant to the procedure envisaged by the Code of Ukraine on Administrative Offences.

The effective laws of Ukraine and regulations of the National Bank of Ukraine determine procedures for application of enforcement (coercive) measures and the size of financial sanctions applied to banks and other legal entities subject to supervisory activities of the National Bank of Ukraine.

Part V. PROVISIONAL ADMINISTRATION AND LIQUIDATION OF BANKS

Chapter 15. PROVISIONAL ADMINISTRATION

Article 75. Appointment of Provisional Administration

The National Bank of Ukraine is obliged to appoint the provisional administration in the event of a threat to a bank's solvency.

The National Bank of Ukraine has the right to appoint the provisional administration to a bank in the following cases:

- 1) Two or more violations by the bank of the legal requirements of the National Bank of Ukraine;
- 2) Decrease in the bank regulatory capital by 30% within the last 6 months;
- 3) Failure to honour by the bank within five (5) working days ten (10) or more per cent of its overdue liabilities;
- 4) Arrest or indictment of the bank managers because of criminal actions;
- 5) Concealing by the bank of accounts, any assets, registers, reports or documents;
- 6) Unjustified refusal of the bank to provide the documents or information stipulated by the present law to the authorised representatives of the National Bank of Ukraine;
- 7) Existence of a public conflict in the bank management;
- 8) The filing of a bank's petition for appointment of the provisional administration;
- 9) Conducting by the bank operations with a high level of risk which has caused or can cause a loss of assets or income;
- 10) Infringement of the laws regarding prevention and counteraction of legalization (laundering) of proceeds.

The provisional administration shall assume its duties immediately after the decision on its appointment is taken.

The head of the provisional administration shall be the provisional administrator appointed by the National Bank of Ukraine. The National Bank of Ukraine is entitled to appoint the same person as the provisional administrator of two and more banks.

The National Bank of Ukraine is entitled to empower, for a period of the provisional administrator's temporal absence, to exercise his/her duties a person meeting the requirements established by the present law for the provisional administrator.

The National Bank of Ukraine may appoint the provisional for a term not exceeding one year.

The National Bank of Ukraine shall have the right to prolong the mandate of the provisional administration for the systemic banks for a period of up to a year.

Article 76. Requirements to be Met by the Provisional Administrator

The provisional administrator may be:

- a legal entity, which performs professional activity as for provisional administration and/or liquidation of banks, rendering of the audit, legal or consulting services and has not less than 3 employees possessing the National Bank of Ukraine certificate granting it the right to exercise the provisional administration of a bank and/or liquidation of a bank;
- an independent expert (under the contract);
- an employee of the National Bank of Ukraine.

Only the persons, who have the National Bank of Ukraine certificate granting them the right to exercise the provisional administration and liquidation of the bank with high professional and moral qualities, impeccable business reputation, economic or legal education and experience, necessary for exercise of the provisional administration function may participate in the provisional administration.

At any moment of time the National Bank of Ukraine has the right to dismiss the provisional administrator from his position in case the provisional administrator's performance does not comply with the requirements established by this Law.

The provisional administrator's work and work of the specialists, involved by him/her in order to ensure the fulfillment of his/her authorities, shall be paid in accordance with the contracts concluded with them.

Work of the provisional administrator and of the attracted specialists shall be paid at the expense of the bank he/she has been appointed to.

The provisional administrator, within the approved cost estimate for provisional administration expenses, shall determine the level of remuneration of the attracted experts approved by the National Bank of Ukraine.

Additional reward to the provisional administrator and specialists may be established within the cost estimate under the National Bank of Ukraine approval.

A person may not be appointed the provisional administrator of a bank if he or she is:

- 1) A creditor, related party or shareholder of the bank;
- 2) A person who has been convicted, and the sentence has not been served or cancelled in line with the procedure established by law, or who is accused in a criminal case;
- 3) A person who has failed to meet his/her/its obligations to any bank.

In order to reveal the conflict of interests, before being appointed a provisional administrator, the candidate shall convey to the National Bank of Ukraine the information about his/her personal and business interests, in particular, on:

- 1) The debt to the bank, labour relations with it or ownership of the property rights of the bank;
- 2) Relationship, during the previous five years, with any bank as its related party;
- 3) Failure to meet any obligations concerning any bank during the last five years;
- 4) Ownership of property competing with the property of the bank;
- 5) Other interests that can impede unbiased performance of his/her functions as a provisional administrator;
- 6) Information proving the absence of a conflict of interests with the National Bank of Ukraine.

Before appointing a provisional administrator, the National Bank of Ukraine must ensure that there is no conflict of interests.

In case a conflict of interests arises after a provisional administrator is appointed, he/she shall take actions to eliminate the conflict of interests and simultaneously inform thereof the National Bank of Ukraine which is to decide whether the provisional administrator may continue his/her work.

The provisional administrator shall not have the right:

1. To exercise his/her functions in case of a conflict of interests, except for the cases when the National Bank of Ukraine is aware of it and has allowed him/her to continue the work;
2. To accept any services, presents and other valuables, directly or indirectly, from persons interested in taking any actions related to the appointment of the provisional administration;
3. To use or allow to use the property that the provisional administrator has the right to control, in his/her interests or in the interests of third parties;
4. To extend promises or commit oneself on behalf of the National Bank of Ukraine without its written authorization;
5. To disclose the banking secrets or other official information, if it is not related to exercising the functions of the provisional administrator.

Failure to exercise or improper exercise of the provisional administrator's functions in accordance with this Law, which have inflicted losses to the creditors or the bank might be a ground for termination of his/her duties and deprivation him/her of the certificate on providing of provisional administration and liquidation of banks.

In case a provisional administrator due to his/her activity or lack thereof has inflicted the losses, the bank and/or creditors have a right to file a suit on compensation.

Article 77. Insurance of the Responsibility, Life and Health of the Provisional Administrator

Financial responsibility, life and health of the provisional administrator shall be insured in accordance with the contract on provisional administration under the effective laws of Ukraine.

Article 78. Consequences of the Provisional Administrator Appointment

Starting from the day the provisional administrator is appointed, the powers of the general shareholders' meeting, Supervisory Board and Board (Board of Directors) of the bank are suspended

and transferred to the provisional administrator. Contracts, concluded by the bank's managers after appointment of the provisional administration shall be invalid from the moment of their signing. In case of appointment of the provisional administration of a bank by the National Bank of Ukraine, reorganization of the bank and issue of the bank shares shall be carried out by the provisional administrator's decision according to the procedure established by the National Bank of Ukraine. The provisional administrator is entitled to appoint at his/her discretion the supervisory council and the board of the bank after bank reorganization and/or issue of the bank shares carried out by him/her.

Article 79. Notice on Appointment of the Provisional Administrator

The National Bank of Ukraine shall publish the information about the provisional administration appointment on its official web-site on the day thereof and, within three days after the appointment, in the newspaper "The Uriadovyi kurier" or "Holos Ukrainy".

The National Bank of Ukraine shall send to the bank's head office and to every territorially separated division or branch of the bank its decision on appointment of the provisional administration specifying the date, when the provisional administration starts.

Article 80. Rights and Responsibilities of the Provisional Administrator

Immediately following his/her appointment, the provisional administrator shall ensure safekeeping of the bank's assets and documentation as well as assets and documentation of the affiliated persons, where the bank holds more than 50%.

Within one month from the moment of his/her appointment, the provisional administrator is obliged to take the stock of the bank's assets and liabilities and prepare the balance sheet.

From the day the provisional administrator is appointed he/she has a full and exclusive right to manage and control the bank, and shall take any actions aimed at bringing the bank activity into line with the legal and financial provisions of the present law and National Bank of Ukraine regulations in order to protect the interests of depositors and other creditors.

In particular the provisional administrator has the right:

- 1) To continue or stop any operations of the bank.
- 2) To perform any actions or decisions on behalf of the bank.
- 3) To terminate any contracts to which the bank has been a party that are, in the judgement of the provisional administrator, no longer necessary or loss-making to the bank.
- 4) To bring actions to the court institutions on the property rights.
- 5) To apply to the court institutions for taking a decision according to which a debtor of the bank shall convey information about its assets.
- 6) To attract to the work on provisional administration any employee, expert, consultant as well as to entrust the managers of the bank with taking actions in respect of giving the necessary assistance to the provisional administration. The provisional administrator has the right to remove such persons any time from exercise of their duties.
- 7) To dismiss or reassign any of the bank's managers or employees, or reassign their responsibilities, and change their salaries under the effective laws of Ukraine.
- 8) To suspend the bank's capital allocation or payment of dividends in any form.
- 9) To alienate assets and/or liabilities of the bank with the purpose of its financial rehabilitation.
- 10) To carry out reorganization of the bank.

The provisional administrator shall receive authorization from the National Bank of Ukraine to alienate the bank's assets whose book value exceeds the amount set by the National Bank of Ukraine.

In exercising his/her duties, the provisional administrator in terms of his/her status is equal to the representative of the NBU. Any person who deliberately impedes the provisional administrator's access to the bank, its assets, books, records, or documents shall be held responsible under the laws of Ukraine. The law enforcement authorities shall assist the provisional administrator in his/her work upon his/her written request.

The provisional administrator shall take the measures envisaged by the program of financial rehabilitation of the bank, including to cede the claim rights, to transfer the debt or to reorganize the bank without notice and approval of the shareholders, debtors, creditors (depositors) of the bank. The

shareholders, creditors (depositors) of the bank are not entitled to require termination or early meeting of bank's obligations and indemnification of their losses in the course of taking the steps envisaged by the program of financial rehabilitation of the bank.

The person being a party of an agreement on transfer of assets and/or liabilities of the bank under the provisional administration shall be exempted from payment of any amounts related to the alienation / receipt of such assets and/or liabilities, for amending the state registers, and from the fees paid to state bodies for their services.

The provisional administrator, when taking a decision on simultaneous alienation of assets and liabilities of the bank, shall ensure the priority of protection of the bank creditors' interests in accordance with their priorities in satisfaction of their claims as per Article 96 of the present law.

To the successor bank that is to be established owing to reorganization of the bank by the provisional administrator through separation the requirements of Articles 31 and 32 of the present law shall not be applied. The size and formation procedure of the authorized capital of such a successor bank shall be determined by the National Bank of Ukraine. The provisional administrator shall have sold such a successor bank before the provisional administration ends.

In order to compensate to the buyer the difference between the values of the liabilities and assets being alienated the state will render financial aid to the financial institution (including the bank under rehabilitation) in whose favour the assets and/or liabilities are alienated in an amount that does not exceed the difference between liabilities to the natural persons being the bank depositors within the amounts subject to compensation by the Deposit Insurance Fund, including the alienated ones, and value of the bank assets alienated in favour of the financial institution. The value of bank assets that are alienated in favour of the financial institution shall be determined by independent valuers in accordance with the laws on assessment of property, rights of property and professional assessment activity in Ukraine.

The state shall render the financial aid at the expense of the State Budget of Ukraine or by means of transfer of the government obligations of Ukraine according to the Cabinet of Ministers of Ukraine decisions. The financial aid amount for the next year shall be foreseen in the law on the State Budget of Ukraine in the form of money and/or rights to issue the government of Ukraine obligations. The procedure of granting and use of the state financial aid shall be established by the Cabinet of Ministers of Ukraine and agreed with the Verkhovna Rada committees on finance and banking and on the Budget.

The state aid may be also rendered by means of transfer of the government of Ukraine obligations issued or received over the amount approved in the law on the State Budget of Ukraine for the appropriate year after the respective adjustment of the maximum permissible state debt of Ukraine.

The Ministry of Finance of Ukraine shall increase the respective indicators of the state budget financing by the amount of the issued obligations of the government of Ukraine over the amounts approved in Appendix 2 to the law on the State Budget of Ukraine for the corresponding year.

Article 81. Prevention of Transfer of the Bank Assets before the Provisional Administrator Is Appointed

The provisional administrator may apply to the court with a request to recognize a contract invalid if under such a contract the following has been carried out:

- 1) any payment or property transaction for the purpose of granting a privilege to an individual creditor of the bank (within 6 months prior to the appointment of the provisional administrator);
- 2) any transaction with a related party of the bank, if such a transaction does not meet the requirements of current legislation of Ukraine or threatens the bank's depositors or creditors (within 1 year prior to the appointment of the provisional administrator);
- 3) any business transaction in which the payment made by the bank has substantially exceeded the real value of the goods, services, or other assets received by the bank (within 3 years prior to the appointment of the provisional administrator);
- 4) any gratuitous property transaction performed within 3 years prior to the appointment of the provisional administrator;

- 5) any action performed with the intention to withhold assets from creditors of the bank, or otherwise to impair their rights, within 3 years prior to the appointment of the provisional administrator;
- 6) any transaction based on a fraudulent or forged document.

The provisional administrator shall not pay the state duty when applying to a court.

Article 82. Continuous Provision of Services

The lessor of bank premises or provider of utility services, communication services shall not have the right from the provisional administrator's appointment day, to refuse such a service because of the appointment of the provisional administrator.

Article 83. Organization of the Provisional Administrator's Work

Not later than two weeks from the moment of his/her appointment, the provisional administrator shall submit a preliminary report to the National Bank of Ukraine.

The preliminary report shall contain results of the preliminary assessment of the bank activity compliance with the requirements of the present law and National Bank of Ukraine regulations as well as proposals on bringing the bank into line with the legal and financial requirements of the present law and National Bank of Ukraine regulations.

If the provisional administration has been appointed due to worsening of the financial standing of the bank or in opinion of the National Bank of Ukraine the financial standing of the bank has become worse, the preliminary report shall also include:

- 1) Results of preliminary assessment of the bank financial standing (state of the credit portfolio, assets and liabilities, liquidity, etc.);
- 2) A proposal on the amount of funds necessary to recover the bank's solvency or on the need of revoking the bank license and of bank liquidation;
- 3) Proposals on possible ways of financial rehabilitation of the bank (bank capitalization at the expense of the participants and/or investors, sales of assets to repay liabilities, reorganization, etc.).

The provisional administrator shall take measures to recover operation of the bank according to the plan of provisional administrator's actions or, in the case of provisional administration appointment due to worsening of the financial standing of the bank, according to the program of financial rehabilitation of the bank.

The provisional administrator shall submit to the National Bank of Ukraine:

- the plan of provisional administrator's actions within two weeks from the provisional administration appointment;
- the program of financial rehabilitation of the bank within one month from the provisional administration appointment.

The provisional administrator shall elaborate the plan of provisional administrator's actions or the program of financial rehabilitation of the bank and submit to the National Bank of Ukraine reports on implementation thereof according to the procedure established by the National Bank of Ukraine.

Article 84. Control over Provisional Administration Activity

The National Bank of Ukraine shall organize, coordinate and control the provisional administration activity as well as give instructions compulsory for implementation by the provisional administration.

The National Bank of Ukraine shall consider the preliminary report of the provisional administrator and approve the plan of provisional administrator's actions or program of financial rehabilitation of the bank not later than in two weeks from the day of submittal of the respective documents by the provisional administrator. If the plan of provisional administrator's actions or program of financial rehabilitation of the bank has not been approved during the period indicated above, the National Bank of Ukraine shall during a week appoint the new provisional administrator.

The National Bank of Ukraine is entitled to amend the plan of provisional administrator's actions or program of financial rehabilitation of the bank both before and during the implementation thereof.

The National Bank of Ukraine is entitled to revoke the banking license or initiate the bank liquidation at any moment, should it have concluded that the financial rehabilitation of the bank is impracticable.

Article 85. Moratorium

The National Bank of Ukraine during the provisional administration has the right to introduce a moratorium on the creditors' claims satisfaction in full or partly for a period not exceeding three months.

The National Bank of Ukraine shall publish on the day of adopting the decision on introduction of the moratorium the information thereof on its official web-site and in three days in the newspaper "Uriadovyi kurier" or "Holos Ukrainy".

While the moratorium is in effect:

1) It is prohibited to perform exaction under the executive and other documents, under which the exaction is performed, and to take any measures aimed at securement of such exaction in accordance with the laws of Ukraine.

2) The forfeit (fine or penalties), other financial (economic) sanctions for a failure to fulfill or improper fulfillment of obligations to creditors and the monetary and tax obligations and mandatory charges shall not be accrued.

The moratorium shall not apply to the obligations related to servicing of business activities of the bank, including payments of the salary, author's remuneration, compensation of the damage inflicted on the health and life of the bank employees, as well as creditors' claims connected with payments of wages and salaries, alimony, pensions, scholarships, social assistance within the limits established by the provisional administrator.

After the expiration of the moratorium on satisfaction of creditors' claims:

- the forfeit (interest or penalties) as well as amount of the losses inflicted that the bank should have paid to the creditors under the monetary obligations may be claimed in the amounts that have existed as of the date, when the moratorium has been introduced unless otherwise provided for by this Law;

- accrual of the forfeit (interest or penalties), other economic sanctions for the failure to fulfill or undue fulfillment of obligations to creditors may be resumed (or started with regard to the obligations that have appeared during the moratorium);

- the terms of calculation of taxes, fees (mandatory payments) shall be commenced in the amounts calculated as of the date of the moratorium expiry;

- the financial sanctions as the interest and penalties foreseen by the law of Ukraine "On Procedure of Repayment of Tax Payers' Obligations to Budgets and State Special Funds" for the failure to fulfill or undue fulfillment of the bank's obligations on payments of taxes and fees (mandatory payments) shall be calculated on the amounts of indebtedness as recorded as at the date of the moratorium expiry.

Article 86. Cessation of Provisional Administrator's Activities

The provisional administrator shall cease his/her activities from the date of adopting by the National Bank of Ukraine the decision on cessation of the provisional administration or on ouster of the provisional administrator from exercise of the duties.

Article 86¹. Rehabilitation Bank

The Cabinet of Ministers of Ukraine at the request of the National Bank of Ukraine agreed with the Verkhovna Rada committee on finance and banking is entitled to establish the rehabilitation bank that should not be a participant in the Deposit Insurance Fund.

The main task of the rehabilitation bank shall be protection of interests of depositors (creditors) of banks.

The bank shall obtain the status of the rehabilitation one from the moment the National Bank of Ukraine grants it the license of the rehabilitation bank and it is entitled to conduct only the operations stipulated by this license.

The procedure of granting the license of rehabilitation bank, regulation of its activities and supervision over the rehabilitation bank shall be implemented according to the provisions specified in the National Bank of Ukraine regulations agreed with the Cabinet of Ministers of Ukraine and the Verkhovna Rada committee on finance and banking.

Chapter 16. LIQUIDATION OF BANKS

Article 87. Legal Grounds for Liquidation of Banks

The bank may be liquidated:

1. On the basis of the bank's owners' decision
2. Pursuant to the decision of the National Bank of Ukraine (including the one based on the creditors' application).

Liquidation on the initiative of the bank's owners shall occur in accordance with the laws of Ukraine on businesses with taking into consideration the particular aspects envisaged by this Law and with the consent of the National Bank of Ukraine.

Liquidation of a bank on the NBU initiative shall be performed in line with this Law and regulations of the National Bank of Ukraine.

The National Bank of Ukraine shall be obliged to inform the Deposit Insurance Fund of the bank liquidation within two days after decision taking.

If the decision of the National Bank of Ukraine on bank liquidation is contested in the court, the National Bank of Ukraine shall inform the Deposit Insurance Fund thereof.

Article 88. Peculiarities of Bank Liquidation in the Event of its Insolvency

The following entities have the right to go to the court with the application on recognizing a bank insolvent and on its liquidation:

- 1) Bank creditors
- 2) The National Bank of Ukraine.

Persons mentioned in Item 1, Part 1 of this Article, shall send a letter of credence to the National Bank of Ukraine with the application on bank liquidation if there are signs that it is insolvent. To this application they shall attach documentary evidence that the bank has outstanding monetary obligations to them. If during a month from the filing of the application, these persons failed to obtain a response from the National Bank of Ukraine, they shall have the right to institute court proceedings as to the recognition of the bank as insolvent.

When the court examines the insolvency case, it shall apply the legislation of Ukraine on restoring debtor's solvency or recognizing the debtor bankrupt to the extent that does not contradict the provisions of this Law.

In the course of case preparation for the hearing, the judge shall obtain a validated opinion of the National Bank of Ukraine as to the expediency of bank liquidation or the decision of the National Bank of Ukraine to revoke the banking license and to appoint the liquidator. The National Bank of Ukraine shall submit one of these documents to the court within a month from receiving the court's inquiry.

The negative opinion of the National Bank of Ukraine as to the practicality of revoking the bank license and liquidation of the bank constitutes the grounds for leaving the application without consideration.

If the debtor bank is unable to meet its liabilities in keeping with the court ruling on the compulsory exaction during six months and if during this period no agreement is reached as to foregoing debt rescheduling, the National Bank of Ukraine shall revoke the banking license and initiate the bank liquidation procedures.

The case on recognizing a bank insolvent pursuant to the application of persons mentioned in Part 1 of the present Article may be initiated only upon the revocation of the banking license.

Following the license revocation, no rehabilitation of the insolvent bank shall be allowed.

An agency that has initiated the liquidation decision shall appoint the liquidator. The liquidator shall commence his/her/its activities immediately after the license revocation.

Within a month after a court has accepted the case for examination the court shall make a final decision on the bank liquidation lawsuit. The only issue that shall be taken into consideration by the court in the bank liquidation case shall be the opinion of the National Bank of Ukraine about the practicality of bank liquidation and whether the application of liquidation procedures by the National Bank of Ukraine complies with the requirements of this Law.

In its decision, the court shall confirm a candidate liquidator or appoint the liquidator that meets the requirements of the present Law. The conflict of interests the court has learned about may be the only grounds to decline the candidate liquidator appointed by the National Bank of Ukraine.

Examination of the liquidation case in the court shall not suspend the activity of the liquidator appointed by the National Bank of Ukraine.

The bank liquidation procedure shall be completed not later than in 3 years from the revocation of the license.

The National Bank of Ukraine shall have the right to prolongate the liquidation procedure for a term of up to one year for banks and up to two years for the systemically important banks.

Article 89. Announcement of the Liquidation

The liquidator shall publish the data on opening the liquidation procedure in the newspapers "Uriadovyi kurier" or "Holos Ukrainy" at the bank's expense and within the period of time foreseen by the laws of Ukraine after the National Bank of Ukraine takes the decision on license revocation or bank's owner - the decision on bank liquidation.

The information on the liquidation procedure initiation shall contain the name and other requisites of the bank under liquidation, the date of the National Bank of Ukraine (or the bank owner's) decision on license revocation or the date of the owner's decision to liquidate the bank and of appointment of the liquidator, data about the liquidator.

Within one month, starting from the moment the announcement of liquidation procedure initiation has been made, the creditors have the right to present the liquidator with their claims to the bank.

It is not allowed to publish or otherwise disclose the data on the bank's insolvency until the decision on the bank's liquidation is taken.

Persons guilty of divulging this information shall be liable under the effective laws of Ukraine.

Article 90. Requirements to be Met by the Liquidator and Conditions of the Appointment thereof

The liquidator may be:

- 1) An individual, who meets the requirements to the provisional administrator set forth in Article 76 of this Law.
- 2) A legal entity, which performs professional activity as for provisional administration and liquidation of banks, rendering of the audit, legal or consulting services and has not less than 3 employees possessing the National Bank of Ukraine certificate granting them the right to exercise the provisional administration of a bank and liquidation of a bank.

Financial responsibility, life and health of the liquidator shall be insured in accordance with the legislation of Ukraine, regulations of the National Bank of Ukraine, and the bank liquidation contract under the laws of Ukraine.

Article 91. Consequences of Appointment of the Liquidator

Starting from the day when decision has been made on revoking the license and appointment of the liquidator:

- 1) The powers of the general meeting, Supervisory Council, the Board (Board of Directors), and of the provisional administrator, who shall immediately transfer all the documentation to the liquidator of the bank, shall be terminated.

- 2) Bank's activity is wound up by completion of the technological cycle of specific operations in case it assists in maintenance and growth of the liquidation mass.
- 3) All the bank's monetary obligations and obligations as to the payment of taxes and duties (mandatory payments) shall be deemed due.
- 4) The accrual of the interest payments, forfeit (fines or penalties) and of other economic sanctions in respect of all types of the bank's indebtedness shall be terminated.
- 5) The data on the bank's financial position shall no longer be considered confidential or constituting a banking secret.
- 6) Conclusion of the agreements in respect of alienation of the bank's property or its transfer to third parties shall be permitted under the procedure, stipulated in this Law.
- 7) The arrest of the bank's property or other limitations as for this property's disposal shall be lifted. Imposing of the new arrests or other limitations as for the bankrupt bank's property disposal shall not be allowed.
- 8) Any claims in respect of the bank's commitments arising in the course of the liquidation may be laid only within the limits of liquidation procedure.

Article 92. Powers of the Liquidator in Implementation of the Liquidation Procedure

From the date of his/her appointment, the liquidator shall:

- 1) Take the bank's property under his/her jurisdiction, adopt measures ensuring the safekeeping thereof.
- 2) Exercise bank property management and administration functions.
- 3) Perform the stock-taking and appraisal of the bank property in keeping with the effective legislation.
- 3¹) Be entitled to alienate assets and/or liabilities of the bank.
- 4) Exercise functions of the bank management bodies.
- 5) Head the liquidation commission and form the liquidation mass.
- 6) Lay claims to the third parties concerning repayment of the bank's accounts receivable, including exaction thereof through court;
- 7) Have the right to obtain a credit in order to pay severance payments to the employees, who are dismissed due to the bank's liquidation. This credit shall be repaid with priority in accordance with Article 95 of this Law, from the funds raised through the sale of the bank's property.
- 8) From the day when the liquidation procedure has commenced the liquidator shall announce the dismissal of the bank's employees and perform it in accordance with the Ukrainian labour legislation.
- 9) Decline the creditors' claims to the bank in accordance with the prescribed procedure.
- 10) Announce the refusal to fulfill bank's contracts and terminate them in accordance with the procedures, prescribed by law.
- 11) Take actions to locate and recover the bank's property held by third parties.
- 12) According to the existing procedure, transfer the documents of the bank subject to mandatory safekeeping in accordance with the regulations, to the place of safekeeping.
- 13) Take actions, which, in his/her opinion, will provide an opportunity to get, within the shortest possible period of time, maximum proceeds from the short-notice disposal of the assets.
- 14) Sell the bank's property in order to cover the claims included into the Register of the creditors' claims.
- 15) Inform (within a ten day period from the moment an appropriate decision has been taken) a state bankruptcy agency of his/her appointment and furnish it with the information to be included into the consolidated database on the bankrupt enterprises.
- 16) Exercise other powers, stipulated by this Law.

When taking decisions on alienation of assets and/or liabilities of the bank the liquidator shall ensure the priority of protection of bank's creditors' interests in accordance with their priorities in satisfaction of the claims established by Article 96 of the present law.

The liquidator shall take decisions on receipt and alienation of the assets and/or liabilities without informing thereof the shareholders, debtors, creditors (depositors) of the bank and without getting their sanctions thereto.

The person being a party of an agreement on transfer of assets and/or liabilities of the bank in the course of the liquidation procedure shall be exempted from payments of any fees associated with the alienation/receipt of such assets and/or liabilities, from those for amending the state registers as well as from payments for the services rendered by state agencies.

From the day of his/her appointment, the liquidator shall acquire the rights of manager (management bodies) of the bank. Within 3 days from the appointment of the liquidator, the bank's management shall ensure the transfer of all the accounting and other bank's documentation, seals and stamps, tangible and other assets to the liquidator. In case they seek to evade the exercise of the above mentioned duties, the guilty persons shall bear responsibility in accordance with the requirements of effective legislation of Ukraine.

In exercising his/her duties, the liquidator, with regard to his/her status, shall be equal to a representative of the National Bank of Ukraine. Any person who deliberately impedes the liquidator's access to the bank, its assets, books, records, or papers shall be administratively or criminally liable in accordance with the legislation. The law enforcement authorities are obliged to assist the liquidator in his/her work upon his/her written request.

Article 93. Preparative Measures to Satisfy Creditors' Claims

After one-month period following publication of the announcement of the liquidation procedure start, the liquidator shall stop accepting the creditors' claims.

Within three months from the date of publication of the notice of the liquidation procedure start, the liquidator shall take the following actions to satisfy the claims by the creditors:

- 1) Determine the amount of debt payable to each creditor and classify it according to the priority of repayment;
- 2) Decline the claims in case they are not confirmed;
- 3) According to the requirements of the Deposit Insurance Fund regulations, provide the Fund with the full list of depositors that have the right to be reimbursed with calculated amounts to be reimbursed within twenty business days from the date the deposits have become unobtainable;
- 4) Make the list of the claims accepted by him/her to be approved by the National Bank of Ukraine;
- 5) Notify the creditors of the acceptance of their claims.
- 6) Publish an announcement, each week within three weeks, indicating the day and place where the list of claims is available for examination and the date of the list submittal to the National Bank of Ukraine.

The creditors have a right to send to the liquidator their objections to the claims accepted by him/her within one month after the notification has been received.

The liquidator has the right, with the National Bank of Ukraine approval, to repay the claims to the bank before the list of claims is finalized and approved by the National Bank of Ukraine, only in respect of the contracts that ensure performance of the liquidation procedure.

The liquidator shall, within 2 month period following his/her appointment, inform all clients of the bank, who use the custody services that they need to remove their valuables within a 3 month period from the date of the liquidation procedure announcement.

The valuables that have been in custody with the bank and have not been taken by their owners within the period indicated in the notification are considered to be the funds that shall not be claimed by the bank creditors. These valuables shall be transferred to the National Bank of Ukraine for return to their legal owners.

Mortgage assets that are managed by the bank or act as collateral security for obligations under the certificates with fixed yield issued by the bank, as well as funds held with an account of a construction financing fund or property of the fund of real estate operations, including funds on its account which are managed by the bank, shall not be included in the liquidation estate of the bank. These assets shall be administered pursuant to the Laws of Ukraine "On Mortgage Lending, Operations with Consolidated Mortgage Debt and Mortgage Certificates" and "On Financial and Lending Frameworks and Property Administration in Housing Construction and Real Estate Operations".

The bank assets included in the mortgage cover of mortgage bonds shall not be included in the liquidation estate of the bank. Alienation of such assets, including compulsory one, shall be effected according to the procedure specified in the Law of Ukraine "On Mortgage Bonds".

Article 94. Appraisal of the Bank's Property

The liquidator in accordance with the procedure stipulated by the Ukrainian legislation shall appraise the property under the liquidation procedure. For the property to be auctioned off, this appraised value shall be the initial price.

In order to appraise the property the liquidator has the right to involve experts on a contractual basis. Their services shall be paid for at the expense of the liquidation mass (estate), unless otherwise is established by the National Bank of Ukraine.

Article 95. Property Sale

After the stock-taking and the property appraisal, the liquidator shall start the sale of property at the open auction, unless the National Bank of Ukraine establishes a different procedure for its sale.

The liquidator shall announce through the mass media the procedure for the property sale, composition thereof, conditions and timeframe for its acquisition. The procedure shall be agreed upon with the National Bank of Ukraine.

In case there are two or more bids for the purchase of the bank property, the liquidator shall hold a tender (an auction). The tender (auction) procedure is established by the legislation of Ukraine.

The bank's property with controlled circulation shall be sold at the closed auction. Only the persons, who are authorised by law to hold such property or may possess the property on the basis of other material rights according to the civil law of Ukraine, may participate in the closed auction.

Assumption of the bank's claims shall be regulated by the civil law of Ukraine.

The liquidator has the right to offer for an auction the securities and bank's claims, unless a different procedure of sale (assumption) of the bank's claims is set by the National Bank of Ukraine.

Article 96. Priority and Procedure of Meeting the Claims to the Bank, Compensation of Expenses and Effecting Payments

The funds that have been received from the liquidation procedure shall be channeled to meet the creditors' claims in the following sequence:

- 1) Obligations that have emerged due to impairment of citizens' health and life;
- 2) Claims on labour remuneration arising from the bank's liabilities to its employees before the liquidation procedure has been applied;
- 3) Claims of the Deposit Insurance Fund arising from the cases foreseen by the laws on insurance of individuals' deposits;
- 4) Claims of the Deposit Insurance Fund arising from the cases foreseen by the laws on insurance of individuals' deposits;
- 5) Individual depositors' claims with regard to the part that exceeds the amount paid by the Deposit Insurance Fund;
- 6) Claims of the National Bank of Ukraine which have appeared as a result of decrease in value of the collateral given to secure the refinancing credits;
- 5¹) Claims of the Ministry of Finance of Ukraine which have appeared due to repayable grants-in-aid except the contributions to the authorized capital;
- 6) Claims of individuals, if their payments or payments in their names have been blocked (except the individual entrepreneurs);
- 7) Other claims save the claims under subordinated debt;
- 8) Claims under the subordinated debt.

Expenses related to the liquidation procedure shall be paid out of turn during the bank liquidation within the limits of the budget of expenditures approved by the National Bank of Ukraine. Such expenses may, in particular, include:

- payment of state duty;
- expenses for the publication of the bank liquidation announcement;
- expenses for the publication of information concerning the bank's property sale procedure;
- expenses of the liquidator related to holding and maintenance of the bank's assets;
- expenses for assessment and sale of the property;
- audit expenses;
- labor remuneration of the liquidator (including that of the employees who have been involved by the liquidator to ensure the exercise of the liquidator's powers).
- redundancy payment to the dismissed bank employees;
- repayment of the credit, obtained for the purpose of redundancy payment.

Bank's property, which is subject of pledge, shall be included in the liquidation estate, though it shall be used only for out-of-sequence satisfaction of the pledgeholder's claims.

The pledgeholder shall have a right to sell the pledged property with consent of the liquidator under the procedure specified in the current legislation or in the pledge agreement and receive satisfaction of its claims in full or in a part.

In case of lack of the funds received from sale of the pledged property for satisfaction of creditor claims of the pledge holder acknowledged by the liquidator, the outstanding claims shall be subject to satisfaction in the order of priorities set by this Law.

Claims of every following priority shall be satisfied, when the funds from selling of the bank's property are available, and after the full satisfaction of the previous priority claims.

In case the funds received from sale of the bankrupt property are not sufficient for the full satisfaction of the claims of one priority, the claims shall be satisfied in proportion to the amount of claims of each creditor in the queue.

In case a creditor refuses to get satisfaction of the legally recognized claim, the liquidator shall not consider the amount of this creditor's monetary claims.

The claims, presented after the deadline for presentation of claims, shall not be considered and shall be recognized as settled.

The claims, unsatisfied because of lack of property, shall be considered as settled.

In case, when at the moment of the liquidation completion, some of the bank's assets remain unsold and their immediate selling would result in an essential loss of their value, the liquidator shall transfer these assets to administration of the legal entity, defined by the National Bank of Ukraine, which is obliged to take actions, directed at continuation of the creditors' claim satisfaction at the expense of the received assets.

The property left after satisfaction of the creditors' claims shall be transferred to the owners whereas the property of state banks - to the relevant privatization body for its further sale. The funds obtained from this property sale shall be channeled to the State Budget of Ukraine.

The property of cooperative banks remaining after the satisfaction of creditors' requirements shall be used under the legislation of Ukraine on the cooperation.

Article 97. Remuneration of Persons Involved in Liquidation

Payment for the work of liquidator and the persons involved in assisting the liquidator shall be done in accordance with the procedure, established by this Law for the provisional administrator and specialists hired by him/her, and shall not be lower than the payment for the work of the bank's employees for rendering similar services with taking into account the scope and complexity of the work.

Article 98. Completion of the Liquidation

The liquidation of the bank shall be considered complete and the bank shall be considered liquidated when the relevant entry has been made to the State Register of banks upon approval of the liquidator's report.

Part VI. CHALLENGING THE NATIONAL BANK OF UKRAINE DECISIONS

Article 99. Challenging the National Bank of Ukraine Decisions

A bank or other persons under the National Bank of Ukraine supervision have the right, according to the procedure specified by the law, to challenge in a court the decisions, actions or omissions (inactivity) of the National Bank of Ukraine or its employees as well as the decisions, actions or omissions of a provisional administrator or liquidator and the persons engaged by them.

The decisions of the National Bank of Ukraine, its employees, provisional administrator or liquidator may be challenged in the court exclusively for the purpose of ascertaining the legitimacy of such decisions.

Filing the complaint shall not suspend the execution of the challenged decisions or actions.

Employees of the National Bank of Ukraine, the provisional administrator, liquidator and the persons engaged by them shall not be personally responsible for any actions or omissions if they have acted bona fide and on a legal basis. The suit against such persons shall be deemed the suits against the National Bank of Ukraine.

The National Bank of Ukraine shall ensure the legal protection of its employees, provisional administrator, liquidator and persons engaged by them in case of suits against them related to ensuring by them the exercise of the National Bank of Ukraine duties.

Damage caused as a result of a professional error of an employee of the National Bank of Ukraine, provisional administrator, liquidator or the persons engaged by them shall be compensated under the effective legislation of Ukraine, the National Bank of Ukraine regulations, and financial responsibility insurance contracts.

Part VII. FINAL PROVISIONS

1. The present Law shall come into effect from the date of its publication.

The National Bank of Ukraine shall have the right to set transitional terms for fulfillment of the provisions provided for by this Law, if this allows banks to comply with the requirements of this Law, these terms shall not exceed, however, the general deadlines envisaged by the present Law requirements.

Banks established during the period prior the effectiveness date of this Law shall, within two years, bring their activities in compliance with this Law requirements.

Within a year from the effectiveness date of the present Law, the National Bank of Ukraine shall re-issue licenses to the banks in line with the classification of operations provided for by this Law.

Provisions of the present Law shall apply to the bank establishment procedures, the granting of a license to perform bank operations initiated and not completed prior to the entry into effect of this Law.

A bank liquidation procedure initiated before the effectiveness date of the present Law shall be completed pursuant to the rules set by this Law and the regulations of the National Bank of Ukraine adopted in accordance with this Law.

2. Before legislation is brought in compliance with this Law, laws and regulations shall be applied to the extent they do not contradict this Law.

3. Within six months from the publication of this Law, the Cabinet of Ministers of Ukraine and the National Bank of Ukraine shall:

- Prepare and submit to the Verkhovna Rada of Ukraine their proposals in respect of bringing laws of Ukraine in compliance with this Law;
- Bring their regulations in compliance with this Law;
- Ensure adoption of the regulations needed for the implementation of this Law;
- Ensure that the ministries and other central executive power bodies bring their regulations in compliance with this Law.

4. The following documents shall be declared null and void:

The Law of Ukraine "On the banks and banking"

Item 11, Part I of the Law of Ukraine "On Amending Some Legislative Acts of Ukraine in Connection with the Adoption of the Laws of Ukraine "On the State Civil Executive Service" and "On the Enforcement Procedures" of October 19, 2000, # 2056-III;
Article 62 of the Law of Ukraine "On the National Bank of Ukraine" (Vidomosti Verkhovnoi Rady Ukrainy, 1999, # 29, p. 238; 2000, # 42, p. 351);
Resolution of the Verkhovna Rada of Ukraine "On the Procedure to Enact the Law of Ukraine "On Banks and Banking" (Vidomosti Verkhovnoi Rady URSR, 1991, # 25, p. 282; Vidomosti Verkhovnoi Rady Ukrainy, 1994, # 52, p. 467).

President of Ukraine

L. Kuchma

Kyiv

December 7, 2000

No. 2121-III

Annex 8

LAW OF UKRAINE

On Fight against Terrorism

*with amendments introduced by the Laws of Ukraine
of May 31, 2005 N 2600-IV,
of December 5, 2005 N 3200-IV*

This Law with the purpose of defence of person, state and society against terrorism, disclosure and removal of reasons and terms which generate it, determines legal and organizational bases of fight against this dangerous phenomenon, powers and duties of agencies of executive power, associations of citizens and organizations, officials and separate citizens in this sphere, procedure of co-ordination of their activity, guarantees of legal and social defence of citizens because of their participation in a fight against terrorism.

This Law provisions can not be applied as the ground for prosecuting citizens, who, operating within the limits of law, stand up for their constitutional rights and freedoms.

Chapter I. GENERAL PROVISIONS

Article 1. Definition of The Main Terms

In this Law terms stated below are used in such meaning:

terrorism is a socially dangerous activity, that underlies in conscious, purposeful application of violence by the capture of hostages, arsons, murders, tortures, intimidation of population and power agencies or perpetration of other encroachment upon life or health of not guilty people or threats of accomplishing of criminal acts with the purpose of achieving criminal purposes;

terrorist act is the criminal act in the form of application of weapon, committing of explosion, arson or other actions, responsibility for which is foreseen by the Article 258 of the Criminal Code of Ukraine. In the case when terrorist activity is accompanied by the commitment of crimes foreseen by the Articles 112, 147, 258 - 260, 443, 444, and also other Articles of the Criminal Code of Ukraine, responsibility for their perpetration comes in accordance with the Criminal Code of Ukraine;

technological terrorism is the crimes perpetrated with a terrorist purpose using nuclear, chemical, bacteriological (biological) and other weapon of mass destruction or its components, other substances harmful for people's health, and facilities of electromagnetic action, computer systems and communication networks, including invasion, lay-up and destruction of potentially dangerous objects, which directly or indirectly pose a threat or jeopardize with extraordinary situation as a result of these actions and make a danger for a personnel, population and environment; create conditions for accidents and catastrophes of technogenic nature;

terrorist activity is activity which covers:

- planning, organization, preparation and realization of terrorist acts;
- instigation to committing of terrorist acts, violence over natural persons or organizations, elimination of material objects in terrorist aims;
- organization of illegal armed groups, criminal groups (criminal organizations), organized criminal groups for committing terrorist acts as well as participation in such acts;
- recruiting, armament, preparation and use of terrorists;
- propaganda and distribution of ideology of terrorism;
- financing and other promotion of terrorism;

terrorist financing - providing or collection of any funds in knowledge that they are to be used, in full or in part, for organization, preparation and commitment of the terrorist act, defined by the Criminal Code, by a individual terrorist or terrorist organization, involvement into a terrorist act, public calls to commit a terrorist act, establishment of the terrorist group or terrorist organization, aiding in commitment of a terrorist act as well as any other terrorist activity, and an attempt to commit such actions

international terrorism is carried out in a world or regional scale by terrorist organizations, by the groups, including at support of state agencies of the separate states, with the purpose of achieving certain goals socially dangerous violent acts, related to the kidnapping, capture, murder of not guilty people or threat to their life and health, destruction or threat of destruction of important national economic objects, systems of life-support, communications, by application or threat of application of nuclear, chemical, biological and other weapon of mass destruction;

terrorist is a person which takes part in terrorist activity;

terrorist group - group from two and more of persons which teamed up with the purpose of commitment terrorist acts;

terrorist organization is a solid association of three and more of persons created with the purpose of undertaking terrorist activity within which distributing of functions is carried out, the rules of conduct obligatory for these persons during preparation and perpetrating of terrorist acts are specified. Organization is acknowledged terrorist, if at least one of its structural subdivisions carries out terrorist activity with awareness of even one of leaders (leading bodies) of all organization;

fight against terrorism is activity in relation to prevention, exposure, suspension, minimization of consequences of terrorist activity;

counterterrorist operation is the complex of the co-ordinated special measures, directed to warning, prevention and suspension of the criminal acts perpetrated with a terrorist purpose, liberation of hostages, rendering terrorists harmless, minimization of consequences of terrorist act or other crime committed with a terrorist purpose;

district of conducting of counterterrorist operation - determined by leadership of counterterrorist operation area of locality or aquatorium, transport vehicles, buildings, apartments and territories or aquatoriums, which adjoin to them and which the noted operation is conducted within the limits of;

regime in the district of conducting counterterrorist operation is a special procedure, which can be imposed in the district of conducting counterterrorist operation for the time of its conducting and foresee giving to the subjects of fight against terrorism of certain, prescribed by this Law special authorities, necessary for liberation of hostages, providing of safety and health of citizens, who occurred in the district of conducting counterterrorist operation, normal functioning of public authorities, local self-government bodies, enterprises, arrangements, organizations;

hostage is a natural person captured and (or) kept with the purpose of making state agency, enterprises, arrangements or organizations or separate individuals carry out some action or hold back from realization of some action as condition of liberation of person captured and (or) kept.

Article 2. Legal Bases of Fight Against Terrorism

Legal base of the fight against terrorism is constituted by the Constitution of Ukraine, Criminal Code of Ukraine, this Law, other Laws of Ukraine, European Convention on the Suppression of Terrorism, 1977, International Convention for the Suppression of Terrorist Bombing, 1997, International Convention for the Suppression of the Financing of Terrorism, 1999, other international treaties of Ukraine, approval to the binding force of which has been given by the Parliament of Ukraine, Decrees and Directives of the President of Ukraine, Resolutions and Directives of the Cabinet of Ministers of Ukraine, and other regulations adopted for execution of Laws of Ukraine.

Article 3. Key Principles of Fight Against Terrorism

Fight against terrorism is based on the principles of:

legality and steady observance of rights and freedoms of man and citizen;

complex use to that end of legal, political, social, economic, informative, propagandist and other possibilities; priority of preventive measures;

inevitability of punishment for participating in terrorist activity;

priority of defense of life and rights of persons endangered as a result of terrorist activity;

combination of public and secret methods of fight against terrorism;

nondisclosure of information about technical methods and tactic for conducting anti-terrorism operations of, and also about the list of their participants;

integrity in guidance by forces and facilities involved for conducting of anti-terrorism operations;

collaboration in anti-terrorism field with the foreign states, their law enforcement authorities and special services, and also with international organizations fighting against terrorism.

Chapter II. ORGANIZATIONAL BASES OF FIGHT AGAINST TERRORISM

Article 4. Subjects of Fight Against Terrorism

Organization of fight against terrorism in Ukraine and its provision with necessary forces, facilities and resources is carried out by the Cabinet Ukraine within the limits of its jurisdiction.

The central agencies of executive power take part in a fight against terrorism within the limits of their jurisdiction, specified by the laws and regulations adopted on their base.

Subjects directly fighting against terrorism within the limits of their jurisdiction are:

Security of Ukraine which is a main agency in the national system of fight against terrorist activity;

Ministry of Interior of Ukraine;

Ministry of Defense of Ukraine;

Ministry of Emergency and Defense of Population from the Consequences of the Chernobyl catastrophe;

Especially authorized central agency of executive power on defense of state border;

State Department on Execution of Conviction of Ukraine;

State Security Department of Ukraine;

The following agencies, if necessary, are also involved to the measures related to prevention, detection and suppression of terrorist activities:

Foreign Intelligence Service of Ukraine;

Specially authorized central agency of executive power on financial monitoring issues

Ministry of Foreign Affairs of Ukraine;

Ministry of Healthcare of Ukraine;

Ministry of Fuel and Energy of Ukraine;

Ministry of Industry Policy of Ukraine;

Ministry of Transport of Ukraine;

Ministry of Finance of Ukraine;

Ministry of Ecology and Natural Resources of Ukraine;

Ministry of Agricultural Policy of Ukraine;

State Custom Service of Ukraine;

State Tax Administration of Ukraine.

In the case of reorganization or renaming of central agencies of executive power, listed in this article, their functions in the field of fight against terrorism can pass to their legal successors, if it is foreseen by the proper Decree of the President of Ukraine.

The leadership of anti-terrorism operation can also involve to anti-terrorism operations, provided the requirements of this Law are observed, other central and local agencies of executive power, local self-government agencies, enterprises, arrangements, organizations regardless of subordination and form of ownership, their officials, and also citizens after their consent.

Co-ordination of activity of subjects engaged in a fight against terrorism is carried out by the Counterterrorist center at Security Service of Ukraine.

Article 5. Authorities of the Subjects Directly Engaged into Fight Against Terrorism

Security Service of Ukraine carries out a fight against terrorism by conducting of operative and search measures, directed to prevention, detection and suppression of terrorist activity, including international measures; collects information about activity of foreign and international terrorist organizations; carries out within the limits of powers specified by the current legislation exceptionally with the purpose of obtaining of anticipating information in the case of threat of terrorist attack or during conducting of anti-terrorism operation operative and technical search measures in the telecommunication systems and channels which can be used by terrorists; provides through the Counterterrorist center at Security Service of Ukraine organization and conducting of counterterrorist measures, co-ordination of activity of subjects of fight against terrorism in accordance with the

competence specified by the legislation Ukraine; carries out pre-trial investigation in matters about crimes, related to terrorist activity; provides in co-operation with intelligence agencies of Ukraine safety from terrorist encroachments of institutions of Ukraine outside its territory, their employees and their family members.

The Ministry of Interior of Ukraine carries out a fight against terrorism by prevention, detection and suppression of crimes, committed with a terrorist purpose, investigation of which belongs, pursuant to the legislation of Ukraine, to jurisdiction of agencies of internal affairs; gives the Counterterrorist center at Security Service of Ukraine forces and facilities needed; provides their effective use during conducting of anti-terrorism operations.

The Ministry of Defence of Ukraine, military governing agencies, associations, unions, units of Armed Forces of Ukraine provide protection from terrorist encroachments of objects of Armed Forces of Ukraine, weapon of mass destruction, rocket and shooter weapon, live ammunitions, explosive and poisonous substances, located in military units or kept in certain places; organize preparation and application of forces and facilities of Infantry, Air Forces, Naval Forces of Armed Forces of Ukraine in the case of terrorist act commission in air space, in territorial waters of Ukraine; take part in conducting of anti-terrorism operations on military objects and in the case of terrorist threats to safety of the state from overseas.

Ministry of Emergency and Defense of Population from the Consequences of the Chernobyl catastrophe; inferior to it governing agencies of civil defence and specialized formations, the troops of civil defence take measures aimed at defence of population and territories in the case of threat and occurrence of the extraordinary situations related to the technological terrorist displays and other types of terrorist activity; take part in measures on minimization and liquidation of consequences of such situations during conducting of counterterrorist operations, and also carry out training and practical-educational measures with the purpose of preparing population to the actions in the terrorist act conditions.

Special authorized central agency of executive power on defense of state border, territorial agencies of specially authorized central agency of executive power on defense of state border, Boundary Troops of Ukraine fight against terrorism by prevention, detection and suppression of attempts of crossing by the terrorists of state boundary of Ukraine, illegal transfer through the state boundary of Ukraine of weapon, explosive, poisonous, radio-active substances and other objects, which can be used as facilities for committing terrorist acts; provide safety of marine navigation within the limits of territorial waters and exceptional (marine) economic area of Ukraine during conducting of counterterrorist operations; give to the counterterrorist center at Security Service of Ukraine necessary forces and facilities during conducting of counterterrorist operations on territory of check points through the state boundary of Ukraine, other objects located on a state boundary or in a borderland.

State Department of Conviction Execution takes the measures aimed at prevention and suppression of the crimes related to terrorist activity on the objects of state criminal-executive system of Ukraine.

State Security Department of Ukraine takes part in the operations aimed at suppression of terrorist acts targeted at officials and objects, security of which is ordered to the agencies subordinated to this Department.

Intelligence agencies of Ukraine collect, process, analyze, and give in accordance with established procedure of intelligence information about activity of foreign and international terrorist organizations outside Ukraine, and also take measures of direct counteraction to terrorist threats to life and health of citizens of Ukraine, public institutions and objects in the event of intelligence agencies of Ukraine engagement to the counterterrorism operations overseas.

Article 6. Authorities of Other Subjects Engaged Into the Fight Against Terrorism

Subjects engaged into the fight against terrorism within the limits of their competence take measures aimed at prevention, detection and suppression of terrorist acts and crimes of terrorist orientation; develop and realize preventive, regime, organizational, educational and other measures; ensure the terms of conducting counterterrorist operations on objects, which belong to the sphere of their management; give to the proper units during conducting of such operations financial, material and technical means, transport and communication facilities, medical equipment and medicines, other

facilities, and also information necessary for implementation of tasks regarding the fight against terrorism.

Article 7. Counterterrorist Center at Security Service of Ukraine

Counterterrorist center at Security Service of Ukraine is responsible for:

development of conceptual bases and programs on fight against terrorism, recommendations, directed to efficiency of measures on detection and elimination of reasons and terms, favouring committing of terrorist acts and other crimes perpetrated with a terrorist purpose;
collection in accordance with established procedure, generalization, analysis and estimation of information on state and tendencies of terrorism dissemination in Ukraine and abroad;
organization and conducting of counterterrorist operations and co-ordination of activity of subjects that fight against terrorism or are engaged in concrete counterterrorist operations;
organization and conducting of command and headquarters studies and trainings;
participation in preparation of projects of international agreements of Ukraine, preparation and presentation in accordance with established procedure of suggestions in relation to development of legislation of Ukraine in the field of fight against terrorism, financing of conducting by subjects which conduct the fight against terrorism, counterterrorist operations, realization of measures on prevention, exposure and counteraction to terrorist activity;
cooperation with the special services, law enforcement authorities of foreign states and international organizations on the questions of fight against terrorism.

A counterterrorist center at the Security Service of Ukraine consists of the interagency co-ordinating committee and the headquarters, and also of co-ordinating groups and their headquarters which are set up at the regional bodies of the Security Service of Ukraine.

The Interagency co-ordinating committee of counterterrorist center at the Security Service of Ukraine is formed of a leader of counterterrorist center and his deputies; deputies state secretaries of the Ministry of Interior of Ukraine, Ministries of Ukraine on Emergency and on Protection of Population from the Consequences of the Chernobyl Catastrophe; deputy chief of the General Headquarters of the Military Forces of Ukraine; deputy leaders of State Border Guard Service, State Security Department of Ukraine, State Department of Ukraine on Conviction Execution; deputy state secretary of the Ministry of Interior of Ukraine – a chief of the Main Administration of the Ministry of Interior of Ukraine in the city of Kyiv; a commander of the Internal troops of the Ministry of Interior of Ukraine; a chief of Division of the Security Service of Ukraine in the city of Kyiv, vice-chairman of Kyiv the city state administration; deputies to leaders of other central agencies of executive power.

The provisions about a counterterrorist center at the Security Service of Ukraine, the personnel composition of the Interagency coordinating committee is approved by the President of Ukraine through submission to the Cabinet of Ministers of Ukraine. A leader of counterterrorist center at the Security Service of Ukraine is appointed by the President of Ukraine.

Current work for the implementation of the tasks, which a counterterrorist center at the Security Service of Ukraine has been charged with, is organized by its headquarters.

Leaders of regional agencies of the Security Service of Ukraine, the Main Administration of the Ministry of Interior of Ukraine in the Autonomous Republic of Crimea, main administrations (divisions) of the Ministry of Interior of Ukraine in the regions, the cities of Kyiv and Sevastopol, relevant agencies on the issues of extraordinary situations and civil protection of population of the Autonomous Republic of Crimea, the regional ones, state administrations of the city of Kyiv and the city of Sevastopol, in the regions, where subunits of the Border Guard troops of Ukraine are deployed, State Security Department and their commanders, leaders, as well as the representatives of other local bodies of executive power, enterprises, establishments, organizations are within the composition of the coordinating groups within the regional bodies of the Security Service of Ukraine. Coordinating groups within the regional bodies of the Security Service of Ukraine are headed accordingly by a chief of the Main Division of the Security Service of Ukraine in the Autonomous Republic of Crimea, a chief of division of the Security Service of Ukraine in a region/oblast', in the cities of Kyiv and Sevastopol, respectively.

The composition of coordinating groups at the regional bodies of the Security Service of Ukraine is approved by the Council of Ministers of the Autonomous Republic of Crimea, by a head of the

regional state administration, a chairman of an executive branch of Kyiv or Sevastopol city council, respectively.

The organizational provision of the work of coordinating groups is carried out by regional bodies of the Security Service of Ukraine.

A counterterrorist center at the Security Service of Ukraine is maintained at the expense of resource envisaged by a separate budget line within the State budget of Ukraine.

Article 8. Cooperation of Subjects Which Are Directly Engaged in The Fight Against Terrorism

Subjects, who pursuant to this Law, are directly engaged in the fight against terrorism are obliged:

1) to cooperate with the purpose of termination of criminal activity of persons, connected with terrorism, including international terrorism, financing, supporting or accomplishing terrorist acts and crimes which have been accomplished with a terrorist purpose;

2) to carry out an exchange by information concerning:

seizure or a threat of seizure of weapon, explosives, other means of mass destruction by terrorist groups (terrorist organizations);

crossing of the state border of Ukraine by its citizens, foreigners and persons without citizenship with the purpose of conducting a terrorist act;

travel documents found with passengers, which give the right to travel by transport means of intercity and international connections, with the signs of counterfeit;

use or threats to use by terrorists, terrorist groups or terrorist organizations, communication means and communication technologies;

3) to be instrumental in providing effective border control, control over issuing documents, certifying a person, and travel documents, with the purpose of prevention to their falsification, imitation or illegal use;

4) to prevent actions or movement of terrorists, terrorist groups or terrorist organizations, and also persons which are suspected in accomplishing terrorist acts or their involvement with international terrorist groups or organizations;

5) to counteract to the attempts of foreigners, about whom there is data about their involvement to the international terrorist groups or organizations, to make transit travel through the territory of Ukraine.

Article 9. Assistance to The Bodies Which Carry Out The Fight Against Terrorism

The state bodies of Ukraine, bodies of the local self-governing, association of citizens, organizations, their compliance officers are under an obligation to be instrumental for the bodies which carry out the fight against terrorism, to report about data, which has become known to them, relevant to terrorist activity or any other circumstances, information which can be instrumental in prevention, exposure and stopping of terrorist activity, as well as the minimization of its consequences.

Section III. CONDUCTING OF COUNTERTERRORIST OPERATION

Article 10. Terms of conducting of counterterrorist operation

Counterterrorist operation is conducted only at presence of a real threat to life and safety of citizens, to interests of a society or a state in case when the removal of this threat is not possible using other methods.

Article 11. Decision About Conducting A Counterterrorist Operation

Decision about conducting a counterterrorist operation is taken depending on a degree of public danger of a terrorist act. The decision is taken by a leader of counterterrorist center at the Security Service of Ukraine upon a written approval of the Chairman of the Security Service of Ukraine or a leader of coordinating group of a relevant regional body of the Security Service of Ukraine upon a written approval of a leader of counterterrorist center at the Security Service of Ukraine, agreed upon with the Chairman of the Security Service of Ukraine. The President of Ukraine is immediately informed about the decision to conduct an antiterrorist operation.

A counterterrorist center at the Security Service of Ukraine is conducting an antiterrorist in case, when:

Terrorist act threatens by death of many people or by other serious consequences or if it is accomplished simultaneously on a territory of several regions, districts or cities;

situation related to accomplishing or a threat of a terrorist act has not been detected in relation to reasons and circumstances of its origin and its subsequent development;

terrorist act effect the international interests of Ukraine and its relationships with foreign states;

reaction as to the accomplishment of actions with characteristics of a terrorist act is within the competence of different law enforcement bodies and other authorities of executive power;

it is clear that it is impossible to distraction or to stop a terrorist act by the forces of law enforcement and local authorities of executive power of a separate region.

In other cases, a counterterrorist operation is conducted in accordance with a leader of a counterterrorist center at the Security Service of Ukraine independently by a coordinating group of relevant regional body of the Security Service of Ukraine or a body of executive power in accordance with their jurisdiction.

Article 12. Control Over Counterterrorist Operation

For the direct control over a separate counterterrorist operation and operation of the forces and facilities which are used in the implementation of counterterrorist measures, the operative headquarters, headed by a leader of counterterrorist center at the Security Service of Ukraine (coordinating group of relevant regional body of the Security Service of Ukraine) or by a person who takes over him (substitutes him)

The order of activity of operative headquarters on supervising counterterrorist operation is determined on the basis of the Statute about it, which is approved by the Cabinet of Ministers of Ukraine.

A leader of operative headquarters determines boundaries of a district of a conduct of counterterrorist operation, takes decision about the use of forces and facilities, which are engaged in its conducting, and in case of necessity, upon availability if the grounds envisaged by the law, motions the propositions for the approval of the national security council and defence of Ukraine in relation to imposing the state of emergency in Ukraine or in its separate areas.

Interference into the operative control of counterterrorist operation by anybody regardless of the position is not allowed.

The legal requirements of participants of counterterrorist operation are obligatory for the citizens and the public servants.

Article 13. Forces and Facilities, Which Are Used To Execute Counterterrorist Operation

During conducting of counterterrorist operation forces and facilities (personnel, specialists, weapon, special means of transport and vehicles, communication means, other material and technical facilities) of subjects of fight against terrorism are used, and also enterprises, establishments, organizations which are engaged in participation in counterterrorist operation, in an order, certain pursuant to the Statute marked in part second of the article 12 of this Law. Coverage of charges and reimbursement of losses, which arose up in connection with conducting of counterterrorist operation, are carried out pursuant to the legislation.

Employees of law enforcement authorities, servicemen and other persons engaged in counterterrorist operation, at a time of its conduct are under subordination to a leader of operative headquarters.

Article 14. Regime In An Area of Counterterrorist Operation

Within an area of a conduct of counterterrorist operation, at a time of its conducting, special order can be established, in particular, patrol protective service is introduced and law enforcement bodies are in line.

Staying in an area of a conduct of counterterrorist operation of the persons who are not involved in its conducting is allowed upon permission of a leader of operative headquarters.

In accordance with the management of enterprises, establishments and organizations, which are located in a district of conducting counterterrorist operation, their work during its conducting can be partially or fully stopped. Appropriate experts of these enterprises, establishments and organizations during the time of conducting of counterterrorist operation can be engaged in implementation of separate commissions, by an established order and upon their consent.

Article 15. Rights of Persons In An Area of Counterterrorist Operation

In an area of a conduct of counterterrorist operation, the public servants engaged in operation have a right to:

- 1) use weapon and special means in accordance with the legislation of Ukraine;
- 2) detain and deliver persons to the authorities of internal affairs, those (persons) who inflicted or inflict offence or apply other actions, which create obstacles for implementation of legal requirements of the persons involved in counterterrorist operation, or the actions connected with the unauthorized attempt of penetration into the district of conducting of counterterrorist operation and impeding its conducting;
- 3) check up documents of citizens and officials, the documents which certify a person, and in case of absence of documents - to detain them in order to identify a person;
- 4) carry out personal examination of citizens in an area of conducting of counterterrorist operation, inspecting things, that are with them, means of transport and things which are transported;
- 5) temporally limit or forbid road traffic, vehicles driving and pedestrians moving in streets and roads, not allow means of transport, including vehicles of diplomatic missions and consulate establishments, as well as an access of citizens to separate local areas and objects, or take citizens out of such separate areas and objects, as well as drive transport vehicles out of those places;
- 6) enter (penetrate) into apartments or other premises, to land plots, which belong to citizens, during the time of cease of a terrorist act and when pursuing persons suspected in accomplishing of such act, onto territory and into enterprise, establishments and organizations premises, check up vehicles, if the delay can create a real threat to life or health of people;
- 7) use communication means and means of transport with an official purpose, including special ones, belonging to citizens (upon their consent), enterprises, establishments and organizations, except for the transport vehicles of diplomatic, consular and other representative offices of foreign states and international organizations, for prevention to a terrorist act, pursuit and detention of persons, which are suspected in accomplishing of a terrorist act, or for delivery of persons, who need urgent medical assistance, to medical establishments, as well as reaching a place of crime.

In an area of conducting counterterrorist operation, contacts with representatives of mass media is carried out by a leader of operative headquarters or persons named by him. The actions envisaged by this article are carried out with the observance of current legislation and halted immediately after completion of counterterrorist operation.

Article 16. Terms of Conduct Of Negotiations With Terrorists

During the process of conducting counterterrorist operation aiming of saving life and health of people, material values, persuading terrorists to give up unlawful actions, applying to them restricting influence, finding out possibility to cease a terrorist act, it is allowed to conduct negotiations with terrorists.

Conducting negotiations is vested in the persons, specially authorised by a leader of operative headquarters.

In case, when it is impossible to achieve a target of negotiations with terrorists because of their disagreement to terminate a terrorist act, and because a real threat to life and health of people does exist, a leader of counterterrorist operation has a right to take decision about the liquidation of a terrorist (terrorists).

In case of a clear threat of accomplishing in relation to an object or a person of a terrorist act and impossibility of removing this threat by other legal methods, a terrorist (terrorists) can (can) be, upon instructions from a leader of operative headquarters, liquidated without warning.

During the time of conducting negotiations, the issue about transferring to terrorists any persons, objects and substances which directly can be used for accomplishing acts of technological terrorism can not be taken as a condition of ceasing of a terrorist act.

Article 17. Public Awareness About A Terrorist Act

To inform public about accomplishment of a terrorist act is carried out by a leader of operative headquarters or by a person, authorized by him to have contacts with public.

Dissemination of the following information through mass media or through other methods of information is prohibited:

which exposes special technical means and tactic of conducting counterterrorist operation;

which can hamper conducting counterterrorist operation and (or) create a threat to life and health of hostages and other people which are in the district of conducting of the noted operation or beyond its boundaries;

which aims at propaganda or at justification of terrorism, contains utterance of persons who offer resistance or call to resistance to conduct of counterterrorist operation;

which contains data about objects and matters which can be directly used for accomplishing of acts of technological terrorism;

which reveals data about personnel composition of employees of special subunits and of members of operative staff, which take part in conducting of counterterrorist operation, and also about persons who facilitate conducting of the noted operation (without their consent).

Article 18. Completion of Counterterrorist Operation

Counterterrorist operation is considered completed, if a terrorist act is halted and a threat is liquidated as to life and health of hostages and other people who were in the district of its conducting.

Decision about ceasing counterterrorist operation is taken by a leader of operative headquarters on management of this operation.

During the time of conducting counterterrorist operation a leader of operative headquarters together with relevant authorities of executive power and bodies of local self-governing organizes providing aid to victims, determines actions on the removal and minimization of consequences of terrorist act, organizes their implementation.

Section IV. COMPENSATION FOR DAMAGE CAUSED BY TERRORIST ACT. SOCIAL REHABILITATION OF PERSONS WHO WERE AFFECTED

Article 19. Compensation For Damage Caused By Terrorist Act

Compensation for damage caused to the citizens by terrorist act is carried out at the expense of the State budget of Ukraine in accordance with a law and with a subsequent recovery of amount of this compensation from persons who had inflicted damage. This is done in an order set by a law.

Compensation of harm, caused to an organization, enterprise or establishment by a terrorist act, is carried out in an order established by a law.

Article 20. Social Rehabilitation of Persons Who Suffered From Terrorist Act

The social rehabilitation of persons who suffered from a terrorist act is carried out with the purpose of bringing them back to normal life. The noted persons are provided, in case of necessity, with psychological, medical, professional rehabilitation, legal aid and apartment to live in as well their employment is taken care of.

Social rehabilitation of persons, who suffered from a terrorist act, as well as persons listed in the article 21 of this Law, is carried out at the expense of the State budget of Ukraine.

The procedure of conducting social rehabilitation of persons who suffered from a terrorist act is determined by the Cabinet of Ministers of Ukraine.

Section V. LEGAL AND SOCIAL PROTECTION OF PERSONS WHO TAKE PART IN FIGHT AGAINST TERRORISM

Article 21. Persons Who Are Subject To Legal And Social Protection

Persons taking part in the fight against terrorism are under protection of the state. The following persons are subject to legal and social protection:

- 1) military men, employees and office workers of central and local executive bodies, who take (took) direct part in counterterrorist operations;
- 2) persons, who on a permanent or temporary basis assist agencies, which carry out fight against terrorism, in preventing, exposing, ceasing terrorist activity and minimizing its consequences;
- 3) members of families of the persons listed in points 1 and 2 of this part, if a necessity in providing protection to them has been caused by participation of the listed persons in the fight against terrorism. Social protection of persons involved in the fight against terrorism is carried out in an order which is determined by a law.

If a person who took part in the fight against terrorism died during the time of conducting counterterrorist operation, his family members and persons, who were on his maintenance, compensation lump sum in the amount of ten minimum subsistence level living wages is paid at the expense of the State budget of Ukraine, expenses for burial of a person are recovered, pension in connection with the loss of bread-winner is assigned, as well as privileges which had been shared by the dead, as to receiving an apartment, paying for utilities, etc..

In case when a person which took part in the fight against terrorism became an invalid as a result of an injury inflicted at the time of conducting counterterrorist operation, this person at the expense of the State budget of Ukraine is paid compensation lump sum in the amount of ten minimum subsistence living wages, and pension is assigned in accordance with the legislation of Ukraine.

In case when a person which took part in the fight against terrorism during the time of counterterrorist operation was wounded which did not result in disability, this person is paid compensation lump sum of five minimum subsistence living wages.

Article 22. Discharge of Responsibility For Causing Damage

If during conducting counterterrorist operation, damage to life, health and property of terrorists is caused, military men and others which took part in counterterrorist operation are discharged responsibility for this damage in accordance with the laws of Ukraine.

Section VI. RESPONSIBILITY FOR PARTICIPATION IN TERRORIST ACTIVITY

Article 23. Responsibility of Persons Guilty For Terrorist Activity

Persons guilty for terrorist activity are called to criminal account in an order established by law. Disobedience or resistance to legal requirements of military men, officials which take part in conducting counterterrorist operation, incorrect interference into their legal activity result in responsibility envisaged by legislation.

Article 24. Responsibility of Organization For Terrorist Activity

Organization responsible for accomplishing terrorist act and which is acknowledged a terrorist one by court decision is subject to liquidation, and its property proper is being confiscated.

In case of acknowledging, by court of Ukraine, including, in accordance with its international legal obligations, the activity of the organization (its affiliations, branches, representative offices) registered outside Ukraine as a terrorist one, the activity of this organization on territory of Ukraine is

prohibited, its Ukrainian branch (affiliation, representative office) on the basis of court decision will be liquidated, and its property and property of the noted organization, which is on the territory of Ukraine, is confiscated.

An application about calling organization to responsibility for terrorist activity is submitted to court by the General Public Prosecutor of Ukraine, by the public prosecutors of the Autonomous Republic of Crimea, of regions, of the cities of Kiev and Sevastopol, respectively, in an order set by law.

Article 25. Responsibility For Assistance To Terrorist Activity

Leaders and officials of enterprises, establishments and organizations, and also citizens which were instrumental in terrorist activity, in particular:

- 1) financed terrorists, terrorist groups (terrorist organizations);
- 2) provided with or collected funds directly or indirectly with intention to use them for accomplishing terrorist act or crimes of terrorist orientation;
- 3) conducted operations with funds and other financial assets of:
 - physical entities who accomplished or tried to accomplish terrorist acts or crimes of terrorist orientation or took part in their accomplishing or assisted in accomplishing;
 - legal entities, which property directly or indirectly is owned by or is under control of terrorists or persons which assist terrorism;
 - physical and legal entities, which act in the name of or upon instructions of terrorists or persons, which assist terrorism, including funds received or acquired using property objects, that directly or indirectly are owned by or are under control of persons, which assist terrorism, or legal and physical entities related to them;
- 4) provided financing, other financial assets or economic resources, relevant services directly or indirectly for the use in the interests of physical persons which accomplish terrorist acts or assist in, or take part in their accomplishing, either in the interests of legal entities, which property directly or indirectly is owned by or is under control of terrorists or persons, which assist terrorism, as well as legal and physical entities, operating in the name of or upon instructions of the noted persons;
- 5) provided assistance to the persons which took part in terrorist acts;
- 6) recruited physical persons for involvement into terrorist activity, assisted in establishing channels of supply of weapon to terrorists and taking terrorists across the state boundary of Ukraine;
- 7) gave hiding to persons, who financed, planned, supported or accomplished terrorist acts or crimes of terrorist orientation;
- 8) used the territory of Ukraine with the purpose of preparing or accomplishing terrorist acts or crimes of terrorist orientation against other states or foreigners, - bear responsibility in compliance with law.

Section VII. INTERNATIONAL COOPERATION OF UKRAINE IN THE SPHERE OF FIGHT AGAINST TERRORISM

Article 26. Bases of International Cooperation in The Sphere Of Fight Against Terrorism

Ukraine in accordance with international treaties concluded by it co-operates in the sphere of fight against terrorism with foreign states, their law enforcement authorities and special services, as well as with international organizations which conduct the fight against international terrorism.

In pursuance with interests of ensuring safety of a human being, a society and a state, Ukraine prosecutes on its territory the persons connected with terrorist activity, including cases, when terrorist acts or crimes have been planned or have been accomplished beyond the boundaries of Ukraine, but have inflict harm to Ukraine, and in other cases envisaged by international agreements of Ukraine, which had been approved to be compulsory by Verkhovna Rada of Ukraine.

Article 27. Submission of Information

The Information to foreign state on the issues related to the fight against international terrorism, is provided by Ukraine on the grounds of inquiry, keeping up with the requirements of the Ukrainian legislation and its international and legal obligations. Such information can be provided without a previous inquiry from a foreign state, if it brings no harm to conduct pre-court investigations or judicial trial of a case and if it can help the competent organs of a foreign state to counteract a terrorist act.

Article 28. Participation in Joint Actions with Foreign States on the Fight against Terrorism

Ukraine in accordance with international agreements, a consent on compulsory character of which is given by the Supreme Council of Ukraine, can take part in joint counterterrorist actions through assistance to foreign state or an interagency association in re-deployment of troops (forces), of special counterterrorist formations, transportation of weapon or by providing forces and facilities under the conditions of observing requirements of the laws of Ukraine "On the order of direction of subunits of Military Forces of Ukraine to other states" and "On the order of admittance and conditions of stay of subunits of military forces of other states within the territory of Ukraine".

Article 29. Extradition of persons which took part in terrorist activity

Participation of foreigners or persons without citizenship, who are not permanent residents in Ukraine, in terrorist activity can be grounds for their international extradition in order to call them for criminal account.

Extradition of persons who have been mentioned in the first part of this article, with the purpose of calling them to criminal account and of applying the compulsory documents of a foreign state, is carried out pursuant to the legislation and the obligations taken by Ukraine in connection with the ratification of European convention about the extradition of the offenders of the year of 1957, the European convention about the fight against terrorism of the year of 1977 and other international agreements, a consent on compulsory character of which is given by the Supreme Council of Ukraine, and also on the bases of reciprocity.

Section VIII. CONTROL AND SUPERVISION IN REGARD WITH OVSERVATION OF LAW OF CARRYING OUT FIGHT AGAINST TERRORISM

Article 30. Control Over Carrying Out Fight Against Terrorism

The control over the observance of legislation while conducting of the fight against terrorism is carried out by the Supreme Council of Ukraine in compliance with the order established by the Constitution of Ukraine.

The control over activity of subjects of fight against terrorism is carried out by the President of Ukraine and the Cabinet of Ministers of Ukraine in compliance with the order established by the Constitution and the laws of Ukraine.

Article 31. Supervision Over Observation of Law Concerning Counterterrorist Measures

Supervision over observation of the requirements of the legislation by bodies participating in counterterrorist measures, is carried out by the General Prosecutor of Ukraine and by public prosecutors authorized by him in compliance with the order established by the laws of Ukraine.

Section IX. PRE-FINAL CONCLUSIONS

1. This Law goes into effect as of the day of its official publication.
2. The Cabinet of Ministers of Ukraine in three months term from the day this Law enters the motion shall:
approve the normative-legal documents envisaged within this Law;
bring normative-legal documents into conformity with this Law;

provide the revision and the cancellation by ministries and other central agencies of executive power of their normative-legal documents contradicting this Law.

President Of Ukraine
L. KUCHMA

Kyiv
as of March, 20, 2003
N 638-IV

Annex 9

LAW OF UKRAINE On Liability of Legal Persons for Corruption Offences

*with amendments and supplements, introduced by the Laws of Ukraine
of December 23, 2009 N 1787-VI,*

...

of March 10, 2010 N 1962-VI

*(From September 21, 2010 this Law will be amended under the Law of Ukraine as of May 18, 2010
N 2258-VI)*

Article 1. Sphere of law

1. Under UN Convention against Corruption, Criminal Law Convention on Corruption and the Law of Ukraine “On the Grounds of Prevention and Counteraction to the Corruption” this Law sets liability of legal persons for committing by their authorized persons corruption offences and provides procedure of bringing them to liability.

2. Purview of the Law does not extend its effect on legal persons of public law, which are fully maintained at the expense of state or local budgets, as well as on international organizations.

Article 2. Liability of Legal Persons for Corruption Offences

1. Legal person shall bear liability, prescribed by this Law, for committing for and on its behalf by the head of this legal person, its founder, participant or other authorized person independently or in complicity with of any crime, specified in the Article 209, parts 1 or 2 of the Article 235⁴, 235⁵, Article 258⁵, 364, 365, 368, 369 and 376 of the Criminal Code of Ukraine.

Article 3. Types of Penalties

1. The following penalties may be imposed to legal persons by the court:

- 1) fines;
- 2) prohibition to be engaged in certain activity;
- 3) confiscation of property;
- 4) liquidation of legal person.

2. Penalties, specified in paragraph 2 and 4 of the part one of this article, may be applied only as main penalty, and those, specified by paragraph 1 and 3 of the part one of this article, may be applied as main and supplementary penalties.

3. Penalties shall not be applied to legal persons if more than one year passed from the moment of accrual of grounds, prescribed by the Article 10 of the Law.

Article 4. Fine

1. The court may impose fine in the amount from one thousand to fifteen thousands of tax-free minimum incomes of citizen.

2. Depending on the degree of gravity of the crime committed by official, founder, participant or other authorized person of legal person, the court imposes fine in the following amounts:

for crimes of insufficient gravity - from one to two thousands of tax-free minimum incomes of citizen;

for crimes of average gravity – from two to five thousands of tax-free minimum incomes of citizen;

for grave crimes – from five to ten thousands of tax-free minimum incomes of citizen;

for especially grave crimes – from ten thousands to fifteen thousands of tax-free minimum incomes of citizen.

Article 5. Prohibition to Be Engaged in Certain Activity

1. Court may prohibit legal person to be engaged in any kind of activities, defined in its statutory documents, for the term from tree month to three years.
In case of simultaneous prohibition to legal person to be engaged in several types of activities, specific term of prohibition for each activity is defined by the court separately.

Article 6. Confiscation of Property

1. Confiscation of property is a compulsory and nonrefundable seizure for the benefit of state of property, incomes gained by the legal person in result of commitment of crimes by persons, mentioned in the Article 2 of this Law.
2. In case of impossibility to seizure property, incomes, mentioned in the part one of this Article, court recovers from legal person amount, which is equal to their cost.

Article 7. Liquidation of a Legal Person

1. Liquidation of legal person may be applied by the court only in case of commitment by the persons, mentioned in the Article 2 of this Law, of grave and especially grave crime.
2. Liquidation of legal person is performed according to the procedure, prescribed by the Law of Ukraine “On State Registration of Legal Persons and Natural Persons – Entrepreneurs.”
3. In case the legal person is engaged in activity in area of strategic meaning for state security, such penalty is not applied to it.

Article 8. Assignment of Penalties under Aggregate of Corruption Offences

1. Under aggregate of corruption offences the court, having applied penalties for each offence separately, defines final penalty by means of takeover of less severe penalty by the more severe one.

Article 9. Procedure of Legal Proceedings in Cases Concerning Legal Persons

1. Legal proceedings in cases concerning legal persons are performed according to this Law.
2. Legal proceedings are performed by the prosecutor, who submitted criminal case to the court or performed supervision over legitimacy of refuse to initiate criminal case or closure of the case concerning persons, mentioned in the Article 2 of this Law.
3. Legal proceedings in case begin from the moment when prosecutor draws up relevant protocol.
4. Within five business days and not later then six month after accrual of grounds, prescribed by the Article 10 of this Law, the prosecutor shall draw up the protocol concerning legal person and send it to the court and to the legal person.
5. The protocol shall contain:
date and place of its drawing up;
surname, name, patronymic name, position of the person, who drawn it up;
name of the legal person concerning which the protocol is drawn up, its legal address, settlement account, identification number, date and place of state registration;
grounds for initiation of legal proceedings;
date, place and circumstances of committing corruption offence;
sum of income and/or value of property, received by the legal person in result of commitment of crime;
nature and amount of inflicted damage, if any;
measures concerning provision of possible confiscation, which shall be taken as regards to legal person.
Materials, necessary to consider the case impartially, are attached to the protocol.
6. The protocol is signed by the person, who drawn it up.

Article 10. Reasons to Initiate Legal Proceedings concerning Legal Persons

1. Legal proceedings concerning legal persons are initiated upon availability of court conviction that came into legal force and that determined guilt of the legal person in commitment of any crime, prescribed by the Criminal Code of Ukraine and mentioned in the Article 2 of this Law, or decision or resolution on termination of criminal case by reasons, prescribed by the paragraph 4, 8 of part one of the Article 6, Article 7, paragraph 1, 4 of part one of the Article 7¹ of the Criminal Procedure Code of Ukraine.
2. Legal proceedings concerning legal persons are initiated in case of refusal to initiate criminal case concerning persons, mentioned in the Article 2 of this Law on the grounds, prescribed by the paragraph 4, 8 of the part one of the Article 6 of the Criminal Procedure Code of Ukraine.

Article 11. Competence of Cases Concerning Legal Persons

1. Cases concerning legal persons are considered by the local general courts according to the place of criminal case consideration concerning persons, mentioned in the Article 2 of the Law.
2. If the criminal case was not initiated or was closed, case consideration is performed by the court in sphere of activity of which the legal person is registered or according to the location of the legal person.
3. Cases concerning legal persons are considered by collegiate court composed of judge and two people's assessors.
4. Judge, who participated in consideration of the criminal case concerning person, accused in crime, committed on behalf or in interests of legal person, has no right to consider the case concerning legal person.

Article 12. Persons Participating in Consideration of Case Concerning Legal Persons in the Court

1. Persons, participating in consideration of case concerning legal persons in the court, are the following:
representative of the legal person;
prosecutor.
2. Other persons may participate in case consideration in the court under prosecutor's, legal person's representative's claim and court's initiative, if it is necessary for objective case consideration, if the courts considers their participation as obligatory.

Article 13. Representative of Legal Person

1. Case concerning legal person is considered with participation of its representative. In absence of such representative, case may be considered only in cases if there is information on timely notification of representative concerning place and time of case consideration and no claim on postponement of case consideration was received from him.
In case consideration where it's foreseen penalty in form of liquidation of legal person, participation of its representative is obligatory.
2. Representative of the legal person has the right to:
get acquainted with case records and to make extractions;
get acquainted with records of the criminal case and to make extractions;
provide an explanations;
provide evidences and participate in their study;
participate in court sessions;
declare petitions and challenges;
use legal assistance;
speak before court in native language and in case if proceedings are carried not in native language, use services of translator;
appeal measures of proceedings provision;
appeal court decision in cases and in procedure, prescribed by the law.

Article 14. Prosecutor

1. Prosecutor has the right to:
participate in case consideration in the court;
declare petitions, challenges;
provide conclusions on issues raised during the case consideration;
check correctness of applied enforcement measures for offences;
appeal court decision in cases and in procedure, prescribed by the law;
perform other actions, prescribed by the law.

Article 15. Term of Case Consideration

1. Case consideration concerning legal person is performed by the court within fifteen days from the day of submission of protocol to the court.

Article 16. Resolution in Case Concerning Legal Person

1. After consideration of the case concerning legal person the court adopts a resolution on imposition of penalties or on close of case.

2. Adopting the resolution, the court takes decisions as regards to the following issues:

1) whether a legal person, that conducted one of the offences that became a ground to initiate a case against legal person, is an official, founder, participant or other authorized person of legal person;

2) whether the crime was committed by the head, founder, participant or other authorized person for and on behalf of legal person;

3) whether a legal person could receive or received income from commitment of the mentioned crime by the head, founder, participant or other authorized person;

4) what amount of income, if it has material nature, have received the legal person in relation to commitment of the mentioned crime by the natural person.

3. Resolution in case concerning legal person should contain:

name of court that adopted a resolution;

date of case consideration;

information on legal person concerning which the case is considered;

statement of circumstances, determined during case consideration;

statement of norm of this Law, which envisages liability of the legal person;

decision, taken in this case;

term and procedure of resolution appealing.

Resolution is signed by court staff that considered the case.

Resolution is announced at once after case consideration.

Copy of resolution, which envisages imposition of penalties, within three days is served or mailed to the legal person.

4. Resolution on close of the case is adopted if there are no circumstances, prescribed by the Article 10 of this Law, and in case of liquidation of legal person or expiry of terms to imposition of penalties, defined by part three of the Article 3 of this Law.

Article 17. Implementation of Court Resolution

1. If according to results of case consideration penalties in the form of confiscation may be applied to the legal person, the court, by its initiative, or by prosecutor's petition is obliged to take measures for possible confiscation of property of legal person by means of arrest of property.

2. Value of the arrested property can not exceed amount of proceeds and/or property value, obtained by the legal person in result of crime commitment.

Article 18. Appeal against Resolution in Case Concerning Legal Person

1. Resolution in case concerning legal person may be appealed by its participants or by prosecutor in appellation procedure according to requirements, prescribed by this Law.
2. Complaint of appeal may be submitted to the Court of Appeal within 15 days from the moment of receiving decision thought the court that adopted relevant resolution.
3. Submitting appeal against court resolution terminates its coming into force and its execution.

Article 19. Scope of case examination by the Court of Appeal

1. The Court of Appeal reviews resolution of court of first instance within complaint for appeal. The Court of Appeal is not limited by the arguments of the complaint for appeal, if during case consideration misuse of provisions of substantive law or provisions of procedure law were violated, which constitutes obligatory reason for cancellation of resolution.
2. The Court of Appeal may study new evidences that were not studied in the court of first instance, by solicitation of persons participating in case consideration or of own initiative.

Article 20. Terms and procedure of case consideration in the Court of Appeal

1. The complaint for appeal may be considered by the Court of Appeal in reasonable time, but not later than in month after its submission to the court.
2. Consideration of complaint for appeal is performed by the panel of judges of the Court of Appeal consisting of three judges.
3. After opening of the court session and decision making as regards to the petitions of persons, participating in case consideration, reporting judge provides within necessary extent a report on content of resolution, which is appealed, and content of complaint for appeal.
4. Failure of persons, participating in case consideration, notified properly about the time and place of consideration, to be present doesn't prevent from consideration of the case.
5. After case consideration, panel of judges enters decision room to adopt the resolution.

Article 21. Powers of the Court of Appeal Under Results of Complaint for Appeal Consideration

1. Under the results of complaint for appeal consideration, the court has the right to:
 - 1) leave the complaint for appeal without satisfaction and the resolution without changes;
 - 2) change the resolution;
 - 3) cancel resolution and adopt new resolution;
 - 4) cancel resolution and close legal proceedings.
2. The court leaves the complaint for appeal without satisfaction and resolution of the court of the first instance without changes if recognizes that the court of the first instance defined circumstances of the case correctly and issued resolution with observance of provisions of substantive and procedure law.
3. Grounds to change, cancel the resolution and to adopt new one are the following:
one-sidedness and incompleteness of case study in the court of first instance;
inconsistency between conclusions of the court and actual circumstances of the case;
violation or misuse of provisions of substantive law and procedural law.
4. The Court of Appeal cancels resolution closing proceedings in case when it's foreseen by the part four of the Article 16 of this Law.
5. In case the resolution have been canceled and proceedings were closed, new resolution was adopted or changes to resolution were made, the court of appeal mentions which articles of the law were violated and what this violations or groundlessness of resolution consist of .
6. If the resolution has been changed in the part concerning penalties to the extent, prescribed by the Article 4, 5 of this Law, it can't be reinforced.
7. Decision of the Court of appeal is submitted to the prosecutor and legal person in terms, defined by the Article 16 of this Law.
8. Decision of the Court of Appeal as regards to the case is final.

Article 22. Grounds for Legal Proceedings under Newly Revealed Circumstances

1. Resolution or court decision that came into legal force can be reviewed under newly revealed circumstances.
2. Grounds to review court decision under newly revealed circumstances are the following:
 - 1) establishment by the court decision, that came into legal force, of deliberately false witness testimony, deliberately false expert conclusions, translation that caused unlawful or ungrounded court decision concerning natural person that was a ground to bring legal person to liability;
 - 2) cancellation of court decision that became a ground to adopt the resolution or to take decision, which should be reviewed;
 - 3) determination by the court decision, which entered into legal force, of the guilt of judge in commitment of crime in the sphere of official activity, that caused adoption of unlawful or groundless decision.
3. Review of court decisions under newly revealed circumstances if new laws were adopted or laws that were in force during the case consideration were canceled, is not permitted, except for the cases when they cancel criminality of action, mitigate criminal liability or otherwise improve person's situation.
4. Application for review of resolution or decision under newly revealed circumstances may be submitted by prosecutor and representative of the legal person.

Article 23. Terms of Submitting Application for Review of Resolution or Decision under Newly Revealed Circumstances

1. Application for review of resolution or decision under newly revealed circumstances can be submitted within one month after the person, applying to the court, found out about these circumstances.

Article 24. Procedure of Submitting Application for Review of Court Decision under Newly Revealed Circumstances

1. Application for review of the court decision under the newly revealed circumstances is submitted to the Court of Appeal through the court that considered the case.
2. The court after receipt of application with case materials within five days shall submit it to the Court of Appeal.

Article 25. Form and Content of the Application

1. Application shall contain:
 - 1) name of court to which the application for review is submitted;
 - 2) name (denomination), postal address of the person, which submits the application as well as the number of communication mode, if available;
 - 3) resolution or decision on review of which under newly revealed circumstances an application is submitted;
 - 4) newly revealed circumstances, which are the grounds for request to review resolution or decision;
 - 5) grounds with reference to evidences, which confirm newly revealed circumstances and content of requirements of the person, which submits application to the court;
 - 6) list of documents and other materials attached.

Article 26. The Procedure of Case Consideration under Newly Revealed Circumstances

1. After application for review of the resolution under newly revealed circumstances was submitted to the Court of Appeal, the judge adopts decision to appoint case consideration under newly revealed circumstances.
2. Application for review of resolution or court (judge) decision under newly revealed circumstances is considered by the Court of Appeal within one month from the moment of its submission.

3. Preliminary consideration of the case in appeal procedure doesn't prevent its consideration under newly revealed circumstances.
4. Case consideration is performed by the panel of judges consisting of three judges.
5. Considered the application court may cancel the resolution or decision in case and adopt new resolution or decision or leave the application for review of court resolution under newly revealed circumstances without satisfaction.
6. Decision of the Court of Appeal under consequences of case consideration under newly revealed circumstances can not be claimed.

Article 27. Execution of Court Resolution (Decision)

1. Court resolutions (decisions) of court in case concerning legal person are executed after they come into legal force.
2. Resolution of the court of the first instance comes into legal force after expiration of the term of appeal, prescribed by this Law and if appeal was submitted, it comes into force after appeal consideration of the case, except for the cases, when resolution of the court of the first instance was canceled.
If the term of appellation is resumed, it's considered that the court resolution of the first instance didn't come into force.
3. Decree (resolution) of the court of appeal under the results of review comes into force from the moment of its announcement.
4. Resolution (decision) of the court in the case of bringing legal person to liability is applied to be carried out by the court that adopted such decision.

Article 28. Final Provisions

1. This Law comes into force from the day of its publication and is implemented from January 1, 2011.

President of Ukraine
V. YUSHCHENKO

Kyiv
June 11, 2009
N 1507-VI

Annex 10

Law of Ukraine

On Prohibition of Gambling in Ukraine

This Law introduces restrictions of gambling in Ukraine, coming from constitutional principle of priority of rights and freedoms of a man and citizen, protection of morality and health of the population, prohibition of using property to the damage of a man and society.

Article 1. Determination of terms

In this Law the terms stated below are used in the following meaning:

1) Gambling is activity on organization and conducting of games of chance in a casino, on playing automats, in the offices of book-makers and in an electronic (virtual) casino, that gambling organizers carry out with the purpose of receipt of income;

2) a game of chance is any game, the condition of participating in which is bringing of stake which enables to get winning (prize) by a player, and the result of which fully or partly depends on a chance. Gambling does not cover:

Organization and conducting lotteries;

organization and holding creative competitions, sporting competitions and others like that, regardless whether money or property winning is foreseen or not foreseen by their terms;

playing billiards, playing bowling pins (bowling) and other games conducted without the receipt of prize (winning) by a player;

a game on the playing automats of type "crane-machine (two coordinate automats) ", where a player gets as a winning (prize) exceptionally material things (toys, candies and others like that);

drawings on a free of charge basis with promoting (by popularization) separate product, service, trade mark, signs for goods and services, name or directions of activity of economic entities, commercial program with delivery of winnings in a money or property form;

drawings as competitions (games, quizzes), the terms of which foresee free of charge gaining by a person of status of its participant and receipt by a participant who showed the best personal knowledge and abilities, winnings in a money or property form for the personal victory;

drawings on a free of charge basis for entertaining, charity or cognitive aims.

3) gambling organizers are natural and legal persons - subjects of entrepreneurial activity, that undertake activity of organization and conducting of games of chance with the purpose of receipt of income;

4) gambling organization and conducting is the activity of organizers of games of chance, that is carried out with the purpose of creating conditions for realization of games of chance and delivery of winnings (prizes) to the participants of games of chance;

5) participants of gambling are natural persons with a complete civil capability, who take part in the games of chance.

Article 2. Prohibition of gambling in Ukraine

Gambling and participation in gambling is prohibited in Ukraine.

Article 3. Responsibility for violation of this Law

Economic entities which organize and conduct gambling in the territory of Ukraine are subject to financial penalties in the form of fine to the amount of eight thousand minimum wages with confiscation of playing equipment, and an income (profit) from conducting of such game of chance is subject to transfer to the State budget of Ukraine.

Application of penalties, referred to in part first of this article, is carried out under decision of court, taken under the lawsuit of state tax service agencies.

Article 4. Final provisions

1. This Law enters into force from the day of publication and operates until adoption of the special legislation which foresees a right for gambling in the specially created playing areas.

2. From the day of entry of this Law delivery of licenses for organization and conducting of gambling in Ukraine is halted, and licenses, given out to economic entities before the day of entry of this Law, are abolished.

3. To amend the following legislative acts of Ukraine:

1) in Article 181 of the Code on Administrative Offences:

In part 1 to exclude the words "and acceptance of stakes by private persons during sport and other competitions";

To exclude part 3;

2) in the Law of Ukraine on State Tax Service in Ukraine:

To supplement part 1 of the Article 10 with paragraph 11¹ of such content:

"11¹) to forward to the courts lawsuits on application of penalties related to prohibition of organization and conducting of gambling in the territory of Ukraine";

In the Article 11:

To supplement part 1 with paragraph 18 of such content:

"18) In the instances provided for by the law to address the courts with a claim (lawsuit) on application of penalties related to prohibition of organization and conducting of gambling in the territory of Ukraine";

in part 2 words and figures "16 i 17" to replace with "16 - 18".

4. The Cabinet of Ministers of Ukraine within three months from the day of this law entering into force:

to draft and submit for consideration of the Parliament of Ukraine law on gambling organization and conducting in the special gambling areas.

to give to the Parliament of Ukraine suggestions regarding amending the Laws of Ukraine coming from this Law;

to bring the normative legal acts in line with this Law;

to adopt normative legal acts, necessary for realization of this Law;

to provide a revision and abolition by ministries and other central agencies of executive power of their normatively legal acts which contradict this Law.

President of Ukraine

Viktor Yushchenko

Kyiv

May 15, 2009

N 1334-VI

Annex 11

CABINET OF MINISTERS OF UKRAINE

Resolution of April 26, 2003 No. 644

On approval of Order of registration of financial transactions by the reporting entities

In accordance with the articles 7 and 8 of Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime" the Cabinet of Ministers of Ukraine
DECREES:

1. To approve Order of registration of financial transactions by the reporting entities (it is added).
2. This on goes into effect simultaneously with Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime".

Prime Minister Of Ukraine

**V.
Yanukovich**

APPROVED
by on of Cabinet of Ministers of Ukraine
from April, 26, 2003 N 644

ORDER

Registration of Financial Transactions by the Reporting Entities

1. This Order determines the mechanism of registration by the reporting entities of financial transactions, which in accordance with Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime" (farther - Law) are subject to the financial monitoring, and presentation by these entities to the Department for financial monitoring information, about such financial transactions.
2. Action of this Order spreads on the reporting entities (except for banks, casinos, gambling institutions and pawn-shops) and their separate subdivisions, in particular on:
Insurance companies and other financial institutions;
Payment organizations, members of the payment systems, acquiring and clearing institutions;
Commodity, stock and other exchanges;
Professional participants of securities market;
Institutes of the joint investing;
Legal entities which conduct any lotteries;
Enterprises and organizations which carry out the management by investment funds or non-governmental pension funds;
Enterprises and associations of communication, other non-credit organizations which carry out the transfer of funds;
Other legal entities which in accordance with the legislation carry out financial transactions.
3. For the aims of this Order term the "register of financial transactions, which can be related to the legalization (laundering) of the proceeds" (farther - register) it is necessary to understand as a database, which provides storage of information about financial transactions, which are subject to the financial monitoring.
Other terms are used in the meaning resulted in Law.

Registration by the reporting entities of financial transactions, which are subject to the financial monitoring

4. Before realization of financial transaction or after its realization the employee of reporting entity, that provides realization of financial transaction or is accountable for conducting of the financial monitoring, finds out possibility of taking of it to such, that in accordance with Law is subject to the

financial monitoring, and in the case of exposure of such financial transaction in the same day conducts its registration.

5. Information about such transaction is brought in to the register, which is conducted in an electronic and/or paper form.

If a register is conducted in an electronic form, every day all new records or records, which alterations during a working day were made to, are unsealed. The unsealed pages verify by the signature of leader or worker accountable for conducting of the financial monitoring. To the fifth number of every month the unsealed pages for the previous month are formed in accordance with dates in brochures (brochures string together, verify by the signatures of director or worker accountable for conducting of the financial monitoring, and seal and are kept during 5 years). On the top page of brochure are marked amount of pages in a brochure, the first and last dates of bringing records.

The form of register becomes firmly established by State Department for financial monitoring.

6. In a register are represented:

information in relation to a person which carries out financial transaction, and in case foreseen by the legislation, persons, from the name either which financial transaction is carried out on the instructions of or which is beneficiary, set as a result of identification in accordance with the article 6 of Law;

information in relation to other persons - participants of financial transaction;

type of financial transaction;

sum, which financial transaction is carried out on;

currency, financial transaction is carried out in which;

grounds for realization of financial transaction;

information about the financial transactions related to taken into account (in the case of presence);

showings, after which financial transaction is subject to the financial monitoring;

additional information about the explained suspicion in relation to that financial transaction is carried out with the purpose of legalization (laundering) of the profits got a criminal way (in the case of presence);

date and time of realization or rejection of realization of financial transaction.

To every record in a register a sequence number is appropriated and time and date of its bringing, and also position, last name, name and patronymic of the worker, that brought in a record to the register is marked.

Presentation by the reporting entities information of financial transactions, which are subject to the obligatory financial monitoring to State Department for financial monitoring

7. The entity of the initial financial monitoring is under an obligation on own initiative to give to State Department for financial monitoring information about financial transaction, that in accordance with the article 11 of Law is subject to the obligatory financial monitoring, not later than during three working days from the moment of its registration.

8. The report about financial transaction must contain information, that in accordance with a point 6 of this Order are fixed in a register.

In the report the names, legal address, code of the entity of the initial financial monitoring according to the Unified State Register of enterprises and organizations of Ukraine, position, last name, name and patronymic the worker, that carries out the report, number, time and date of realization of report are marked.

If information is given first, the entity of the initial financial monitoring sends the card of registration of entity of the initial financial monitoring to State Department for financial monitoring that is used for its subsequent identification.

The form of report and card of registration of entity of the initial financial monitoring is set by State Department for financial monitoring

9. Upon request of State Department for financial monitoring entity of the initial financial monitoring gives the additional information, related to financial transactions, which became the object to the financial monitoring, not later than during three working days from the moment of receipt of request.

The form of request is set by State Department for financial monitoring.

10. Information is given to State Department for financial monitoring in an electronic form by communication channels, on magnetic or on the consent of State Department for financial monitoring on paper transmitter.

Information on a magnetic or paper transmitter is passed to State Department for financial monitoring by mail with the report about handing or special messenger with the observance of measures, which eliminate uncontrolled access to information or documents during their delivery.

11. Information, that is passed, is information with the limited access. Defence of information during its transmission to State Department for financial monitoring is provided in accordance with the legislation.

12. Requirements to presentation of information, reference books of codes, communication channels for the information transfer are determined by State Department for financial monitoring.

Annex 12

**THE CABINET OF MINISTERS OF UKRAINE
RESOLUTION
as of August 18, 2010 N 745
Kyiv**

**Adopting the Procedure of Composing of the List of Persons
Related to Terrorist Activities or with Regard to Whom International Sanctions are Applied**

According to Article 17 of the Law of Ukraine "On prevention and counteraction to legalization (laundering) of the proceeds from crime or terrorist financing" The Cabinet of Ministers of Ukraine **resolves:**

1. To adopt the Procedure of composing of the list of persons related to terrorist activities or with regard to whom international sanctions are applied that are enclosed.
2. The resolution of the Cabinet of Ministers of Ukraine of May 25, 2006 # 751 "On adopting the Procedure of composing of the list of persons related to terrorist activities" (Official Bulletin of Ukraine 2006, # 22, p. 1632) to determine as lost force .

**Prime Minister of Ukraine
AZAROV**

Mykola

Approved
by the Resolution of
the Cabinet of Minister
of Ukraine
as of August 18, 2010 N
745

**PROCEDURE
of Composing of the List of Persons Related to Terrorist Activities
or with Regard to Whom International Sanctions are Applied**

1. This procedure defines the mechanism of composing of the list of persons related to terrorist activities or with regard to whom international sanctions are applied (hereinafter - the list).
2. The reasons of the SCFM for including the legal or natural person to the list are the following:
 - 1) the court decision, which came into force on determination of the natural person guilty of committing crimes stipulated in Articles 258, 2581, 2582, 2583, 2584 and 2585 of the Criminal Code of Ukraine;
 - 2) the information composed by international organizations or their authorized bodies on organizations, legal and natural persons related to terrorist organizations or terrorists, as well as on the persons, with regard to whom international sanctions are applied;
 - 3) judgments or court decisions, the decisions of other competent authorities of foreign countries regarding organizations, legal and natural persons related to terrorist activities that are recognized by Ukraine according to international treaties of Ukraine.
3. The list is composed on the basis of information or documents specified in paragraph 2 of this Procedure, which should include the following:
 - 1) regarding citizens of Ukraine - full name, date of birth, serial number of passport or other document of identity, date and name of the authority that issued it, location and / or residence, identification number in accordance with the State register of natural persons - payers of taxes and other mandatory payments or serial number of passport, which in the established manner was marked on the right to make payments without identification, and regarding citizens of Ukraine registered as individual entrepreneurs - details of certificate of registration and name of the authority that issued it,

if available details of the bank, where the account was opened, and bank account number;

2) regarding legal entities or resident-organizations - full name, location, details of the certificate of state registration, name of authority that issued it, the identification code according to the Unified State Register of enterprises and organizations of Ukraine, if available details of the bank, where the account was opened, and bank account number;

3) regarding foreigners and stateless natural persons - name, surname and patronymic, if available, the citizenship or nationality, date of birth, passport or other document of identity, date and name of authority that issued it, location and/or permanent or temporary residence;

4) regarding legal entities or non-resident organizations - full name, location, details of the bank, where the account was opened, the bank account number.

4. Information or documents pursuant to paragraph 3 of this Procedure are submitted to SCFM by the Security Service of Ukraine under availability of grounds specified in subparagraph 1 paragraph 2 of this Procedure, and by the Ministry of Foreign Affairs - subparagraph 3 paragraph 2 of this Procedure.

Information or documents are submitted to the SCFM under the structure of details, specified in paragraph 3 of this Procedure, personally or by mail complying with the rules excluding unauthorized access to information or documents.

Information or documents, specified in paragraphs 2 and 3 of this Procedure are submitted to the SCFM no later than during five working days from the date of receipt of information, necessary to include legal or natural person to the list.

Information or documents specified in subparagraph 2 paragraph 2 of this Procedure, the SCFM receives from the official website of the UN.

5. The SCFM composed the list and amendments to it within three working days from the date of receipt of information or documents mentioned in paragraph 4 of the Procedure.

6. If legal or natural person is included to the list, the SCFM immediately analyzes available information on financial transactions of such person, which became the object of financial monitoring, as well as data of the unified state information system in the area of prevention and counteraction to legalization (laundering) of the proceeds from crime or financing of terrorism with a view to setting information about assets of legal or natural person, included to the list.

In case of revealing of assets of legal or natural person, included to the list, the SCFM immediately submits case referrals to the Security Service of Ukraine for taking, under availability of adequate grounds of measures for seizure activities (deposits) of such person.

7. The reason to exclude the person from the list by the SCFM is the following:

1) quashing or cancellation of criminal record of the natural person, convicted of committing crimes stipulated in Articles 258, 258¹, 258², 258³, 258⁴ and 258⁵ of the Criminal Code of Ukraine;

2) exclusion of the person from data that composed by international organizations or their authorized bodies on organizations, legal and natural persons related to terrorist organizations or terrorists, as well as on persons, with regard to whom international sanctions are applied;

3) quashing or cancellation of criminal record of the natural person convicted under the condemnation verdict or the court verdict, the decision of other competent authorities of foreign countries regarding organizations, legal and natural persons related to terrorist activities which are recognized by Ukraine according to international treaties of Ukraine;

4) availability of documentary approved data on the death of the natural person included to the list, and for organizations and legal persons – on their liquidation.

8. Under availability of information specified in subparagraphs 1, 3, 4, paragraph 7 of this Procedure, the Security Service of Ukraine and the Ministry of Foreign Affairs provide relevant information to the SCFM.

9. Under requests of the person included into the lists or under his/her official representative, the SCFM considers the possibility of excluding that person from the list.

Taking decision under requests is performed by SCFM within ten working days from receipt request, if the information stated in request does not require additional review.

After receiving the request, the SCFM no later than the next working day from the date of receipt submits for consideration a copy of such request to the Security Service of Ukraine, the Ministry of Foreign Affairs or other state body, which may have information about the person included to the list.

The Security Service of Ukraine, the Ministry of Foreign Affairs or other state authority within five working days submits to the SCFM the relevant original documents or their certified copies, which confirm or refute the information contained in the request regarding availability of grounds to exclude the person from the list. Under the necessity to conduct additional inspections, specified information is provided in the terms agreed with the SCFM.

10. When receiving, including from the official website of the UN, the information regarding persons, specified in paragraph 7, the SCFM takes the decision to exclude the person from the list and removes from it the relevant records.

11. On decision taken under the request, the SCFM informs the person, who applied with the request with an official letter no later than three working days from the date of adoption.

Annex 13

**CABINET OF MINISTERS OF UKRAINE
RESOLUTION
as of August 25, 2010 p. №746**

On approval of Procedure of Submitting Information Concerning Client Identification by State Authorities on Request of Reporting Entity

Under the Article 9 part 7 of the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing” Cabinet of Ministers of Ukraine **decree:**

Approve Procedure of submitting information concerning client identification by state authorities on request of reporting entity (attached).

**Prime Minister of Ukraine
Mykola AZAROV**

APPROVED
by the Resolution of
the Cabinet of Ministers
of Ukraine
as of August 25, 2010
No 746

**PROCEDURE
of Submitting Information Concerning Client Identification by State Authorities on Request of Reporting Entity**

1. This Procedure defines the procedure of providing by the state authorities on request of reporting entity the information concerning client identification.
2. In this Procedure terms shall be used in the meaning stated in the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing”.
3. In case of any doubts concerning reliability or completeness of provided information on client identification reporting entity shall take measures on data verification and clarification of such information. At that, it has the right to submit state authorities with request to receive essential information.
4. State authorities providing the information on client identification on request of reporting entity shall be:
the State Committee of Ukraine for Regulatory Policy and Entrepreneurship,
the State tax Administration and law enforcement agencies (hereinafter – state authorities).
5. Request shall be send by reporting entity by location of appropriate state authorities in written form, shall be signed by the Head of reporting entity or his Deputy and sealed by reporting entity. As well request, could be send in electronic form. Format of electronic submission and the form of submitting information shall be set by the State Committee of Ukraine for Regulatory Policy and Entrepreneurship, the State tax Administration and the Ministry of Interior under the protection of restricted information legislation.

6. Request shall contain grounds for providing by state authorities the information on client identification, its list and purpose of using such information. Request shall be attached with the copy of notification on assigning of record identifier of reporting entity (combination of Latin letters and numbers assigned by SCFN if reporting entity was placed in the register).
In request concerning identification of natural person – resident obligatory shall state identification number, surname, first name and patronymic name, date of birth and point of residence.
7. Under the legislation within ten working days state authorities shall provide reporting entity with information on identification of the client, provided by the Article 9 part 11 and 12 of the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing” legislation. The mentioned information shall be submitted free of charge.
8. Letter of the state authority providing the information which is submitted on request of reporting entity shall contain the following information:
number and date of reporting entity’s request to which the answer is provided;
information requested by reporting entity if the information is under the competence of the state authority.
9. Information provided to reporting entity from the state authorities concerning client identification is a restricted information and shall be used to fulfill AML/CFT legislation requirements.
10. Reporting entity shall carry out the register of requests to state authorities, which shall contain outgoing elements of the request, surname, first name and patronymic name of the natural person or full name of the legal entity, on which the information is requested, grounds for sending request and essential elements of the letter of the state authority with information received on request of reporting entity.
State authorities shall carry out the register of requests of reporting entities concerning client identification in the separate register which contains record identifier of reporting entity, incoming elements of request, information on client, outgoing elements of the answer-letter.
11. Request of reporting entity concerning client identification and information which is forwarded by the state authorities under provisions of this Procedure is a restricted information and shall not be forwarded to third persons, except SCFM, appropriate state reporting entities and other state authorities in cases provided by the law.
12. Reporting entities shall provide keeping and usage of stated information according to provisions of legislation, as well as prevent unauthorized access and circulation of information.
13. For violation of requirements concerning keeping of information on client identification provided by the state authorities and revealing of information reporting entity shall bear responsibility according to the Law.

CABINET OF MINISTERS OF UKRAINE
RESOLUTION
as of August 25, 2010 № 747
Kyiv

On Some Issues of Financial Monitoring Organization

According to the Article 12 Part 3 and Article 13 of the Law of Ukraine “On Introducing Amendments to the Law of Ukraine “On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime” the Cabinet of Ministers of Ukraine **DECREES:**

1. To approve the following which are enclosed:

Procedure of registration of reporting entities, registering by them financial transactions subject to financial monitoring and Submission by Reporting Entities to the State Committee for Financial Monitoring the Information about noted and other financial transactions that could be related to the legalization (laundering) of the proceeds from crime or financing of terrorism;

Procedure of registration by SCFM information on financial transaction subject to financial monitoring.

2. Establish that reporting entities, except specially designed and those who submitted in prescribed procedure properly filled registration form of reporting entity before this Resolution set in force, shall be obliged to register in SCFM during two months form the day of this Resolution set in force.
3. Consider such as lost force the Resolutions of the Cabinet of Ministers of Ukraine according to the list (enclosed).

Prime Minister of Ukraine
Mykola AZAROV

APPROVED
by the Resolution of
the Cabinet of Ministers of
Ukraine
as of August 25, 2010 № 747

PROCEDURE

of Registration of Reporting Entities, Registering by them Financial Transactions Subject to Financial Monitoring and Submission by Reporting Entities to the State Committee for Financial Monitoring the Information about Mentioned and other Financial Transactions that Could Be Related to the Legalization (Laundering) of the Proceeds from Crime or Financing of Terrorism

General Provisions

1. This Procedure shall determine the mechanism for submission by the reporting entities information necessary for record keeping by SCFM, for registration of financial transactions, which in accordance with the Law of Ukraine "On prevention and counteraction to the legalization (laundering) of the proceeds from crime or terrorist financing" are subject to financial monitoring, and submission of information by these entities to the SCFM.
2. This Procedure shall apply to entities (except banks), established in the Article 5 of the Law, in particular their separate subdivisions.
3. Definitions used in this Procedure are in the means as they defined in the Law.
4. Any information which entity submits to SCFM on paper shall be sent by post with reference about receiving or in person, electronically – by secured communication channels.

In case if entity submits information to SCFM on paper, the approval of complying with terms for submitting of information foreseen by the Law, shall be the document of postal operator that approves the fact of submitting relevant information.

The entity shall submit information to the addresses designed by SCFM.

The documents approving the fact of submitting information to SCFM shall be kept for five years.

Registration of the entities

5. Entities except specially designed, shall be obliged to submit information for registration in SCFM during three business days from the day of compliance officer appointment but no later than first transaction is performed.

6. Specially designed entities shall be obliged to submit information for registration in SCFM in the following order:

business entities which provide intermediary services in transactions with the real estate, — no later than three business days from the date of establishing business relations with customers who intends to provide legal act concerning purchase (sale) the real estate on the amount that is equal or exceeds UAH 400 000 or equal amount in currency;

business entities which sale precious metals and stones for cash, — no later than three business days from the date of providing financial transactions with high value object (in particular, precious metals, precious stones, antique, masterpieces, etc) or organize trade of such objects, including auctions, if the amount of transaction is equal or exceeds UAH 150 000 or equal amount in currency;

business entities which provide lotteries and gambling, including casinos, virtual casinos — no later than three business days from the date of providing financial transaction related to receiving and paying the bets or winnings;

advocates, auditors, audit firms, notaries, persons who provide legal services, natural persons – entrepreneurs who provide accounting services — no later than three business days from the date of establishing business relations with customer who attends to perform one of the legal acts foreseen by the Article 8 Part 1 of the Law;

natural persons – entrepreneurs and legal persons which provide financial transactions with goods (execute works, provide services) for cash, — no later than three business days from the date of providing financial transaction on the amount that is equal or exceeds UAH 150 000 or equal amount in currency.

7. Information for registering by SCFM shall be submitted in paper under the form established by SCFM. Information shall obligatory contain data on entity registration data; its location; compliance officer or person temporary executing his functions. Information about separate subdivisions shall be submitted if separate subdivisions are available.

8. In case if entity submits incomplete information or information with mistakes for registering the SCFM shall inform entity about this. In such case, the entity shall be obliged to submit full and/or corrected information in three business days from the day of receiving information from the SCFM.

9. On the grounds of submitted information necessary for registration the SCFM shall form the record identifier which certifies the fact of registration during five business days from the day of information receiving.

Record identifier – combination of letters of Latin alphabet and numbers which are used in registering entity by SCFM, and are used by entity in performing its obligation according to the Law, including registration and submitting information, providing requests to state authorities on customer identification and in other cases prescribed by the legislation.

The procedure of forming and assigning of record identifier as well as form for informing on results of information proceeding received from reporting entity for its registration shall be established by the SCFM.

10. In case of changing information submitted for the registration, during three business days from the day of such changes the entity shall be obliged to submit relevant information to the SCFM. Such information can be submitted in paper or electronic form.

11. In case of suspending activity the entity shall be obliged to inform the SCFM about this fact

and the reasons of suspending activity.

Registration of financial transactions subject to financial monitoring

12. Registration of financial transactions subject to financial monitoring, other financial transactions that could be related to the legalization (laundering) of the proceeds from crime or financing of terrorism shall be provided by entity through entering relevant information to the register.

Register – form of registration by entity the information about financial transactions subject to financial monitoring, other financial transactions that could be related to the legalization (laundering) of the proceeds from crime or financing for terrorism, and their participants, which shall be established by SCFM.

13. The following information on performing or attempt to perform financial transaction shall be introduced to the register:

Subject to obligatory financial monitoring according to the Article 15 of the current Law;

Subject to internal financial monitoring according to the Article 16 of the current Law;

Refused in performing by entity due to it contains indicia of transactions subject to financial monitoring according to the Law;

Refused by the entity due to non-submitting by customer with which business relations are established necessary information for identification and studying of customer's financial activity;

Concerning which there are sufficient grounds to consider that they are related to, linked or intended for financing of terrorist activity, acts or organizations, and organization or persons to whom international sanctions are applied;

Suspended by the entity due to transactions contain indicia foreseen by the Articles 15 and 16 of the Law;

Suspended by entity due to it participants or beneficiaries are persons enlisted to the list of persons related to terrorist activity or to whom international sanctions are applied;

Suspended by the SCFM in case of taking decision on suspending expenditure transactions;

Suspended by the SCFM on performing the request of competent authority of foreign country;

Concerning which entity received from SCFM the request on monitoring financial transactions of customer.

14. The following shall be entered to the register:

serial number and date of registration of financial transaction;

data revealed during identification of person who performed financial transaction, person in behalf of which, or under the commission of which, or in the interests of which the financial transaction was performed, or beneficiary;

information on other persons – participants of financial transaction;

type of financial transaction;

amount of financial transaction;

currency of financial transaction;

grounds of financial transaction;

data on financial transactions related to prior registered financial transaction (if available);

indicia under which financial transaction subject to financial monitoring;

information on suspending financial transaction;

date and time of performing, attempt to perform or refusal of performing financial transaction;

additional information necessary for analyses of financial transactions by SCFM;

surname, name, patronymic and position of employee who entered information to the register.

15. The entity shall provide revealing of financial transactions established by the Clause 13 of this Procedure before beginning, in process, no later next day after performing, or in the day of appearing suspicious, or during attempt to perform or refusal to perform them by customer.

In case of revealing transactions participants or beneficiary of which are persons enlisted to the list of person related to terrorist activity or to whom international sanctions are applied, the entity shall submit information on such transaction to the register in the same day.

In case of suspending financial transactions under the request of SCFM, the entity shall submit information on such transaction to the register in the same day.

In case of revealing other financial transactions then established in paragraphs 1 and 2 of this Clause, the entity shall submit information about them to the register no later than next business day from the day of their revealing.

16. Registration of financial transactions shall be provided by the entity.

Under the decision of the entity, its separate subdivision can independently provide registration of financial transactions and submit information on them to SCFM.

17. Information about transaction shall be entered into the register, which shall be maintained electronically and/or in paper.

If the register is maintained electronically, then in the end of each month all new records shall be printed. The printed pages shall be certified by the signature of a manager or compliance officer. By the fifth day of every month the pages printed during the prior month shall be filed into brochures in the date order, tied together, and certified by the signatures of a manager or compliance officer along with the seal. Total amount of the pages in a brochure, the first and the last date of records introduced shall be indicated on the front page. Such pages shall be kept for 5 years.

18. In case of impossibility to enter in prescribed terms information on financial transaction to the register, which is maintained electronically, register shall be filled in paper.

19. Every record in the register shall be given a serial number.

Correcting of data entered to the registered shall not be allowed. In case of mistake in the register, the inaccurate record shall be cancelled and correct record shall be entered under new number and registration date.

20. Instruction on register keeping shall be established by the SCFM.

Submission of information to the SCFM

21. In prescribed by the Law cases the entity shall submit reference on financial transaction entered to the register (here and after reference on financial transaction) according to the form and procedure for filling established by the SCFM.

22. Reference on financial transaction shall consist of information on entity (separate subdivision) submitted it and information on financial transaction entered to the register.

Reference on financial transaction can contain information on several financial transactions.

23. The requisites of subdivision shall be noted in the reference on financial transaction submitting by the entity – legal person on the ground of information received from separate subdivision.

The list of obligatory requisites shall be established by the SCFM.

24. The entity shall submit the reference on financial transaction to the SCFM electronically, and in case of non-systematic submission (no more than four registered transactions during one calendar year) – on paper.

In case if the entity has to submit reference on fifth and following transaction during one calendar year, the entity shall provide submission electronically.

Special designed entities shall have the right to submit to the SCFM the references on financial transactions on paper independently of their quantity.

25. If due to any reasons the entity (separate subdivision) had not received from the SCFM reference on registration (refusal of registration) of information submitted to the SCFM in ten business days from the moment of receiving reference on receiving mail or in two business days from the moment of submitting reference on financial transaction electronically, such entity (separate subdivision) shall apply to SCFM about the reasons of non-receiving the relevant reference.

26. In case of impossibility to submit to the SCFM reference on financial transaction electronically in terms prescribed by the Law, such reference shall be submitted on paper.

27. In case of receiving from the SCFM reference on refusal of registering the entity shall be obliged to submit to SCFM proper reference on financial transaction in three business days from the moment of receiving.

In case of submitting to the SCFM three non-proper composed references on the same financial transaction, the information on such financial transaction shall be considered as non-submitted.

28. If entity took decision on refusal of establishing business relations with customer due to impossibility his/her identification according to the requirements of legislation, the entity shall be obliged to inform the SCFM about the persons attempted to perform financial transaction in one business day from the moment of refusal but no later than next business day.

Reference on refusal of establishing business relations with customer shall be composed in free form with mentioning circumstances of customer's attempt, and all available information about customer.

29.

Information under the request of the SCFM entity shall submit on paper together with cover letter in which the list of attached documents (copies of documents) is noted. Copies of documents shall be certified by signature of head of entity along with seal.

APPROVED
by the Resolution of the
Cabinet
of Ministers of Ukraine
as of August 25, 2010 №747

PROCEDURE

For Register by the SCFM Information on Financial Transaction subject to Financial Monitoring

1. This Procedure defines the mechanism of registration of the information on financial transaction subject to financial monitoring by the State Committee for Financial Monitoring submitted by the reporting entity (here and after – information on financial transactions).

2. Definitions used in this Procedure are in the means as they defined in the Law of Ukraine “On Prevention to the Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing”.

3. Information on financial transaction shall be registered by the SCFM in the Unified State Informational System on prevention and counteraction to legalization (laundering) proceeds from crime and terrorism financing (here and after – Informational System) in the electronic form.

4. Information on financial transaction shall be registered after verification that report on such financial transaction is properly composed and submitted but no later the next business day after receiving such information electronically, or in the day of entering information to the Unified Information System – if information was received on paper.

SCFM provide entering information on financial transaction received from entity on paper to Unified Informational System no later than in three business days after receiving such information.

5. Each information on financial transaction registered by the SCFM shall be assigned record number within current year. In case if the entity submits information on introducing changes to registered by the SCFM information, new record number shall not be assigned to such information.

6. In case when information is not in proper form the SCFM refuses in registration of such information and informs corresponding reporting entity within three business days.

7. After receiving the proper information and registration the SCFM informs corresponding reporting entity within three business days.

8. Registration form for information on financial transaction on paper, structure of files for electronic informational exchange and procedure of informing the reporting entity shall be defined by the SCFM.

APPROVED
by the Resolution of
the Cabinet of Ministers of
Ukraine
as of August 25, 2010 № 747

LIST

Of the Resolutions of the Cabinet of Ministers of Ukraine which lost force

1. The Resolution of the Cabinet of Ministers of Ukraine as of April 26, 2003 № 644 “On Approving the Procedure of registering financial transactions by reporting entities”.
2. The Resolution of the Cabinet of Ministers of Ukraine as of April 26, 2003 № 646 “On Approving the Procedure of registering the financial transactions subject to financial monitoring by State Committee for Financial Monitoring”.
3. The Resolution of the Cabinet of Ministers of Ukraine as of November 20, 2003 № 1800 “On Approving the Procedure of providing internal financial monitoring by business entities which organize and hold casinos, other ambling institutions and pawnshops”.
4. The Resolution of the Cabinet of Ministers of Ukraine as of August 10, 2004 № 1010 “On Introducing amendments to the Clause 4 of the Procedure of registering financial transactions by reporting entities”.
5. The Resolution of the Cabinet of Ministers of Ukraine as of November 17, 2004 № 1548 «On Introducing amendments to the Procedure of providing internal financial monitoring by business entities which organize and hold casinos, other ambling institutions and pawnshops”.
6. The Resolution of the Cabinet of Ministers of Ukraine as of July 12, 2005 № 572 “On Introducing amendments to the some Resolutions of the Cabinet of Ministers of Ukraine”.
7. The Resolution of the Cabinet of Ministers of Ukraine as of April 5, 2006 № 458 “On Introducing amendments to the some Resolutions of the Cabinet of Ministers of Ukraine on financial monitoring issues”.

Annex 15

**CABINET OF MINISTERS OF UKRAINE
RESOLUTION
as of August 25, 2010 p. №759
On approval of Procedure
for Providing Information by State Authorities on Financial Transactions to the State
Committee for Financial Monitoring**

Under the Article 12 part 9 and 10 of the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing” Cabinet of Ministers of Ukraine **decree:**

Approve Procedure for Providing Information by State Authorities on Financial Transactions to the State Committee for Financial Monitoring (attached).

**Prime Minister of Ukraine
Mykola AZAROV**

APPROVED
by the Resolution of
the Cabinet of
Ministers of Ukraine
as of August 25, 2010
No 759

**PROCEDURE
for Providing Information by State Authorities on Financial Transactions to the State
Committee for Financial Monitoring**

General provisions

1. This Procedure defines the procedure of providing to the SCFM of Ukraine:
by state authorities which carry out AML/CFT activities the information on financial transactions, which are
suspected to be related to legalization (laundering) of proceeds from crime and financing of terrorism, or related
to persons to whom international sanctions are applied, revealed during the implementation of its powers
(hereinafter - information on financial transaction);
by state authorities the information (copies of documents) required to perform assigned duties of the SCFM
(hereinafter - information (copies of documents)).
2. The action of this Procedure apply to state authorities, including authorities carrying out AML/CFT activity (hereinafter - the state authorities).
3. Information provided by the state authorities under this Procedure is classified information. Sharing, disclosure and protection of this information shall be provided according to the law.
4. Peculiarity of forms and procedure for providing information under this Procedure shall be set by common act of the SCFM and appropriate state authority.

Requirements for providing information on financial transactions

5. Information on financial transaction shall be provided by state authority within thirty calendar days from the day when suspicions that it is related to legalization (laundering) of proceeds from crime or

financing of terrorism were set or it is related to persons to whom international sanctions were applied.

6. Information on financial transaction is provided in writing form signed by an authorized official of state authority.
7. Information on financial transaction shall contain the following information:
 - date of conducting financial transaction (denial of its holding, its suspension);
 - amount of financial transaction;
 - content of financial transaction;
 - data on financial transaction participants;
 - reasonable suspicions that financial transaction is related to legalization (laundering) of proceeds from crime or financing of terrorism or is related to persons concerning whom international sanctions were applied;
 - other data on financial transaction (if available).
8. If relevant documents concerning conducting financial transaction are available, then state authority shall also submit copies of such documents certified according to legislation.

Providing information on request of the SCFM

9. State authorities provide information (copies of documents) on request of the SCFM.
10. Request for providing information (copies of documents) to SCFM shall be send in written form signed by an authorized official of the SCFM.
11. State authorities, their officials shall provide requested information (copies of documents) according to legislation and within thirty calendar days after receiving the request of the SCFM.
12. State authority shall provide the SCFM with requested information in written form signed by an authorized official of state authority and contain the following:
 - details of the SCFM request on which a response is send;
 - complete and reliable requested-information;
 - copies of documents to confirm relevant information certified according to legislation (if available).
13. Illegitimate refusal to provide information (copies of documents), untimely or incomplete assignment result to liability of state authorities officials according to the law.

Annex 16

**THE CABINET OF MINISTERS OF UKRAINE
RESOLUTION**

as of August 28, 2010 No 765

Kyiv

**On Procedure of Determination of Countries (Territories) that
do not Address or Improperly Address Recommendations of AML/CFT International,
Intergovernmental Organizations**

Under the Article 15 part 1(3) of the Law of Ukraine "On prevention and counteraction to legalization (laundering) of the proceeds from crime or terrorist financing" The Cabinet of Ministers of Ukraine decree:

1. To establish:

the list of countries (territories) that do not address or improperly address recommendations of AML/CTF international, intergovernmental organizations (hereinafter - the list) shall be completed and confirmed by the State Committee for Financial Monitoring of Ukraine; shall be enlisted countries (territories) under conclusion of the Financial Actions Task Force (FATF), AML/CTF international, intergovernmental organizations;

2. Resolution of the Cabinet of Ministers of Ukraine as of April 26, 2003 № 645 "On procedure of determination of countries (territories) which do not provide international AML/CFT cooperation" (Official Visnyk of Ukraine, 2003, № 18-19 Art.857) cease to be in force.

3. This Resolution shall enter into force simultaneously with the Law of Ukraine "On amendments to the Law of Ukraine "On prevention and counteraction to legalization (laundering) of the proceeds from crime" as of May 18, 2010 № 2258-VI, but not earlier than the date it was published.

Prime Minister of Ukraine

AZAROV

Mykola

CABINET OF MINISTERS OF UKRAINE

RESOLUTION
as of August 30, 2010 p. № 775
Kyiv

On approval of Procedure of submitting information to the State Committee for Financial Monitoring by business entities, enterprises, institutions, organizations, which are not reporting entities

Under the Article 12 and 20 of the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime or Terrorist Financing” Cabinet of Ministers of Ukraine **decree:**

Approve the Procedure for providing information on request of the State Committee for Financial Monitoring by business entities, enterprises, institutions, organizations, which are not reporting entities (attached).

Prime Minister of Ukraine
AZAROV

Mykola

APPROVED
by the Resolution of the
Cabinet of Ministers of

Ukraine

as of August 30, 2010

№ 775

PROCEDURE
of Submitting Information to the State Committee for Financial Monitoring by Business Entities, Enterprises, Institutions, Organizations, which are not Reporting Entities

1. This Procedure defines scope and procedure of providing by business entities, enterprises, institutions, organization which are not reporting entities, regardless of the form of ownership, on request of the State Committee for Financial Monitoring the information concerning analysis of financial transactions subjected to financial monitoring, certificates and copies of documents (including documents containing banking and commercial secrecy), necessary to execute AML/CFT powers by the SCFM of Ukraine.
2. Information provided by reporting entities under this Procedure is a restricted information. Exchange, revealing and protection of such information shall be provided according to this Law.
3. Information, inquiry and copies of documents requested by SCFM shall be used for financial transactions analysis subjected to financial monitoring by the SCFM.
4. Requests shall be submitted by reporting entities in written form on official letterhead of SCFM and signed by the Head of SCFM of Ukraine or by the Deputy Head.
5. The SCFM has a right to request reporting entities for information (copies of documents) concerning financial transactions, which are subjected to financial monitoring, information on participants of such transactions, as well as information on assets of participants of transactions.

6. Reporting entities, their officials are obliged to provide in written ~~for~~ the information concerning financial transactions subjected to financial monitoring by the SCFM and information necessary to execute powers by the SCFM, attaching certified by the seal of reporting entity copies of documents, proving the authenticity, and required certificates.
7. Answer-letter of business entity on request of the SCFM shall contain the following:
 - number and date of request of the SCFM to which the answer is provided;
 - complete and content information requested by the SCFM, in particular, classified information, particular banking and commercial secrecy, except information upon specific natural persons;
 - copies of documents certified by the stamp of reporting entity to confirm provided information and necessary certificates under request of the SCFM;
 - stamped signature of the authorized official.
8. Contentment of enquiry (sending answer) shall be done within five working days from receiving the request.

THE CABINET OF MINISTERS OF UKRAINE

DIRECTIVE

December, 13, 2004 No. 899-p

Kyiv

**On Establishment of the Training-Methodical Center
for Re-training and Professional Development of Experts on
Financial Monitoring Issues in the Sphere of Combating Legalization
(Laundering) of Criminal Proceeds, and Terrorist Financing**

1. To agree with the proposal of SCFM regarding establishment of the Training-Methodical Center for Re-training and Professional Development of Experts on Financial Monitoring Issues in the Sphere of Combating Legalization (Laundering) of Criminal Proceeds, and Terrorist Financing (further – the Center), reckoning it to sphere of administration of the State Committee for Financial Monitoring.
2. To determine that principal tasks of the Center are re-training and professional development of experts on financial monitoring issues in the sphere of combating legalization (laundering) of criminal proceeds, and terrorist financing, provision of a common approach to re-training and professional development of the experts of entities of state financial monitoring, law enforcement and judicial agencies, representatives of entities of initial financial monitoring, responsible for its carrying out, as well as representatives of foreign countries and international organizations.
3. To take into account that financing of Center's activity in 2005 will be fulfilled within budget assignments, provided for the State Committee for Financial Monitoring.
4. The Ministry of Interior, the Security Service of Ukraine, the State Commission on Financial Markets Services Regulation, the State Commission on Securities and Stock Market, the State Tax Administration, the National Academy of Sciences, the Academy of Legal Sciences with participation of the Supreme Court, the National Bank of Ukraine, the General Prosecutors Office of Ukraine, the Association of Ukrainian Banks and the League of Insurance Organizations shall assist the Center in fulfillment of its tasks by provision of methodical, consultative and information assistance in development of training programs and planes, preparation and conduction of trainings (seminars, lectures, consultations), methods processing of money laundering schemes revealing.
5. This Directive enters into force on January, 1, 2005.

Acting Prime-Minister of Ukraine

Mykola AZAROV

Annex 19

On the Procedure of Imposing the Fines by the National Bank of Ukraine for Infringing by Banks the Requirements of Law of Ukraine “On Prevention and Counteraction of Legalization (Laundering) of the Proceeds from Crime”

Resolution of the Board of the National Bank of Ukraine of 17.03.2004, No. 108

...
of 12.11.2009, No. 665

In pursuance of Article 17 of the Law of Ukraine “On Prevention and Counteraction of Legalization (Laundering) of the Proceeds from Crime” and in compliance with Article 56 of the Law of Ukraine “On the National Bank of Ukraine” the Board of the National Bank of Ukraine DECREES:

1. For non-fulfillment (improper fulfillment) of the requirements of Articles 5, 6, 7, 8 and 121 of the Law of Ukraine “On Prevention and Counteraction of Legalization (Laundering) of the Proceeds from Crime” (hereinafter referred to as the Law) by a bank the National Bank of Ukraine (hereinafter referred to as the National Bank) may impose on the bank a fine commensurately with the infringement in the amount of up to one thousand tax-exempt minimum natural person’s incomes.

A fine for any infringement in the activity of a bank’s branch shall be imposed directly on the bank’s main branch (as a legal entity).

2. The National Bank shall impose a fine on a bank on the basis of results of scheduled and casual inspections of the activities of banks or their branches.

If the inspection data also contain facts of an infringement of the banking laws and/or regulations of the National Bank by the bank in question, the decision to impose a fine on the bank for infringing the requirements of the Law shall be taken simultaneously with application of enforcement measures for infringing the banking laws and/or regulations of the National Bank.

The decision to impose a fine on the bank commensurately with the infringement shall be taken by the Commission of the National Bank of Ukraine on Banking Supervision and Regulation (hereinafter referred to as the Commission of the National Bank of Ukraine) or by the respective Commission of the National Bank at the Regional Branch Office (hereinafter referred to as the Commission of the National Bank at the Regional Office).

The decision of the Commission of the National Bank (the Commission of the National Bank at the Regional Office) to impose a fine on a bank shall include the list of the revealed infringements with references to the provisions of the Law.

The decision of the Commission of the National Bank to impose a fine on a bank shall be sent to the respective regional branch of the National Bank not later than within 3 working days after the day it is taken.

3. If the Commission of the National Bank (the Commission of the National Bank at the Regional Office) considers the matter with regard to imposing a fine on a specific bank, the chairman of the board (board of directors) or the chairman of the supervisory council of the bank may be invited to present explanations. A written (or e-mail) invitation shall be sent at least three days prior to the meeting day. The meeting results shall be registered in the protocol with enclosed written explanations of the invited person and his/ her signature therein.

4. The decision of the Commission of the National Bank (Regional Commission of the National Bank) on imposing a fine shall be sent to the bank using special communications facilities.

If within five working days after receiving the decision of the Commission of the National Bank (Regional Commission of the National Bank) on imposing the fine the bank fails to pay it, the National Bank (a respective regional branch of the National Bank) shall apply to the court with a claim for collecting the fine from the infringing bank.

5. Amounts of the fines withheld shall be reflected within class 7 of the Chart of Accounts for Ukrainian Banks approved by the NBU Board Resolution of June 17, 2004, No. 280, under account 7397.

6. In case of repeated infringements of the Law requirements by a bank, the National Bank (a respective regional branch of the National Bank) shall apply to the court with a claim for restriction,

suspension or withdrawal of the license (permit) to carry out banking activity or certain operations by the infringing bank.

7. The Resolution shall come into force 10 days after its registration by the Ministry of Justice of Ukraine.

8. After the state registration by the Ministry of Justice of Ukraine the Office of Methodological, Normative and Organizational Support of Financial Monitoring (O.M. Berezhnyi) shall inform the regional branches of the National bank and the banks of Ukraine of this Resolution contents in order to use it as guidance in their work.

9. The control over this Resolution fulfillment shall be imposed on the Deputy Governor O.V. Shlapak, the General Department of Banking Supervision (V.V. Pushkariov), the Office of Methodological, Normative and Organizational Support of Financial Monitoring (O.M. Berezhnyi) and the heads of regional branches of the National Bank.

Governor

S.L. Tygypko

Annex 20

Regulation on Implementing the Financial Monitoring by Banks

Resolution of the Board of the National Bank of Ukraine of 14.05. 2003, No. 189
with changes of 14.10.2003, No. 446

...
of 20.11.2007, # 418

In order to ensure the realization of provisions of the Laws of Ukraine “On Prevention and Counteraction of Legalization (Laundering) of the Proceeds Obtained from Crime” and “On Making Amendments to Certain Laws of Ukraine on Prevention to Use Banks and Other Financial Institutions for Legalization (Laundering) of the Proceeds Obtained from Crime”, the Board of the National Bank of Ukraine RESOLVES:

1. To approve the Regulation on implementing the financial monitoring by banks (attached).
2. The Resolution will come in force simultaneously with becoming valid the laws of Ukraine “On Prevention and Counteraction of Legalization (Laundering) of the Proceeds Obtained from Crime” and “On Making Amendments to Certain Laws of Ukraine on Prevention to Use Banks and Other Financial Institutions for Legalization (Laundering) of the Proceeds Obtained from Crime”.
3. Banks shall bring in compliance with the current laws of Ukraine before 1 September 2003 the identification of available clients whose risk of conducting transactions in legalization of the proceeds obtained from crime is assessed as being high and of other clients – before 1 January 2004. Bringing in compliance with the current laws the identification of clients that do not have business relations with the bank and whose risk of conducting transactions in legalization of the proceeds obtained from crime is assessed as being low can be made later than the terms specified upon a client applies for a bank or effects a transaction.
4. Division on Methodological and Organizational Support of Financial Monitoring after the state registration of this Resolution in the Ministry of Justice of Ukraine shall inform regional branches of the National Bank of Ukraine and commercial banks of Ukraine about the content of the Resolution in order to apply it in their work.

Control over performing of this Resolution shall be imposed on Deputy Governor of the NBU (Mr. Shlapak) and Division on Methodological and Organizational Support of Financial Monitoring.

Governor Sergiy Tigipko

Regulation on Implementing the Financial Monitoring by Banks

This Regulation has been developed to execute the Laws of Ukraine “On the National Bank of Ukraine”, “On Banks and Banking”, “On Prevention and Counteraction of the Legalization (Laundering) of the Proceeds Obtained from Crime”.

1. General Provisions

1.1. The Regulation sets up the NBU general requirements regarding:
tracking down and registration by banks of financial operations subject to financial monitoring;
identification of clients;

provision by banks to a specially authorized government agency on financial monitoring issues (further – the Authorized body) of the information that is required by the laws of Ukraine on prevention of legalization of the proceeds obtained from crime.

1.2. This Regulation covers banks and their structural units.

1.3. The Head of the executive body of the Bank (further – Head of the Bank) is responsible for organization of compliance with Ukrainian legislation on prevention of legalization (laundering) of the proceeds obtained from crime.

1.4. The internal audit unit of a bank, periodically, but at least once a year examines a bank's compliance with the legislation on issues of legalization (laundering) of the proceeds obtained from crime. They prepare conclusions and proposals based on the results of such examinations, which are submitted for consideration to the supervisory board of the bank.

1.5. Banks are obliged to keep all the documents related to a specific financial transaction that is subject to financial monitoring, as well as documents related to identification of all parties that took part in the transaction, during five years upon completion of such transaction.

1.6. The terms of this regulation are used in the following meaning:

- **Related party** – any member of an entity (association, corporation, concern, consortium, holding, other association of enterprises provided for by the law), whose member is a client – legal person, as well as any legal person regardless of its formal membership in any economic association, who controls a client – legal person or is controlled by him or is jointly controlled together with him;
- **Means of data protection** – software and technical tools ensuring protection of electronic documents from unsanctioned actions to learn about their contents, modify or distort them at the stage of transferring them by e-mail to the NBU.
- **File-notification** – an electronic document formed and provided by a bank (a branch) to the address of the Authorized body by means of the NBU e-mail and includes data on financial operations subject to financial monitoring or another information provision of which is required by the laws of Ukraine on prevention of legalization of the proceeds obtained from crime;
- **File-acknowledgement** – an electronic document which is generated and sent by a bank (branch) to the Authorized body's address in response to receipt of a file-request, file-decision, or by the Authorized body to the address of a bank (branch) who has sent a file-answer, and indicates accepting or non-accepting of respective file;
- **File-notification of registration (denial of registration) of a financial operation (financial operations)** – an electronic document which is generated by the Authorized body, is sent to the address of a bank (branch) and indicates registration (denial of registration) by the Authorized body of a financial operation (financial operations) reported by the bank (branch) through the respective file-notification;
- **file-decision** – an electronic document which is generated and submitted by the Authorized body to a bank (branch) and includes information about the Authorized body's decision on further suspending the financial transaction, information about which was sent in the appropriate file-notification;
- **Financial transaction, which is an object of financial monitoring, - for a bank (branch)** – a financial transaction, which is entered into the register of the financial transactions being subjected to financial monitoring; for the Authorized body it is a financial transaction being subjected to financial monitoring, which is registered by the Authorized body in the established order and analyzed by it".
- **File-request** – an electronic documents prepared by the Authorized body and is submitted at the address of the bank (a branch) and that contains a request to submit additional information about a financial transaction being subjected to financial monitoring.
- **File-response** – an electronic document prepared by the bank (branch) that is submitted to the address of the Authorized body and that contains a response to request file.
- **File-appendix** – an electronic document produced by the bank (branch) and sent to the address of the Authorized body, which contains data and/or copies of documents related to a financial transaction, which became an object of financial monitoring¹.

¹ All electronic documents are prepared by software and hardware tools of the bank (branch) and of the Authorized Agency and submitted to the addressee via electronic mail system and information protection means of the National Bank of Ukraine. Structure and format of electronic documents are defined by the National Bank of Ukraine with the approval of the Authorized Agency and are communicated separately to the banks.

1.7. If the structure of the bank does not include branches, the actions of financial monitoring (keeping register of financial transactions being subjected to financial monitoring, generating of files-notifications, etc.) shall be assured by the bank through its territorial subdivisions, which supervise and/or support activities of independent subdivisions which render services to clients.

Other terms and definitions used in this Regulation are used in the meaning determined in the Law of Ukraine *On prevention and counteraction of legalization (laundering) of the proceeds obtained from crime, On Banks and Banking, On Financial Services and State Regulation of Markets of Financial Services, On Payment Systems and Money Transfers in Ukraine* and in the regulations of the National Bank of Ukraine.

2.

Requirements to Regulations on internal financial monitoring and programs of implementing financial monitoring

2.1.

Regulations of internal financial monitoring are elaborated by a bank taking into account the legislative requirements of Ukraine regulating the issues of prevention and combating legalization (laundering) of the proceeds obtained from crime, regulations of the National Bank of Ukraine, regulations of the Authorized body, approved in the execution of and in compliance with these laws, FATF and Basle Committee on Banking Supervision recommendations.

2.2.

The major principle of development and implementation of Regulations of internal financial monitoring and programs of the banks' financial monitoring is guaranteeing the participation of all the staff of a banking institution, within their competence, in detecting financial transactions that can relate to legalization (laundering) of the proceeds obtained from crime or financing terrorism.

2.3.

Programs of the banks' financial monitoring are elaborated and implemented by the bank to provide for implementation of the internal banking system of preventing and combating legalization (laundering) of the proceeds obtained from crime. Programs of the banks' financial monitoring are elaborated by a bank in accordance with separate lines of its activity of servicing its clients and require permanent update, in the process of implementing financial monitoring.

Programs of financial monitoring should include features of financial transactions (determined by the law of Ukraine) subject to financial monitoring, other features of such transactions, which, according to the specificity of lines of activity, are determined and permanently updated by the bank itself, as well as taking into account the appropriate documentation handbook, the amendments to which are developed and made by the Authorized body upon approval with the National Bank of Ukraine.

Banks shall develop and renew Programmes of financial monitoring of securities trading in accordance with the requirements of this Regulations and taking into account the recommendations of the State Securities and Equity Market Commission.

2.4.

To ensure compliance with the laws of Ukraine regarding the issues of prevention of legalization of the proceeds obtained from crime banks shall elaborate and implement programs of identification and research of their clients, as well as training and skills development programs for the staff.

Banks, at their own discretion, may develop and implement other programs, within the framework of existing legislation, related to prevention of legalization (laundering) proceeds obtained from crime.

2.5.

Regulations of the bank's internal financial monitoring and programs of implementation of financial monitoring are documents with limited access. The procedure and regime of access to these documents by the staff shall be determined by a bank's (branch's) head, depending on their functional responsibilities, and shall be agreed upon by the bank's (branch's) manager.

2.6.

Regulations of internal financial monitoring and programs of implementation of financial monitoring and other documents on issues of prevention of legalization (laundering) of the proceeds obtained from crime shall be approved by the bank's management bodies in accordance with the procedure set in the bank's statutory documents upon submission of a responsible officer.

2.7.

Regulations of the bank's internal financial monitoring and programs of implementation of financial monitoring are elaborated taking into account the following regulation:

- a) the need to ensure confidentiality of the information about the fact that the data on a client's financial transaction have been submitted to the Authorized body;
- b) the need to ensure confidentiality of the information about the bank's internal documents on the issues of implementation of financial monitoring;
- c) the need to ensure confidentiality of the information on the bank clients' accounts and deposits, on the clients and their transactions, as well as other data constituting the bank secrecy;
- d) prevention of involvement of the bank's employees in legalization (laundering) of the proceeds obtained from crime.

2.8.

Regulations of the bank's internal financial monitoring shall particularly include:

- Description of organizational framework of the internal banking system of prevention of legalization (laundering) of the proceeds obtained from crime;
- Requirements to staff provision of the internal banking system of prevention of legalization (laundering) of the proceeds obtained from crime, rights and responsibilities of the bank's (branch's) responsible officers, as well as other staff responsible for execution of the programs of financial monitoring;
- Major framework of activity of a bank's separate structural unit on prevention of legalization (laundering) of the proceeds obtained from crime (in case it is established);
- Procedure of circulation and ensuring confidentiality of information regarding financial transactions subject to financial monitoring;
- Procedure of storing information regarding financial monitoring;

2.9.

The programme of financial monitoring of a certain line of clients servicing shall include:

- a) Features of transactions under a certain line of activity that are subject to mandatory financial monitoring;
- b) Features of transactions under a certain line of activity that are subject to internal financial monitoring;
- c) Procedure of detecting financial transactions that are
Are subject to mandatory financial monitoring;
Are subject to internal financial monitoring.
May be connected to, related to and intended for international terrorism;
- d) procedure of actions to determine the core and purpose of a client's transaction subject to financial monitoring;
- e) procedure of preparation and submission to the bank's (branch's) responsible officer of information required to make a decision to inform the Authorized body.

2.10. In case the bank's officer has any doubt as to referring the client's transaction to transactions subject to mandatory financial monitoring and internal financial monitoring, cause motivated suspicion that it is being done to launder money and it can relate to financing terrorism, the officer shall immediately inform the bank's (branch) compliance officer according to internal procedures of the bank.

The bank's (branch's) compliance officer takes final decision as to referring this transaction to the above categories and its registration. In case an officer suspects that a detected transaction is related to or is intended for the purpose of financing terrorism, the responsible officer at the same time makes a decision to immediately inform the Authorized body and respective enforcement bodies on this transaction.

2.11

In case of detection of client's financial transaction that is subject to financial monitoring, the bank (the branch) has to provide for the following:

- a) registration of this transaction;

- b) taking sufficient (from the Bank's (branch's) point of view) actions aimed at clarifying the transaction's nature and purpose, including inquiry of additional documents and information related to this transaction;
- c) Taking other actions, within the current legislation, that the bank deems expedient in order to duly meet the requirements of the laws on prevention and combating legalization (laundering) of the proceeds obtained from crime.
- d) In case there are reasons to submit information on this transaction and on parties that are or were involved in the transaction to the Authorized body, this information is submitted;

3. Procedure of identification of clients

3.1

In order to appropriately perform functions of the subject of primary (initial) financial monitoring, the Bank develops a program of identification and research of the bank's clients ("Know your customer"), which shall particularly include:

- a) Procedure of client's identification, particularly when establishing relations;
- b) Actions to obtain more accurate information on the client and appropriate actions plan;
- c) Procedure of documenting information on the client;
- d) Procedure and criteria of client classification according to the evaluation of risk of their transactions that can be related to legalization (laundering) of the proceeds obtained from crime, or to financing terrorism;
- e) Procedure of implementing actions related to clarification of information on the client or on the person that acts on his/her behalf, in case of doubts on its authenticity, taking into account risks related to the fact that this transaction may be related to legalization (laundering) of the proceeds obtained from crime.
- f) Actions to do additional research on a client and appropriate action plan;

In the process of implementation of the Clients' Identification and Analysis Program, the bank develops and keeps the respective questionnaires for its clients. The bank can decide to be inexpedient to keep questionnaires related to the categories of clients engaged in low risk transactions to be used for legalization of the proceeds obtained from crime, namely in cases when the clients: during long period use the bank services for one occasion (receiving a loan, making deposit, cash transfer, etc.);

carry out transactions for small amounts without opening an account (payments of custom duty, public utilities, taxes, cash transfer, etc.);

receive through the bank their wages and salaries, pensions or scholarships (including rendering services by means of payment cards if such accounts are not enlarged from other sources), etc.

The questionnaire shall be an internal document of a bank and include information obtained by the bank from the client identification and analysis, from quarterly analysis of the client transactions as well as of bank conclusions (opinions) about the client reputation and its risk assessment of the transactions on possible legalization of proceeds obtained from crime.

The bank shall quarterly carry out an analysis of client's transactions with regard to their compatibility with client's financial standing and substance of client's business, it must cover all client's accounts opened in the bank's subdivisions.

The questionnaire is formed by the results of the client's identification in the process of establishing relations with him. Information contained in the questionnaire is being adjusted according to the order, established by the bank.

Recommended forms of questionnaires are given in Appendices ## 1-6.

3.2

According to the Ukraine's legislation, the bank shall identify:

- a) clients who open accounts with a bank;
- b) clients performing transactions subject to financial monitoring;
- c) clients performing cash transactions without opening an account for the amount exceeding UAH 50 000, or an equivalent amount in foreign currency;
- d) persons, authorized to act on behalf of the above clients.

3.3

The bank receives from the client the information and documents enabling it to identify and study the client.

These documents must be current (valid) and include accurate information at the time of its submission to the bank.

With the purpose of identification and study of a client the bank first of all, clarifies, based on the provided originals or duly certified copies of documents, the following information regarding the residents:

- **for individuals:**

surname, name, patronymic;

date of birth;

passport (or another document identifying the personality) number and series, date of issue and organ that issued the document;

place of residence;

identification number according to the State Register of individual payers of tax and of other mandatory payments;

- **for legal persons:**

name;

legal address;

documents confirming the state registration (including the statutory documents, information on the officials and their authorities etc.);

identification code according to the Unified State Register of Enterprises and Organizations of Ukraine;

address and data on banks where the clients have current accounts and accounts numbers.

3.4 In order to identify and study the client the bank shall clarify based on the provided documents or duly certified copies of documents the following information regarding the non-residents:

- **for individuals:**

surname, name, patronymic (if any);

date of birth;

passport (or another document identifying the personality) number and series, date of issue and organ of issue;

citizenship;

place of residence or temporary residence;

- **for legal persons:**

name;

location and banking data of banks where the accounts are opened with account numbers;

data on the legal person registration based on the copy of legalized extract from trade, banking or court register or on the duly certified document of registration issued by the Authorized body of a foreign country.

Client's identification is performed based on the original documents submitted by the client, or based upon duly certified copies of these documents, and in case of need, based on the information received from government bodies, banks, other legal entities, as well as on the results of actions taken to collect information about the client from other sources.

Duly certified copies of the documents submitted by the Client, copies of the original documents and other documents that were used as a basis for identification of legal entity or individual, have to be kept in the Client's Dossier (personal file) during the period of time that is identified by Ukrainian legislation.

3.5 A person's identification is not mandatory in case:

a) a financial transaction is performed by the persons that were identified earlier according to the current law;

b) agreements are made between banks registered in Ukraine.

3.6 In case a person acts as a representative of another person, or a bank has a doubt as to whether the person acts in his/her own name, or a beneficiary is another person, the bank shall (items 3.3., 3.4) also identify the person in whose name the transaction is performed or who is the beneficiary.

3.7 In case there is a doubt as to authenticity of information or documents, submitted by the client, the Bank, taking into consideration the level of risk that the client is engaged in a transaction aimed at laundering or legalization of proceeds obtained from crime, takes actions to verify information and documents submitted by the Client.

3.8 In the process of studying the documents, particularly the statutory documents of a legal person and the documents confirming its state registration, the bank shall pay special attention to:

- a) issuance of the statutory documents (including all the registered amendments) and the documents confirming its state registration;
- b) composition of the legal person's founders and its affiliated persons;
- c) structure of the legal person's bodies of management and their powers;
- d) size of the registered and paid-in authorized fund.

3.9 When entering into correspondent relations the bank shall clarify if the correspondent bank takes actions aimed at prevention and combating legalization (laundering) of the proceeds obtained from crime.

3.10

The bank is not recommended to enter into correspondent relations with banks that do not take actions aimed at prevention and combating legalization (laundering) of the proceeds obtained from crime.

3.11

The bank elaborates criteria of evaluation of risk of the transactions performed by the client to legalize (launder) the proceeds from crime. With this purpose, the ground can be the criteria of evaluation of such risk given in Appendix #7.

Classification of clients regarding the risk of carrying out the transactions on legalization (laundering) of proceeds obtained from crime shall be made by a bank taking into account the clients' reputation, area of work and period of their activities in the market.

3.12

The bank updates information regarding identification and research of a client at least once a year, if the risk of performing transactions by the client to legalize (launder) the proceeds from crime is estimated by the bank as high; for other clients information shall be updated each 3 years.

Mandatory update of the information on identification and research of a client is made in case of:

- **Change of the owner of essential participation;**
- **Change of location (place of residence) of the account holder;**
- **Amending the statutory documents;**
- **Expiration of validity of the documents provided earlier.**

3.13

If the risk of performing transactions by the client to legalize (launder) the proceeds from crime is estimated by the bank as high, transactions by such clients shall be paid special attention to.

During the process of identification and research of the client that is associated with high risk of involvement in laundering (legalization) of money obtained from crime, the bank takes actions to verify information obtained from the client.

3.14

If the risk of performing transactions by the client to legalize (launder) the proceeds from crime is estimated by the bank as high, the bank can send its officer on site where the client does his/her business in order to verify the information on the client.

In case the client refuses to submit documents or information that are needed for his/her identification, or intentionally provides incorrect information to the bank officer, the Bank refuses to render services to this client.

3.15

Banks are prohibited to enter into contractual relations with the clients – legal or physical persons – in case there is a doubt that a person does not act in its own name.

In the course of establishing relations with a client the bank clarifies the purpose and nature of further business relations between the client and the bank.

Should relations with a legal person be established, the bank shall also clarify the subject of its business and its financial standing, determine concerned persons, identify physical persons which

hold substantial stake in the legal person or exert direct or indirect influence on it and obtain economic benefits from its business.

The assessment of client's financial standing shall be made in accordance with the bank's internal procedures.

Banks are recommended to demand from the client information and documents enabling it to identify his/her personality, core of activity, financial condition.

In case the client fails to provide the required information and documents, or intentionally provides untruthful information about himself/herself, the bank denies provision of services to the client or opening the account.

In case of a motivated suspicion regarding provision by a client of an untruthful information or intentional provision of deceptive information in the process of identification the bank submits information on the client's financial transactions to the Authorized body.

4. Procedure of registration by bank of a financial transaction subject to financial monitoring

3.16

Prior to making transactions and in the course of further servicing of a client, the bank's employees shall analyze financial transactions to reveal those being subjected to financial monitoring in accordance with the Ukraine's legislation which regulates relations in the sphere of preventing legalization of proceeds from crime.

Should the bank's employee establish that the financial transaction is subjected to financial monitoring, he/she before 12 a.m. of the next working day shall notify an authorized officer (or any person with the same function) of this transaction in accordance with the bank's internal regulations, the latter shall take decision on registration of such a transaction.

The bank's internal procedures regulating the order of notifying the authorized officer (or any person with the same function) by bank's (branch's) employee of the transaction being subjected to financial monitoring, shall provide for registration of such notification delivery to the authorized officer (the fact of acceptance of the notification by the authorized employee) and his decision concerning registration of this transaction.

3.17

Financial transactions subject to financial monitoring are registered in the appropriate register that is initiated and maintained by the bank (branch) and is an electronic documents of specified format. Format and structure of such register is designed by compliance officer of the bank (branch) based on the recommendations specified by this regulation.

Register of financial transactions that are subject to financial monitoring is a document with limited access. Procedure and regime of accessing this register are developed by compliance officer of the bank (branch). Compliance officer is personally responsible for the protections of this register from destruction, unauthorized access, modification or distortion of data.

Correction of data put into the register is not allowed. In case there is a need to correct data related to a specific financial transaction put into the register by mistake in a certain information field of the register with information on this transaction, its cancellation is indicated, and a new entry on this transaction is added to the register.

3.18

To register a financial transaction subject to financial monitoring the compliance officer enters the following data related to the transaction into the register:

- a) financial transaction registration number in the register from the beginning of the calendar year;
- b) unique number of this transaction in the bank's automated system (if any);
amount of transaction;
- c) the date of arrival of settlement or other documents based on which the transaction is performed;
- d) the amount of transaction in foreign currency and its equivalent in the national currency according to the official exchange rate of hryvnia to this currency, set by the National Bank of Ukraine at the date when transaction;

- e) surname, name and patronymic of the individual or the name of the legal entity performing a transaction, and identification code (number) for this person (entity);
- f) surname, name and patronymic of the individual or the name of the legal entity – counterpart (if any);
- g) type of transaction;
- h) title, number and date of the original document based on which this transaction is performed;
- i) feature (features) of transaction that make it subject to financial monitoring;
- j) surname and initials of officer that reported on this transaction;
- k) surname and initials of officer that put this information into the register.

Specified information on financial transaction has to be put in the register as soon as possible, but not later than on the next business day from the moment of time when the bank received settlement or cash documents or from the moment when bank officer detected the fact of performing a transaction that is subject to financial monitoring.

Based on the results of actions taken to clarify the essence and purpose of a transaction performed by the client that is subject to financial monitoring, data on this transaction are added by information on the decision made by responsible officer on the following:

to perform the transaction or refuse to perform it;

to submit or not to submit the information about this transaction to the Authorized body.

The authorized officer of the bank or branch shall take decision on submission or non-submission to the Authorized body of information concerning a financial transaction being subjected to financial monitoring in accordance with internal procedures of the bank specified in the Regulations of the bank's internal financial monitoring within 10 working days from the transaction registration date at the latest.

3.19

Upon submitting information on the financial transaction to the Authorized body the data entered into the register on this transaction, upon receipt of the file-acknowledgement from the Authorized body with zero error codes are added with the name of the file and number of the information line of the file-notification, in which the info on this financial transaction was sent to the Authorized body.

Error code reference book and amendments to it shall be made by the Authorized body upon agreement of the National Bank of Ukraine.

3.20

Should additional information concerning financial transaction be submitted to the Authorized body, data of the register shall be supplemented by the name of the file-response and/or file-supplement.

3.21

In case when responsible officer of the bank (branch) makes a decision not to inform the Authorized body on the financial transaction that is subject to financial monitoring, he/she prepares a report when this decision is explained. This report has to include, in particular, the number of transaction registration in the register, date of its input, results of actions taken to clarify the essence and purpose of performing this transaction and the signature of responsible officer.

3.22

Prior to the 15th day of every month the part of register which includes transactions registered during the previous month shall be printed, formed as a dossier, stitched and certified by the signature of the authorized employee of the bank (branch), and sealed by the bank (branch).

4

Procedure of provision of information to the Authorized body

4.1

Banks and their branches in the events stipulated by law shall provide the Authorized body with the information on financial transactions that are subject to financial monitoring and on identification of the persons who performed (are performing) them, as well as other information required by Ukrainian laws covering the issues of prevention and combating legalization (laundering) proceeds obtained from crime. Such information may be submitted by bank branches to the Authorized body immediately, or through the bank-legal entity.

Information provided by a branch to the Authorized body through the bank-legal entity shall include the requisites of this branch as stipulated by paragraphs “a” and “b” of p.5.3 of this Regulation. Procedure of submitting information to Authorized body has to provide for its guaranteed delivery and confidentiality.

The bank’s officers providing for the preparation and submission of the information on financial transactions to the Authorized body are prohibited to inform about it persons performing such transactions or any third parties.

4.2

The bank (branch) shall submit information about a financial transaction being subjected to mandatory financial monitoring, to the Authorized body within three working days from the date of its registration at the latest.

The bank (branch) shall submit information about a denied financial transaction, as well as persons participating in it, to the Authorized body on the working day following the time of its registration at the latest.

Information about a financial transaction, in respect of which the employees of the bank (branch) have reasonable suspicions that it is effectuated for legalization (laundering) of proceeds from crime, shall be submitted to the Authorized body the very same day when such suspicions arise.

Information on the transaction on which the bank has motivated suspicions that it is related to an attempt to launder money and/or on the transaction that can be related to financing terrorism, and on persons that take part (or took part) in performing such transaction, is subject to immediate registration and should be submitted to the Authorized body at the day of detection of such transaction. At the same time when such information is submitted to Authorized body, it is submitted to enforcement agencies as it is determined by Ukrainian legislation, according to the location of the bank (branch) following procedures that are agreed with the bank (branch) and this enforcement agency. Procedures according to which this information is submitted have to provide for its guaranteed delivery and confidentiality.

In case the bank closes the client’s account based on Article 64 of the Law of Ukraine On Banks and Banking, the information about such account shall be submitted by the bank to the Authorized body during three business days.

The bank (branch) submits to the Authorized body the information on financial transactions in the form of files-notifications.

4.3

The list of data for the banks to submit the Authorized body a notification on financial transactions and regarding the identification of persons who perform (or have performed) these transactions:

a) Data on the bank (branch) submitting the information:

name of a bank as per registration;

routing number (MFO) of a bank;

Identification code according to the Unified State Register of Enterprises and Organization of Ukraine;

Location

Telephone number

b) Data on the bank’s (branch’s) compliance officer:

job position;

surname, name, patronymic;

phone number;

e-mail address.

c) Data on the transaction

Individual transaction number in the bank’s automated system (if any);

Evidence of performed transaction;

Data and time of the transaction (or denial to perform a transaction);

Code of currency of the transaction or banking metal code;

The amount of transaction in foreign currency and its equivalent in the national currency according to the official exchange rate of hryvnya to this foreign currency set by the National Bank of Ukraine at the date of transaction;

Code (codes) of feature (features) of financial transaction subject to financial monitoring;

Code of transaction type;
Purpose of payment;
Related transactions (if this information is available);
Commentary;
Reference manuals on types of transactions and characteristics of financial transactions subject to financial monitoring shall be developed, maintained and communicated to banks by the Authorized body upon agreement of the National Bank of Ukraine;

d) Data on the client.
For legal entities:
Full and short names;
Residency;
Country of registration;
Identification code according to the Unified State Register of Enterprises and organizations of Ukraine;
Legal address;
Number of client's account that is used to perform a transaction;

For individuals:
Type (individual, individual-private entrepreneur)
Surname, name, patronymic;
Residency;
Country of citizenship;
Identification code according to the State Register of Individual Taxpayers and of other mandatory payments;
Place of residency or temporary location (postal address);
Data on the document that according to Ukrainian legislation can be used for identification of person (documents type, series and number, date of issue, full name of the body that issued this document);
Number of client's account that is used to perform a transaction (if any);

e) Data on the person authorized to act in the name of the client.
For legal entities:
Full and short names;
Residency;
Identification code according to the Unified State Register of Enterprises and organizations of Ukraine;
Legal address;
Data on the document that gives the right to act on behalf of the client;

For individuals:
Surname, name, patronymic;
Identification code according to the State Register of Individual Taxpayers and of other mandatory payments;
Place of residency or temporary location (postal address);
Data on the document that according to Ukrainian legislation can be used for identification of person (documents type, series and number, date of issue, full name of the body that issued this document);
Data on the document that gives the right to act on behalf of the client;

f) Other participants of the transaction (if any) and data on them:
Type participation in the transaction (counteragent, representative of counteragent, actual beneficiary, etc);
For legal entity – full and short name;
For Individual – surname, name and patronymic;
Other information on participant (if any):
For legal entity:
Residency;
Country of registration;
Identification code according to the Unified State Register of Enterprises and organizations of Ukraine;
Legal address;

Number of client's account that is used to perform a transaction;
Data on the bank (branch) that opened an account that is used to perform a transaction: name, branch routing number (MFO) – for residents, or BIC – for non-residents, legal address;
For individuals:
Type (individual, individual-private entrepreneur)
Surname, name, patronymic;
Residency;
Country of citizenship;
Identification code according to the State Register of Individual Taxpayers and of other mandatory payments;
Place of residency or temporary location (postal address);
Number of client's account that is used to perform a transaction (if any);
Data on the bank (branch) that opened an account that is used to perform a transaction: name, branch routing number (MFO) – for residents, or BIC – for non-residents, legal address;
Other information;
g) Data on correspondent account that is used to perform a transaction in foreign currency (if any): account number, name, branch routing number (MFO) – for residents, or BIC – for non-residents, legal address of the financial institution;

4.4

The data on each financial transaction submitted to the Authorized body as part of the notification file are signed by an electronic digital signature of the compliance officer with the help of the means of flash/check-up of the electronic digital signature provided by the NBU and built into the bank's automated system.

5.5 The notification file formed by the bank's automated system is encoded by the software tools build into APM-NBU, and is e-mailed through the NBU e-mail to the Authorized body.

5.6

Upon receipt of the notification file from the bank (branch) the Authorized body decodes this file with the help of APM-NBU, checks electronic digital signatures, controls the accuracy of filling out all the data of the notification file, as well as completeness of the data provided. Based on the results of such control of each notification file, the Authorized body forms and mails to the bank's address a file-acknowledgement of registration (denial of registration) of a financial transaction (financial transactions) of registration (denial of registration) of a financial transaction (financial transactions). In case when for some reasons the Authorized body is not able to form and submit of the file-notification of registration (denial of registration) of a financial transaction (financial transactions), during three business days from the moment of receipt of notification file from the bank (branch), it has to inform the bank (branch) in writing in other way about the receipt of denial to receive data on specific transactions that are part of notification file, or notification file as a whole.

5.7

In case of non-zero error codes on certain transactions or on the notification file as a whole, the compliance officer should study why the mistakes have occurred, ensure correction of mistakes and the second provision of data on these transactions as part of a new notification file to the Authorized body. File-receipt with null error codes shall be a confirmation that a bank (bank branch) has met the requirements of laws of Ukraine in prevention of legalization (laundering) of proceeds obtained from crime as regards providing the Authorized body with relevant information.

5.8

If the received file-notification of registration (denial of registration) of a financial transaction (financial transactions) showing that the notification file has not been successfully decoded, or the result of verification of an electronic digital signature was negative, then before the second notification file is formed, the compliance officer checks the validity of the appropriate keys of electronic digital signature within APM-NBU. If it is required, he contacts the data protection department of the appropriate NBU territorial office for the receipt of the appropriate key certificate. File-notification of registration (denial of registration) of a financial transaction (financial transactions) with zero error codes concerning specific transaction, reported to the Authorized body through respective file-notification, is deemed acknowledgement of registration of this transaction by the Authorized body.

5.9

Should any emergency conditions prevent from sending file-notification, file-response or file-acknowledgement by e-mail, the authorized employee shall ask the respective territorial board of the National Bank of Ukraine to send the generated file to the address of the Authorized body. File-notification of registration (denial of registration) of a financial transaction (financial transactions) or file-acknowledgement received by the territorial board of the National Bank of Ukraine from the Authorized body by e-mail shall be sent to the authorized employee by e-mail or on electronic media the next working day at the latest.

5.10

If the bank (branch) within two working days from the moment of giving information to the Authorized body did not receive the file-notification of registration (denial of registration) of a financial transaction (financial transactions) or the file-acknowledgement, the authorized employee of the bank (branch) applies to the Authorized body and clears up reasons of the failure to submit the respective file.

5.11

All the documents regarding financial transactions are stored in electronic archives during the period of time that should not be shorter than requirements as to the period of storage of financial documents of this type in the paper form.

5.12

The bank (branch) gives supplementary information about a financial transaction which has become an object of financial monitoring, upon request of the Authorized body, and generates and sends file-response within three working days from the moment of receipt of the file-request from the Authorized body.

Upon receipt of the file-request from the Authorized body, the bank (branch) decodes this file using AWS-NBU system, verifies electronic digital signature, examines accuracy and completeness of banking details and not later than the end of that working day when the file-request was received, generates file-acknowledgement and sends it to the address of the Authorized body.

Having received file-response from the bank (branch) the Authorized body decodes this file using AWS-NBU system, verifies electronic digital signature, examines accuracy and completeness of banking details and not later than the end of the working day when the file-response was received, generates file-acknowledgement and sends it to the address of the bank (branch).

5.13

The bank (branch) on its own initiative or on the demand of the Authorized body submits the latter copies of the documents and/or other information concerning a financial transaction which has become an object of financial monitoring by generating and sending file-supplement to the Authorized body, if such information cannot be sent in a file-notification or file-response.

The file-supplement generated by the bank's automation system shall be encoded by software built into AWS-NBU system, and sent through e-mail facility of the National Bank of Ukraine to the address of the Authorized body together with the file-notification or file-response, or delivered to the Authorized body on electronic media.

The order of delivering file-supplement on electronic media to the Authorized body shall assure its secure delivery and confidentiality".

5.14

The Copies of the files sent (delivered) to the Authorized body shall be kept with the bank during five years.

6. Rights and duties of the bank's compliance officer

6.1. The internal bank system of prevention of legalization (laundering) of the proceeds obtained from crime is headed by the bank's compliance officer that is independent in his/her activity and reports only to the bank's Chairman. In case a special department of prevention of legalization (laundering) of the proceeds obtained from crime is created with the bank, the head of such department shall do the work of the compliance officer.

6.2. The bank's compliance officer is the bank's board member, is appointed and dismissed by the bank's supervisory council according to the procedure described in the statutory documents of the bank. His candidature shall be coordinated with the NBU.

6.3. Compliance officer of the bank has the right to submit for the review of the Board of the Bank proposals related to ensuring bank's compliance with legislation related to prevention of legalization (laundering) of the proceeds obtained from crime. In case the Board of the Bank rejects proposal of the compliance officer, he/she has the right to address with proposals to the bank's supervisory council (board). His/her proposals shall be considered by the supervisory board at its next sitting.

6.4. The decision of the bank to dismiss the compliance officer shall be coordinated with the NBU. Resolution of the NBU related to dismissal of the compliance officer, passed according to Article 73 of the Law on Banks and Banking is mandatory.

6.5. A bank, taking into account specifics of its organization, main lines of business, its clients base and the level of its risks, related to its clients and their business, can create a separate structural unit of that will deal with the issues of combating legalization (laundering) of the proceeds obtained from crime, headed by the compliance officer. This unit shall operate in accordance with the regulation on this structural unit that is approved in accordance with the bank's internal procedures.

6.6. The bank's officers shall assist the bank's special unit staff who deal with the issues of combating money laundering or other bank's officers in charge of financial monitoring, in doing their job.

6.7. The compliance officer of a branch is appointed for and dismissed from this position according to the procedure determined by statutory documents of bank, and in coordination with the compliance officer of the bank. In case it is inexpedient to introduce a separate job position of a branch's compliance officer, his/her duties shall be performed by another officer of the branch.

Assignment of duties on the branch's compliance officer for the branch's officer and dismissing it from performing such duties shall be agreed with the responsible officer of the bank.

6.8. The bank's (branch's) compliance officer shall meet the following qualification requirements:

- Higher legal or economic education and experience working at the bank for not less than three years or experience of work as a bank (branch) unit head of not less than a year, or significant (not less than three years) experience in the sphere of combating and/or prevention of financial crime;
- No previous convictions for mercenary crime;
- Impeccable business reputation.

6.9 The bank's (branch's) compliance officer's terms of reference cover:

a) Taking decision regarding notification of the Authorized body on financial transactions in case he/she has motivated suspicions that they may be performed to legalize (launder) the proceeds from crime, or that they are related or intended for financing terrorism;

b)

Taking decision regarding the notification of the enforcement agencies determined by the laws of Ukraine on financial transactions suspicious of being related to financing terrorism;

c)

Examinations of activity of any bank's (branch's) unit and its staff as to their compliance with the Regulation of the internal financial monitoring and execution of programs of implementation of financial monitoring;

d)

Right to access any premises, documents, means of telecommunications;

e)

Involving any bank's (branch's) officers in taking actions to prevent legalization (laundering) of the proceeds from crime and in carrying examinations on these issues;

f)

Organization of development and submission for approval, as well as implementation of the rules of internal financial monitoring and programs of financial monitoring;

g)

Receiving explanations from the bank's staff irrespective of their positions on issues of financial monitoring;

h)

Assisting the NBU authorized representatives in their on-site examinations of the bank's activity regarding to compliance with Ukrainian legislation that regulates the issues of combating money laundering and legalization of proceeds from crime;

i)

Taking decisions to provide information on financial monitoring issues to the requests of the Authorized body and the enforcement bodies.

The compliance officer performs other functions in line with the legislation of Ukraine, Rules of internal financial monitoring, programs of financial monitoring and other internal banking documents on issues of prevention of money laundering.

6.10

The compliance officer submits the bank's head a written report on the results of implementation of the Regulation of internal financial monitoring and programs of its implementation at least once a month.

6.11

The bank's (branch's) staff shall assist the compliance officer (his personnel) in performing their functions.

7. Training programs and development programs for banks personnel

7.1. To provide for the proper level of the personnel development regarding the issues of prevention of money laundering, the bank develops and implements, on a yearly basis, the training program and development courses for bank personnel regarding taking actions on financial monitoring.

7.2. The training program and development courses for bank personnel regarding taking actions on financial monitoring shall particularly include the following:

1) organization of the staff training based on their job responsibilities along the following lines:

a)

familiarizing the staff with the international documents and the Ukraine's legislation, Basle Committee on Bank Supervision recommendations related to the issues of money laundering prevention and combating;

b)

familiarizing the staff with the internal banking documents on financial monitoring issues;

c)

practical training regarding the implementation of the Regulation on implementing financial monitoring and programs of implementing financial monitoring.

2) Organization of development courses for bank personnel on issues of money laundering prevention, along the following lines:

a)

studying the best practice in detecting the clients' transactions that can be related to legalization (laundering) of the proceeds from crime;

b)

studying the ways and methods of research on clients and checking of the information as to their identification.

7.3. The training program is arranged based on the fact that the major prerequisite of the bank's successful activity regarding the prevention of legalization (laundering) of the proceeds from crime is the direct participation of each employee, within his/her competence, in this process.

7.4. Training of banking employees and/or raising of their qualification in preventing legalization of proceeds from crime and terrorist financing shall be conducted no less than once a year given specific features of their office duties.

Should the bank conducts his business on the securities market, the bank's employee, who is responsible for execution of programme (programmes) of financial monitoring of securities trading, shall complete training and/or raise his/her qualification in the sphere of preventing legalization of proceeds from crime and terrorist financing in accordance with the requirements of the State Securities and Equity Market Commission.

8. The procedure of suspending the financial transactions

8.1 In order to ensure the fulfilment of the article 12¹ of the Law of Ukraine "On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime" concerning the

suspending the transactions of persons related to terrorist activity, bank uses the software, which provides the revealing and blocking of the transaction immediately before its performance, if it is performed in favour of or by the order of the client of a bank, if the transaction's participant or beneficiary is a person, which is included into the list of persons connected with conducting the terrorist activity.

Information about such a transaction is immediately transmitted to the compliance officer of a bank (branch) and is registered in the register of financial transactions that are subject to financial monitoring, according to the internal procedures.

8.2 The decision about suspending such a transaction is taken by compliance officer of the bank (branch) through an appropriate order.

8.3. In case when it is decided to stop financial transaction compliance officer of a bank (branch) is obliged to inform the Authorized body immediately by forming and sending an appropriate file-notification. The file-notification concerning such a transaction should be submitted to the Authorized body at the day of its detection.

Not later than on the next business day after submitting an appropriate file-notification compliance officer of a bank (branch) should assure of registration of this financial transaction by the Authorized body on the basis of the appropriate file-notification of registration (denial of registration) of a financial transaction (financial transactions).

In case of non-zero error codes on such a transaction or on the file-notification as a whole, the compliance officer should study immediately why the mistakes have occurred, ensure correction of mistake(s) and the provision of data on such a transaction as part of a new file-notification to the Authorized body.

8.4 In case when file-decision on further suspension of an appropriate financial transaction by the Authorized body wasn't submitted to a bank (branch) during two business days after obtaining by a bank (branch) documents for transfer (other document based on which the transaction is performed), a bank (branch) renews its performance.

8.5 In case of the receipt of file-decision from the Authorized body compliance officer of a bank (branch) ensures (depending on the decision taken by the Authorized body) further suspension of such a transaction performance for the term, specified in the Authorized body's decision, or takes measures to renew its performance by issuing an appropriate order.

In the case when the term of further suspension of financial transaction performance specified in the appropriate file-decision is finished, a bank (branch) renews its performance.

8.6 The general term of suspension of financial transaction performance cannot exceed seven business days after obtaining by a bank (branch) documents for transfer (other document based on which the transaction is performed).

8.7 A bank conducts funds accounting on transaction, which performance was suspended in order defined by the requirements of this article, on a separate analytical account of the balance-sheet account 2909 II "Other payable accounts on bank customers transactions". Accounting of a settlement document on such a transaction together with an order on its suspension should be performed on the off-balance sheet account 9809 A "Other documents on customers settlement transactions"

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Appendix 1
to the Regulations on conducting financial monitoring

Questionnaire of the client – legal person, resident

1. Section one (in the form of a table):

- 1) full and abbreviated name;
- 2) form of legal entity's incorporation;
- 3) pattern of ownership;
- 4) address of location;
- 5) identification code according to the Uniform Public Register of Enterprises and Organizations of Ukraine;
- 6) date of state registration;
- 7) state registration body;
- 8) date and number of the Certificate of State Registration;
- 9) telephone and fax numbers for contacts;
- 10) independent subdivisions (branches, representative offices, etc.);
- 11) e-mail;
- 12) identification data of physical persons authorized to act on behalf of the client;
- 13) date of the opening of the first account;
- 14) assessment of client's reputation;
- 15) exposure to risk of transactions on legalization of proceeds from crime;
- 16) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Section two (in the form of a table):

- 1) information about functionaries and their authorities;
- 2) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
- 3) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
- 4) information about persons, who are authorized to represent interests of shareholders (participants) of the client and possess substantial share;
- 5) concerned persons;
- 6) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of;
- 7) amount of the Authorized capital;
- 8) financial standing;
- 9) kind (kinds) of economic activities;
- 10) description of subject matter of business;
- 11) licenses (permits) to execute certain transaction (activity) (name, series, number, name of the issuing authority, validity);
- 12) banking services (products) used by the client;
- 13) accounts opened in the bank;
- 14) accounts opened in other banks (name of the bank, MFO, number of account).

3. Section three (text):

- 1) business history (information about reorganization, changes in business, former financial problems, reputation on domestic and foreign markets, market share);
- 2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

- 1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
- 2) principal counteragents;
- 3) analysis of compatibility of client's transactions with subject matter and sphere of its business (if the fact of non-compatibility of transactions and subject matter of client's business is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions by the client shall be mentioned);

- 4) analysis of compatibility of client's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
- 5) number of transactions, which have become objects of financial monitoring:
on the basis of mandatory financial monitoring;
on the basis of internal financial monitoring:
the Authorized body has been informed about;
in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 2
to the Regulations on conducting financial monitoring

Questionnaire of the client – legal person, non-resident

1. Section one (in the form of a table):
 - 1) full and abbreviated name;
 - 2) form of legal entity's incorporation;
 - 3) pattern of ownership;
 - 4) country of incorporation;
 - 5) date of incorporation;
 - 6) registration authority;
 - 7) details of the Certificate of incorporation or extract from Banking, Commerce or Court Register;
 - 8) address of location;
 - 9) independent subdivisions (branches, representative offices, etc.);
 - 10) telephone and fax numbers for contacts;
 - 11) E-mail;
 - 12) identification data of physical persons authorized to act on behalf of the client;
 - 13) date of the opening of the first account;
 - 14) assessment of client's reputation;
 - 15) exposure to risk of transactions on legalization of proceeds from crime;
 - 16) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.
2. Part two (in the form of a table):
 - 1) information about functionaries and their authorities;
 - 2) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
 - 3) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
 - 4) information about persons, who are authorized to represent interests of shareholders (participants) of the client and possess substantial share;
 - 5) concerned persons;
 - 6) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of;
 - 7) amount of the Authorized capital;
 - 8) financial standing;
 - 9) kind (kinds) of economic activities;
 - 10) description of subject matter of business;
 - 11) licenses (permits) to execute certain transaction (activity) (name, series, number, name of the issuing authority, validity);
 - 12) banking services (products) used by the client;
 - 13) accounts opened in the bank;
 - 14) accounts opened in other banks (name of the bank, MFO, number of account).

3. Section three (text):

- 1) business history (information about reorganization, changes in business, former financial problems, reputation on domestic and foreign markets, market share);
- 2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

- 1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
- 2) principal counteragents;
- 3) analysis of compatibility of client's transactions with subject matter and sphere of its business (if the fact of non-compatibility of transactions and subject matter of client's business is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions by the client shall be mentioned);
- 4) analysis of compatibility of client's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
- 5) number of transactions, which have become objects of financial monitoring:
on the basis of mandatory financial monitoring;
on the basis of internal financial monitoring:
the Authorized body has been informed about;
in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 3

to the Regulations on conducting financial monitoring

Questionnaire of the client – representative office of a legal person, non-resident

1. Section one (in the form of a table):

- 1) full and abbreviated name;
- 2) address of location;
- 3) registration data of income tax payer (registration number, date of registration, registration body);
- 4) kind (kinds) of economic activity;
- 5) description of the subject matter of business;
- 6) licenses (permits) to execute certain transaction (activity) (name, series, number, denomination of the issuing authority, validity);
- 7) banking services (products) used by the representative office;
- 8) identification data of physical persons authorized to act on behalf of the representative office;
- 9) telephone and fax numbers for contacts;
- 10) E-mail;
- 11) date of the opening the first account;
- 12) accounts opened in the bank;
- 13) accounts opened in other banks (name of the bank, MFO, account number);
- 14) assessment of client's reputation;
- 15) exposure to risk of transactions on legalization of proceeds from crime;
- 16) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee responsible for client's identification and examination.

2. Section two. Information concerning identification of a legal person – non-resident (in the form of a table):

- 1) full and abbreviated name;
- 2) form of legal entity's incorporation;
- 3) pattern of ownership;
- 4) country of incorporation;
- 5) date of incorporation;

- 6) registration authority;
- 7) details of the Certificate of incorporation or extract from Banking, Commerce or Court Register;
- 8) address of actual location;
- 9) independent subdivisions (branches, representative offices, etc.);
- 10) information about functionaries and their authorities;
- 11) telephone and fax numbers for contacts;
- 12) E-mail;
- 13) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
- 14) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
- 15) concerned persons;
- 16) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of;
- 17) amount of the Authorized capital;
- 18) kind (kinds) of economic activity;
- 19) description of the subject matter of business;
- 20) financial standing.

3. Section three (text):

- 1) business history of the representative office and legal person – non-resident (information about reorganization, changes in business, former financial problems, reputation on domestic and foreign markets, market share);
- 2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

- 1) description of sources of cash and other valuables receipts (a new representative office expects to receive) put to representative office's accounts;
- 2) principal counteragents;
- 3) analysis of compatibility of client's transactions with subject matter and sphere of its business and that of a legal person – non-resident (if the fact of non-compatibility of transactions and subject matter of business of a legal person – non-resident is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions shall be mentioned);
- 4) analysis of compatibility of representative office's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and representative office's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
- 5) number of transactions, which have become objects of financial monitoring:
 - on the basis of mandatory financial monitoring;
 - on the basis of internal financial monitoring;
 - the Authorized body has been informed about;
 - in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 4
to the Regulations on conducting financial monitoring

Questionnaire of the client – physical person

1. Section one (in the form of a table):
 - 1) Family name, given name, patronymic name (if any);
 - 2) date of birth;
 - 3) place of birth;
 - 4) nationality;
 - 5) address of place of residence;

- 6) information about a document identifying the person;
- 7) address of temporal residence on the territory of Ukraine (for non-residents);
- 8) identification number in accordance with the State Register of physical persons – taxpayers and payers of other mandatory payments (if any);
- 9) place of work, position;
- 10) telephone and fax numbers for contacts;
- 11) E-mail;
- 12) date of the opening of the first account;
- 13) assessment of client's reputation;
- 14) exposure to risk of transactions on legalization of proceeds from crime;
- 15) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Section two (in the form of a table):

- 1) identification data of the person opening account to the client's name;
- 2) identification data of the physical person (physical persons), authorized to act on behalf of the client;
- 3) information about registration of the physical person acting as an entrepreneur;
- 4) kind of business sphere;
- 5) kinds of services used by the client;
- 6) client's accounts opened with the bank;
- 7) client's accounts opened with other banks (name of the bank, MFO, number of account).

3. Section three (text):

- 1) description of client's financial standing (including his/her real estate and valuable movable assets);
- 2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

- 1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
- 2) analysis of compatibility of client's transactions and available information about his/her financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
- 3) number of transactions, which have become objects of financial monitoring:
 - on the basis of mandatory financial monitoring;
 - on the basis of internal financial monitoring;
 - the Authorized body has been informed about;
 - in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 5

to the Regulations on conducting financial monitoring

Questionnaire of the client – physical person, entrepreneurial entity

1. Section one (in the form of a table):

- 1) Family name, given name, patronymic name (if any);
- 2) date of birth;
- 3) place of birth;
- 4) nationality;
- 5) address of place of residence;
- 6) information about a document identifying the person;
- 7) address of temporal residence on the territory of Ukraine (for non-residents);
- 8) identification number in accordance with the State Register of physical persons – taxpayers and payers of other mandatory payments (if any);

- 9) information about state registration of physical person – entrepreneur (date of registration, registration authority, file number in the register);
- 10) telephone and fax numbers for contacts;
- 11) E-mail;
- 12) date of the opening of the first account;
- 13) assessment of client's reputation;
- 14) exposure to risk of transactions on legalization of proceeds from crime;
- 15) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client.

2. Section two (in the form of a table):

- 1) kind (kinds) of economic activities;
- 2) description of subject matter of business;
- 3) licenses (permits) to execute certain transaction (activity) (name, series, number, name of the issuing authority, validity);
- 4) identification data of the physical person (physical persons), authorized to act on behalf of the client;
- 5) banking services used by the client;
- 6) accounts opened with the bank;
- 7) accounts opened with other banks (name of the bank, MFO, number of account).

3. Section three (text):

- 1) description of client's financial standing (including his/her real estate and valuable movable assets);
- 2) client servicing history (information about services used by a client, positive and/or negative aspects of cooperation with it, etc.).

4. Section four (in the form of a table):

- 1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
- 2) principal counteragents;
- 3) analysis of compatibility of client's transactions with subject matter and sphere of its business (if the fact of non-compatibility of transactions and subject matter of client's business is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions by the client shall be mentioned);
- 4) analysis of compatibility of client's transactions and available information about its financial standing (if the fact of non-compatibility of transactions and client's financial standing is elicited, the results of actions taken to clarify the sources of additional funds shall be mentioned);
- 5) number of transactions, which have become objects of financial monitoring:
 - on the basis of mandatory financial monitoring;
 - on the basis of internal financial monitoring:
 - the Authorized body has been informed about;
 - in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

Appendix 6

to the Regulations on conducting financial monitoring

Questionnaire of the client – financial institution – correspondent

1. Part one (in the form of a table):

- 1) full and abbreviated name;
- 2) form of legal entity's incorporation;
- 3) pattern of ownership;
- 4) registration number;
- 5) date of state registration;
- 6) place of state registration;
- 7) banking identification code (BIC);
- 8) MFO (for resident);

- 9) kind of license to execute banking (financial) transaction;
- 10) license number;
- 11) date of license issue;
- 12) transactions, the financial institution is authorized to carry out;
- 13) address of location;
- 14) telephone and fax numbers for contacts;
- 15) E-mail;
- 16) assessment of reputation;
- 17) exposure to risk of transactions on legalization of proceeds from crime;
- 18) date of establishing correspondent relations;
- 19) date of filling-in the questionnaire.

Position, family name, initials and office telephone number of an employee who is responsible for identification and examination of a client..

Account supervisor.

Back-up account supervisor (if any).

2. Section two (in the form of a table):

- 1) information about functionaries and their authorities;
- 2) identification data of physical persons who hold substantial share, with information about their share in capital of the legal person;
- 3) identification data of physical person (physical persons) who can exert direct or indirect influence on client's business (possesses (controls) directly or indirectly 50 and more per cent of shares (voting rights) of a legal person), and grounds for such an influence;
- 4) information about persons, who are authorized to represent interests of shareholders (participants) of the client and possess substantial share;
- 5) list of concerned persons;
- 6) amount of the Authorized capital;
- 7) description of financial standing;
- 8) information about independent structural subdivisions (if any);
- 9) specialization according to banking (financial) products;
- 10) information about parent company, corporation, holding group, industrial financial group or other association the client is a member of.

3. Section three (text):

- 1) list of client's correspondents;
- 2) general description of counteragent's clients database;
- 3) business history, scope of services on the market (information certifying client's actual existence (example: reference to "The Bankers' Almanac"), information about reorganization, changes in business, actual and former financial problems, business reputation on international and domestic markets, market share, specialization according to financial products, etc.);
- 4) description of services rendered by correspondent to its clients through an account (accounts) opened with the bank (branch) and assessment of risk of their use with the purpose to legalize proceeds from crime or terrorist financing;
- 5) description of actions taken by the correspondent to Prevent Legalization of Proceeds from Crime, and their assessment.

4. Section four (in the form of a table):

- 1) description of sources of cash and other valuables receipts (a new client expects to receive) put to client's accounts;
- 2) analysis of compatibility of correspondent's transactions with services regularly rendered through an account (accounts) opened with the bank (branch) (if the fact of non-compatibility of transactions and services regularly rendered through an account (accounts) opened with the bank (branch) is elicited, the results of actions taken to clarify the subject matter and purpose of conducting these transactions shall be mentioned);
- 3) number of transactions, which have become objects of financial monitoring:
 - on the basis of mandatory financial monitoring;
 - on the basis of internal financial monitoring;
 - the Authorized body has been informed about;

in respect of which a decision was made on unreasonableness of giving information to the Authorized body.

In this connection Annex 4 to be considered Annex 7.

Appendix 7
to the Regulation on Implementation of Financial Monitoring

**Approximate list of criteria of evaluation of risk
as to performing transactions by a client to legalize (launder)
the proceeds obtained from crime
(if necessary, it is updated by the bank on its own)**

1. Presence of counteragents – residents of the countries about which the following is known from reliable sources:

- they do not comply with the generally accepted standards in combating money laundering;
- they do not provide for disclosure or provision of the information on financial transactions;
- they do not comply with the FATF recommendations;
- they are countries where military operations take place;
- they are offshore territories.

2. A client is a person holding (who held) a position with large powers (with central bodies and local bodies of government, local governments, political parties), or is a member of the family of such person/

3. A corporate client, who is not a financial institution, is involved in money transfers, cash checks transactions etc.

4. A corporate client doing tourism business.

5. A corporate client involved in foreign economic operations.

6. A corporate client that is a charitable public organization (except for organizations that act under auspices of famous international organizations)

7. A corporate client that receives financial assistance from non-residents of Ukraine or provides financial assistance to non-residents of Ukraine.

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O.M. Berezhnyi

Head of Legal Support of Financial Monitoring Unit
Of the Methodological and Organizational Support of
Financial Monitoring
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Annex 21

On Approving Regulation on Functioning of Domestic and International

Payment Systems in Ukraine

Resolution of the Board of Directors of the National Bank of Ukraine

of September 25, 2007 No. 348

...
of January 5, 2010 No. 6

According to Article 7 of the Law of Ukraine On the National Bank of Ukraine and Articles 9, 12, 41 of the Law of Ukraine On Payment Systems and Money Transfer in Ukraine, and in order to regulate issues related to functioning of international payment systems in Ukraine, as well as systems for money transfer between natural persons without opening of an account, payment organizations of which are resident banks (hereinafter – money transfer systems), and to exercise monitoring thereof, the Board of Directors of the National Bank of Ukraine **ENACTS**:

1. To approve the Resolution on functioning of domestic and international payment systems in Ukraine (hereinafter – the Regulation), which is attached thereto.

2. To consider the following instruments as invalid:

resolution of the Board of Directors of the National Bank of Ukraine dated 15.04.2005 No 131 On Approving Regulation on Procedure of Registering Agreements on Membership or Participation in International Payment Systems, which was registered by the Ministry of Justice of Ukraine on 05.05.2005 under No 470/10750;

resolution of the Board of Directors of the National Bank of Ukraine dated 27.11.2006 No 444 On Approving Amendments to Regulation on Procedure of Registering Agreements on Membership or Participation in International Payment Systems, which was registered by the Ministry of Justice of Ukraine on 12.12.2006 under No 1303/13177.

3. Payment Systems Department (N. G. Lapko) together with Informatization Department (A. S. Savchenko), Department for Preventing Use of the Banking System for Legalization of Proceeds from Crimes and Terrorist Financing (O. M. Bereznyi) shall:

ensure activity on agreement of the rules of money transfer systems;

continue registration of agreements on membership or participation in international payment systems, which were concluded by banks, non-banking financial institutions, national mail operator, payment organizations of domestic payment systems and other organizations, founders (participants) of which are banks and non-banking financial institutions.

4. Banks, which, before the resolution come into force, implemented money transfer systems and concluded agreements on membership or participation in relation to these systems with other banks of Ukraine, non-banking financial institutions, which have a money transfer license from special authorized executive body in the sphere of regulation of financial services markets, national mail operator and/or non-resident legal entities, as well as agreements with non-resident payment organizations of international payment systems for transfer of money with participation of two payment systems, within 90 calendar days after coming into force of the resolution:

to submit documents to the National Bank of Ukraine for agreement of the rules of money transfer systems;

to inform the National Bank of Ukraine on the said agreements according to the order, which is established in the Regulation.

5. To Payment Systems Department (N. G. Lapko), to inform banks of Ukraine, non-banking financial institutions, which have a money transfer license of special authorized executive body in the sphere of regulation of financial services markets, and national mail operator on the content of the resolution after its state registration by the Ministry of Justice of Ukraine, for guidance and use thereof during their work.

6. Control over implementation of the resolution shall be vested in Chief Executive on Payment Systems and Payments V. M. Kravets.

7. The Resolution comes into force 10 days after state registration by the Ministry of Justice of Ukraine.

Regulation on Functioning of Domestic and International Payment Systems in Ukraine

This Regulation was drafted according to Articles 7, 40 of the Law of Ukraine On the National Bank of Ukraine, Articles 9, 10, 12, 41 of the Law of Ukraine On Payment Systems and Money Transfer in Ukraine, other laws of Ukraine and regulations of the National Bank of Ukraine.

I. General Provisions

1. The Regulation defines the procedure of:

registering, by the National Bank of Ukraine (hereinafter – the National Bank), of agreements on membership or participation (hereinafter – agreements on membership/participation) in international payment systems, which were concluded by banks, non-banking financial institutions, which have a money transfer license of special authorized executive body in the sphere of regulation of financial services markets, national mail operator, payment organizations of domestic payment systems and other organizations, founders (participants) of which are banks and non-banking financial institutions (hereinafter – legal entities), with non-resident payment organizations of international payment systems or non-resident institutions authorized by them;

agreeing with the National Bank of the rules of domestic and international payment systems (hereinafter – payment systems), payment organizations of which are resident, including systems of money transfer, internal banking payment systems, systems of inter-bank payments, as well as systems, under which money transfer is initiated with use of a special means of payment;

registering and issuing permit to internal non-banking payment systems as regards activity related to money transfer;

permission to realize clearing and settlement operations;

informing of the National Bank, by resident payment organizations of international payment systems, on conclusion of agreements with non-resident legal entities concerning their membership or participation in these systems, as well as on conclusion of agreements with non-residential payment organizations of international payment systems for transfer of money with participation of two payment systems.

2. Requirements of this Regulation shall extend to legal entities, which concluded agreements on membership/participation in international payment systems, banks and non-banking institutions, which formed domestic/international payment systems, to legal entities, which intends to realize clearing and settlement operations, as well as other legal and natural persons, which are subjects of relations established within the framework of money transfer.

Requirements of the Regulation shall not extend to payment systems, payment organization of which is the National Bank.

3. The following subjects shall be eligible for membership/participation in domestic non-banking payment system: a bank, which has a banking license of the National Bank, non-banking financial institution, which has a money transfer license of special authorized executive body in the sphere of regulation of financial services markets, as well as national post communication operator, which concluded an agreement with payment organization of corresponding payment system.

4. The National Bank shall register agreements, which are concluded by:

a) banks, non-banking financial institutions, national mail operator with non-resident payment organizations of international payment systems or non-residential institutions authorized by them, on membership/participation in these systems;

b) payment organizations of domestic payment systems and other organizations, founders (participants) of which are banks, as well as non-banking institutions, which have a money transfer license of special authorized executive body in the sphere of regulation of financial services markets with non-resident payment organizations of international payment systems on joint participation of their members in these systems.

5. Banks, non-banking financial institutions and national mail operator shall be obliged to register agreements on membership/participation in international payment systems before they begin to provide services of corresponding international payment system.

Payment organizations of domestic payment systems and other organizations, founders (participants) of which are banks, as well as non-banking institutions, which have a money transfer license of special authorized executive body in the sphere of regulation of financial services markets, shall be obliged to register agreements on joint participation of their members in international payment systems before members of these organizations begin to provide services of corresponding international payment system.

6. Payment organization of payment system shall be obliged to agree the rules of this system with the National Bank before it begins to provide services of the system.

7. Rules (procedures) of payment organization of international payment system on preventing legalization of proceeds from crimes and terrorist financing must correspond to international standards in this sphere.

8. Terms shall be used in the Regulation in the following meaning:

credit risk – risk of any member or participant of the payment system being not able to fully fulfill his financial obligations at this or any time in the future;

international card payment system – international payment system, within which money transfer and other transactions under a corresponding agreement are initiated by a client with the help of a payment card;

non-banking financial institution – a legal entity, which is included into a corresponding state register of financial institutions and which receives, according to legislation, a right to transfer money in national and foreign currency;

operational risk – risk of operational errors of personnel, errors of software or technical malfunctions causing or deepening credit risk or liquidity risk;

legal risk – risk of lacking legal regulation or change in provisions of the laws/or regulations, which may cause or deepen credit risk or liquidity risk;

liquidity risk - risk of any member or participant of payment system having no sufficient funds for proper and timely fulfillment of his financial obligations, but being able to fulfill them at other time in the future;

money transfer system - a payment system intended for transfer of money initiated by a natural person to receive money to a natural person / legal entities or natural person issuing in cash;

system risk – risk of failure of any participant of payment system to fulfill his obligations; or malfunctions of the system itself causing disability of other participants of the payment system; or financial institutions of other components of the financial system to properly fulfill their obligations;

authorized institution – a legal entity, which is authorized by payment organization of international payment system to conclude agreements on membership/participation in this system.

9. Other terms shall be used in the Regulation in meanings, which are given in the laws of Ukraine On Payment Systems and Money Transfer in Ukraine and On Banks and Banking Activity.

10. Banks, non-banking financial institutions, national mail operator must observe, during operations on money transfer with use of payment systems, requirements of regulations of the National Bank on matters of currency legislation, as well as other regulations of the National Bank, taking into account rules of corresponding payment systems.

11. Violation, by banks or other persons, which can be the object of National Bank's inspection, of requirements of this Regulation shall give the National Bank a right to take measures in compliance with legislation of Ukraine.

In case of revealing the facts of activity of payment organizations of payment system related to money transfer without compliance with the rules of payment system, the National Bank shall inform corresponding state authorities thereof.

II. Procedure of submitting by legal entities of documents for registration of agreements on membership/participation in international payment systems

1. For registration of an agreement on membership/participation in international payment system, a bank must submit the following documents to the National Bank:

a) an application for registration of an agreement on membership/participation in international payment system (annex 1);

b) a copy of the agreement on membership/participation in international payment system in original and three copies of its translation into Ukrainian, one of which must be notarized;

c) a legalized or apostilled copy of one of the following documents of foreign state's authority: extract from banking, trade or judicial register or registration certificate, or other document on registration of payment organization of international payment system or non-resident authorized institution;

permit, license or other document, which gives the right to payment organization of international payment system or non-resident authorized institution to conduct activity in the sphere of international money transfer;

d) copies of documents (extracts from documents) of payment organization of international payment system and their translations into Ukrainian, which cover:

organizational structure of international payment system, which must include data on payment organization of international payment system, clearing banks, processing centers, other persons with indication of full names, location and their functions, as well as name of a foreign state's authority, at which payment organization of international payment system was registered;

procedure of entry/withdrawal of members or participants into/from international payment system and a list of documents, which are submitted for entry into international payment system;

the system of managing liquidity, credit, legal, operational and system risks within a corresponding international payment system;

list of payment instruments / documents to transfer the cash, which carried by initiating and paying the amount of money in the international payment system (for international money transfer systems - providing sample documents for cash transfer);

e) reference signed by the CEO of the bank with provision of copies of supporting documents (extracts from documents) of payment organization of international payment system and their translations into Ukrainian, which cover:

requirements in the sphere of preventing legalization (laundering) of proceeds from crime and terrorist financing, which would extend to the bank in connection with its membership or participation in international payment system, as well as the order of fulfilling these requirements by the bank;

procedure of ensuring observation, within international payment system, of the seventh special recommendation of FATF on anti-terrorist financing;

f) copies of internal documents of the bank, which regulate procedure of financial monitoring of transactions, which are conducted with use of international payment system;

g) reference signed by the CEO of the bank and containing description of:

types of services to money transfer provided by the bank under a contract of membership / participation in the international payment system, indicating the initiator and recipient of money (legal entities and / or a natural person), types of transfer rates, etc.;

the general scheme of transfer, including movement of informational notifications and movement of funds from the moment of initiating of transfer by a bank customer till the end of mutual payments under this transfer in international payment system with indication of full names and location of legal entities involved (clearing banks, processing centers, service organizations etc);

information security system, which is used for preventing risks related to the use of informational technologies.

If information about the system of information containing bank secrecy, such information should be presented in a separate document, drawn up in accordance with regulations of the National Bank for storage, protection, use and disclosure of bank secrecy.

2. Paragraph 2 of section II was excluded

2. For registration of an agreement on membership/participation in international payment system, non-banking financial institution shall have to submit to the National Bank notarized copies of the following documents, in addition to documents, which are envisaged by paragraph 1 of this section:

the certificate on registration of financial institution by special authorized executive body in the sphere of regulation of financial services markets;

the money transfer license, which was issued by special authorized executive body in the sphere of regulation of financial services markets. In case of repeated obtaining of the money transfer license,

non-banking financial institution shall have to submit to the National Bank a notarized copy of this license within 30 calendar days after the day of its obtaining;

part four of paragraph 2 of section II was excluded

the general license of the National Bank for conducting of currency transactions.

3. For registration of an agreement on membership/participation in international payment system, the national mail operator shall have to submit to the National Bank, in addition to documents, which are envisaged by paragraph 1 of this section:

a notarized copy of the document, which confirms registration of the national mail operator at special authorized executive body in the sphere of regulation of financial services markets in the part of providing financial services of mail order;

the general license of the National Bank for conducting of currency transactions.

4. For registration of an agreement on joint participation of its members in international payment system, payment organization of domestic payment system shall have to submit to the National Bank, in addition to documents, which are envisaged in subparagraphs “a” – “e” of paragraph 1 of this section:

a list of banks and non-banking institutions, which are the members or participants of domestic payment system, with indication of full names of the banks and non-banking institutions, their location, for banks – bank code, for non-banking financial institutions – identification code under the USREU;

documents, which are envisaged by subparagraphs “f” and “g” of paragraph 1 of this section for each bank and non-banking financial institution, which is the member or participant of domestic payment system.

5. For registration of an agreement on joint participation of its members in international payment system, the organization, founders (participants) of which are banks and non-banking financial institutions, shall have to submit to the National Bank, in addition to documents, which are envisaged in subparagraphs “a” – “e” of paragraph 1 of this section:

a notarized copy of the certificate on state registration;

a copy of the Articles of Incorporation, which must be certified by signature of the CEO and stamp of the organization;

data on the CEOs of the organization with indication of their names, patronymic names, surnames and positions;

a list of banks and non-banking institutions, which are the members of the organization, with indication of full names of the banks and non-banking institutions, their location, for banks – bank code, for non-banking financial institutions – identification code under the USREU;

documents, which are envisaged by subparagraphs “f” and “g” of paragraph 1 of this section for each bank and non-banking financial institution, which is the member of the organization.

6. If a payment organization of international payment system has no documents, which are envisaged by subparagraph “d” of paragraph 1 of this section, a legal entity shall have to submit to the National Bank references signed by the CEO of the legal entity with coverage of issues, which are envisaged by subparagraph “d” of paragraph 1 of this section.

7. If document, which is mentioned in part three of subparagraph “c” of paragraph 1 of this section, has a limited duration, the legal entity shall be obliged to submit to the National Bank a legalized and apostilled copy of the document of a foreign state’s authority allowing to conduct activity in the sphere of international transfers within 60 calendar days after the day of repeated obtaining by payment organization of international payment system or non-resident authorized institution of the document or to inform the National Bank on refusal of the foreign state’s authority to issue this document to payment organization of international payment system or non-resident authorized institution.

8. Payment organization of international payment system, its representative or clearing bank of international payment system in Ukraine shall have the right to submit documents to the National Bank, which are envisaged by subparagraphs “c” – “e” of paragraph 1 of this section (hereinafter – documents of payment organization of international payment system).

Representative or clearing bank of international payment system in Ukraine shall be obliged to submit to the National Bank a document confirming his powers, in addition to documents of payment organization of international payment system.

9. The National Bank shall place information on conformity of documents of payment organization of international payment system with requirements of this Regulation on the site of the National Bank in global informational network of Internet.

10. The National Bank shall remove information on conformity of documents of payment organization of international payment system, which did not begin its activity in Ukraine, with requirements of this Regulation, a year after placing of the information on the site of the National Bank in global informational network of Internet.

11. After placing by the National Bank of information on conformity of documents of payment organization of international payment system, which were mentioned in paragraph 8 of this section, with requirements of this Regulation, a legal entity shall have the right not to submit documents of payment organization of international payment system to the National Bank for registration of agreement on membership/ participation in international payment system.

12. A legal entity shall, within 30 calendar days after receiving of a notification from payment organization of international payment system on conducting by it of a transaction on acquiring/transferring rights under agreement on membership/participation in international payment system, be obliged to submit to the National Bank a copy of the document, which certifies on acquiring/transfer of rights under the agreement, as well as documents, which are mentioned in subparagraphs “c” – “e” and “g” of paragraph 1 of this section.

13. A legal entity shall submit the following documents within 30 calendar days after amending of the agreement on membership/participation in international payment system, which was registered by the National Bank:

an application for registration of amendments to agreement on membership/participation in international payment system per sample, which is given in annex 1 to this Regulation;

a copy of amendments to agreement on membership/participation in international payment system in the language of the original and two copies of its translation into Ukrainian, one of which must be notarized.

14. If the amended agreement on membership/participation in international payment system, which was registered by the National Bank, changing services to money transfer and / or changes the general scheme of money transfer and/or the information security system in corresponding international payment system, a legal entity shall be obliged to submit to the National Bank a reference, which is envisaged by subparagraph “g” of paragraph 1 of this section in addition to documents mentioned in paragraph 13 of this section.

15. Paragraph 15 of section II was excluded

15. A legal entity shall have no right to provide services of international payment system in compliance with amendments to the agreement, which are not registered by the National Bank, except for amendments on commission fee or other kinds of fees for the services of the corresponding international payment system and / or changes associated with change of name of the legal entity registered in the National Bank agreement on the membership / participation in the international payment system.

16. Legal entity registered with the National Bank agreement on the membership / participation in international payment system, if amendments to the list of services provided by it and / or changes in the overall scheme of money transfer in this system required within 10 calendar days after appropriate amendments submitted to the National Bank information sheet provided in subparagraph "g" of paragraph 1 of this section.

17. Legal entity registered with the National Bank agreement on the membership / participation in international money transfer system, is obliged to in paragraphs acceptance / payment of money in the foreseeable customer locations to post information on this system, namely:

order (conditions) the transfer of money;

currency types for money transfers;

the cost of money transfer and so on.

The legal entity on request of a client shall provide him with information about the payment points in the system of funds, the member / member of which it is.

18. A legal entity that takes the initiator of the transfer amount in local currency in cash for the transfer of foreign currency from Ukraine is obliged to inform the initiator of the transfer of

information on exchange rates in international money transfer system, the amount in foreign currency and total cost of services at the time of initiating the transfer of funds.

A legal entity, which performs the payment in local currency amount in cash in foreign currency, must get to any such transaction and the recipient agree to familiarize him with information concerning the exchange rate system in the international transfer of funds and the amount to be paid on time transaction in the payment amount.

Introduction of information and obtaining consent, pursuant to this paragraph shall be made in writing form and attested by the signature of the client (initiator / recipient).

19. A legal entity shall be obliged to submit the following documents to the National Bank within 30 calendar days after prolonging of agreement on membership/participation in international payment system:

an application for registration of agreement on membership/participation in international payment system per sample, which is given in annex 1 to this Regulation;

a copy of agreement on membership/participation in international payment system in the language of the original and two copies of its translation into Ukrainian, one of which must be notarized.

20. A legal entity, which registered agreement on membership/participation in international payment system at the National Bank, shall inform the National Bank through a letter about concluding, amending, prolonging, terminating of agreement with other legal entity (except for a dealer), under which this legal entity acquires the right to provide money transfer services to the customers in corresponding international payment system.

The notification shall contain full name of the legal entity, its location, lists of money transfer services, which are provided to the legal entity under the agreement and which the legal entity can provide to its customers, as well as procedure of payments concerning the conducted transfers in corresponding international payment system.

Based on the notification received from a legal entity and mentioned in this paragraph, the National Bank shall enter data to the register of payment systems and their members/participants, which is kept by the National Bank in electronic form.

21. A bank, which is the principal member of international card payment system and which registers an agreement on membership/participation in this system at the National Bank, shall be obliged to inform the National Bank on providing a payment organization of international payment system with guarantees on membership/participation of other bank and terminating provision of such guarantees.

22. A Bank, which registers agreement on membership/participation in international card payment system at the National Bank, shall be obliged to inform the National Bank on change in the status of its membership (from affiliated/associated to principal) in international card payment system.

23. A legal entity shall be obliged to observe requirements, which are envisaged by paragraphs 17 - 19 of this section, within 10 calendar days after concluding, amending, prolonging, terminating of agreement with another legal entity or receiving of a notification of payment organization of international card payment system on change in the status of membership in international card payment system.

III. Procedure of registering agreements on membership/participation in international payment system and amendments thereto

1. Agreements on membership/participation in international payment system and amendments thereto shall be registered through a corresponding entry into the register of payment systems and their members/participants, which is kept by the National Bank in electronic form.

2. The National Bank shall issue a registration certificate to a legal entity per sample, which is given in annex 2 to this Regulation.

3. The National Bank shall have the right to require correction of defects in the submitted documents from a legal entity.

4. The National Bank cannot consider documents more than 30 calendar days from the day of receiving by the National Bank of documents, which comply with requirements of this Regulation.

5. The National Bank shall have the right to refuse to register an agreement on membership/participation in international payment system and amendments thereto on the following grounds:
- submission of incomplete package of documents;
 - incompliance of the documents with provisions of this Regulation;
 - incompliance of the procedures of financial monitoring of international payment system with international standards in the sphere of preventing legalization of proceeds from crime and terrorist financing;
 - presence in the agreement on membership/participation in international payment system or amendments thereto of limitations of the rights of legal entities to conclude agreements on membership/participation in other payment systems and organizations, which were founded with their participation;
 - provision of inadequate information.
6. The National Bank shall inform a legal entity on refusal to register agreement on membership/participation in international payment system or amendments thereto with indication of the grounds of such refusal.
- A legal entity can appeal the decision on refusal to register agreement on membership/participation in international payment system or amendments thereto at the court.
7. If a legal entity receives a notification from the National Bank on refusal to register agreement on membership/participation in international payment system or amendments thereto, it shall have the right to submit corrected documents, which would take into account observations of the National Bank or inform it on termination of the agreement.
8. Refusal of the National Bank to register amendments to agreement on membership/participation in international payment system shall not lead to annulling of registration of the agreement on membership/participation in international payment system.
9. In case of changing of the name, a legal entity, which received a registration certificate at the National Bank, shall be obliged to return, within seven calendar days after registration of the changes according to legislation of Ukraine, the original of this registration certificate to the National Bank for receiving of a new one.
10. In case of loss or damage of the registration certificate, a legal entity shall have the right to apply to the National Bank for receiving of a duplicate of the registration certificate.
- The National Bank shall issue a duplicate of the registration certificate within 15 calendar days after the date of receiving an application of the legal entity to the National Bank.

IV. Procedure of annulling registration of agreement on membership/participation in international payment system

1. The National Bank shall annul registration of agreement on membership/participation in international payment system on the following grounds:
- a) notification of a legal entity, non-resident payment organization of international payment system or non-resident authorized institution on termination of the agreement on membership/participation in international payment system;
 - b) withdrawal by a foreign state's authority of the document, which was mentioned in part three of subparagraph "c" of paragraph 1 of section II of this Regulation, from payment organization of international payment system or non-resident authorized institution;
 - c) failure of a legal entity to observe requirements, which were mentioned in paragraphs 7, 12 of section II of this Regulation;
 - d) revocation by the National Bank from the bank of a banking license or taking decision on termination of conducting by the bank of transactions with currency values;
 - e) subparagraph "e" of paragraph 1 of section II was excluded
 - e) revocation by the National Bank from a non-banking financial institution, national mail operator of a general license for conducting of currency transactions;
 - f) annulment by a special authorized executive body in the sphere of regulation of financial services markets of decision on registering of the national mail operator;
 - g) annulment by a special authorized executive body in the sphere of regulation of financial services markets of the money transfer license of a non-banking financial institution;
 - h) liquidation of a legal entity;

- i) establishment of the fact of registration of agreement or amendments to agreement on membership/participation in international payment system on the basis of inadequate data.
 - j) failure by entity on international services payment system for 1 year from the date of the registration certificate of the National Bank of registration of the contract of membership / participation in this system.
2. A legal entity shall be obliged to inform the National Bank on termination of agreement on membership/participation in international payment system with 10 calendar days after such termination and to return the registration certificate.
 3. The National Bank shall, in cases envisaged by subparagraphs “b” – “j” of paragraph 1 of this section, inform a legal entity on annulling registration of agreement on membership/participation in international payment system with indication of the grounds of such annulment.
 4. After receiving of notification of the National Bank on annulling registration of agreement on membership/participation in international payment system, a legal entity shall be obliged to:
 - stop providing of the services of international payment system within a term, which would be established in the notification;
 - return the registration certificate to the National Bank within seven calendar days after receiving notification of the National Bank;
 - inform other resident legal entities (except for dealers), with which it concluded agreements on provision by these persons of services of corresponding international payment system, of the need in stopping provision of such services within the term established by the National Bank.
 Mutual payments under the conducted transfers in international payment system shall be made and membership/participation in international payment system shall be terminated in compliance with the rules of international payment system and corresponding agreements.

V. Procedure of agreement of the rules of payment systems and provision of a permit for conducting of activity related to transfer of money/certificate on agreement of the rules of payment system

1. Bank, which is a payment organization of a payment system (except for inter-bank one), for agreement of the rules of this system, shall be obliged to submit to the National Bank the following documents in Ukrainian:
 - a) an application for agreement of the rules of payment system per sample, which is given in annex 3 to this Regulation;
 - b) the rules of payment system (in three copies), which must be signed by the CEO and certified by the stamp of the bank and which must contain provisions, which are mentioned in paragraph 4 of this section;
 - c) copies of internal documents of the bank, which regulate the procedure of financial monitoring of transactions, which are conducted within the payment system.
2. Payment organization of non-banking payment system, except for the national mail operator, shall be obliged to submit to the National Bank, in addition to documents, which were mentioned in paragraph 1 of this section, the notarized copies of:
 - a) the certificate on state registration (or certified by authority, which issued the certificate);
 - b) the statute;
 - c) the agreement, which was concluded with a clearing bank of the payment system.
3. The national mail operator shall be obliged to submit to the National Bank, beside documents, which are mentioned in paragraph 1 of this section, a copy of the document, which certifies registration of the national mail operator at a special authorized executive body in the sphere of regulation of financial services markets in the part of providing financial services of mail order, which must be notarized or certified by the issuing body, as well as a notarized copy of the agreement, which was concluded with clearing bank of the payment system.
4. Rules of the payment system must contain provisions on the following:
 - a) organizational structure of the payment system;
 - b) conditions of membership and participation, as well as the procedure of entry into/withdrawal from the payment system;

c) the system for managing liquidity, credit, legal, operational and system risks in the payment system, as well as procedure of resolving insolvency and other cases of failure of the members/participants of the payment system to fulfill their obligations, including the procedure of forming and using of the safety fund (if available);

d) services of a transfer of money provided in the payment system, indicating the initiator and recipient of funds (legal and / or natural person), types of transfer rates, etc.;

e) the procedure of transfer and mutual payments under this transfer within the system, including the description of:

- payment instruments / documents for transfer the cash with help of which a money transfer and payment thereof are initiated in the system (for systems of money transfer - with indication of sample documents for cash transfer);
- movement of informational notifications and movement of funds from the time of initiating of the transfer till the end of mutual payments under this transfer in the system, including the list of requisites of the transfer documents, which allow to unambiguously identify the payment system, initiator of the money transfer and its recipient;
- the order of mutual payments;

f) requirements for members / participants of the payment system (if the provision of cash transfer) to:

- placing items in the acceptance / payment of money in the foreseeable customer places the order information (conditions) the money transfer, currencies of money transfer, the cost of money transfer, etc.;
- Providing customer on request information about the payment points of the payment system;
- review initiator transfer of information on exchange rates in international money transfer system, the amount of foreign currency and the total cost of services at the time of initiating the transfer of funds in the manner provided by paragraph 18 of section II of this Regulation;
- obtaining the consent of the recipient for payment of local currency amount in foreign currency and familiarize him with information on exchange rates in international money transfer system and the amount to be paid at the time of the transaction in the payment amount, as stipulated in paragraph 18 of section II of this Regulation;
- requirements in the sphere of preventing legalization (laundering) of proceeds from crime and terrorist financing, which will extend to a legal entity in case of its participation in the payment system, and procedure of its observation of these requirements;
- the order of enforcement in the payment system of the seventh special recommendation of FATF on fight against terrorist financing, including on the following:
 - identification of the customer initiating a transfer to the amount, which is equal to or which exceeds UAH 5,000, or which is equal to an amount in a foreign currency equivalent to or exceeding UAH 5,000, which includes entering into the transfer document of name, patronymic name (if any) and surname of the customer, data on location and number of the account (in case of no account, unique account number of the transaction is indicated), the name or code of the bank of the initiator, place of the initiator's registration (instead of the address, a customer's taxpayer identification number or date and place of his birth can be indicated);
 - fixing in the transfer document of all data on the initiator, which are mentioned in part three of this subparagraph;
 - accompanying the money transfer with information on the initiator, which are mentioned in part three of this subparagraph, at all stages of the money transfer;

h) information security system, which includes:

- the scheme of information exchange, which is used in the payment system;
- technology of information exchange in the payment system, including the order of information exchange with remote workplaces of receiving/paying orders (including the order of accessing, forming/verifying of electronic signatures, encrypting etc);
- technology information exchange between the payment system and the system of bank automation for registration of transfers (including the order of accessing, forming/verifying of electronic signatures, encrypting etc);

security system at all stages of functioning of the payment system, including name of algorithms and length of the keys, passwords, technology of the key distribution, the order of using electronic digital signatures;

i) means of securing undisturbed functioning of the system, including in case of emergency situations;

j) the order of settlement of disputes related to functioning of the payment system;

k) the order and terms of preserving of paper and electronic documents on money transfer, as well as the order of forming archives of electronic documents according to legislation of Ukraine, including regulations of the National Bank.

5. Payment organization of domestic payment system shall be obliged, for agreement of the rules of this system, to submit to the National Bank the following documents in Ukrainian:

a) an application for agreement of the rules of inter-bank payment system per sample of annex 3 to this Regulation;

b) rules of inter-bank payment system (in duplicate), which must be signed by the CEO and certified by the bank stamp and which must include description of the order of initiating, conducting and completing of the inter-bank money transfer, means of securing undisturbed functioning of the system and other provisions singled out by the payment organization.

6. If the rules of payment system include information on security of information containing bank secrecy, such information must be stated in a separate document, drawn up in accordance with regulations of the National Bank for storage, security, use and disclosure of bank secrecy.

7. The National Bank cannot consider documents, which are submitted by payment organization of payment system for agreement of the rules of this system, more than for 60 calendar days after their receiving of the documents by the National Bank.

8. If the rules are agreed, the National Bank shall issue the following document to payment organization of payment system:

to a bank – certificate on agreement of the rules/amendments to the rules of payment system per sample, which is given in annex 4 to this Regulation;

to non-banking institution – permit for conducting activity related to money transfer per sample, which is given in annex 5 to this Regulation.

Permit for conducting activity related to money transfer/certificate on agreement of the rules/amendments to the rules of payment system shall be given out to payment organization of payment system (except for the inter-bank one) after paying in for the registration and granting of permit/registration certificate, which is established by regulations of the National Bank.

The National Bank registers the payment system in the register of payment systems and their members/participants, which is kept by the National Bank in electronic form.

9. The National Bank shall have the right to refuse a payment organization of payment system to agree the rules of this payment system on the following grounds:

submission of incomplete package of documents;

non-compliance of the documents with requirements of this Regulation;

provision of inadequate information;

violation of legislation of Ukraine on matters related to money transfer, including regulations of the National Bank of Ukraine.

10. The National Bank shall inform the payment organization on refusal to agree the rules of the payment system in writing and with indication of the grounds thereof, as well as within the term, which is envisaged by paragraph 7 of this section.

The payment organization can appeal the decision on refusal to agree the rules of the payment system at the court.

11. Payment organization of non-banking payment system, which agrees the rules of payment system with the National Bank and receives a money transfer license of special authorized executive body in the sphere of regulation of financial services markets, shall be obliged to provide the National Bank with a copy of the money transfer license, which must be notarized or certified by the issuing authority, within 15 calendar days after receiving thereof.

12. Billing non-banking payment system, which agreed with the National Bank payment system rules, in case of change of settlement bank payment system required within 30 calendar days from the date of contract settlement with the relevant bank shall submit to the National Bank a copy of this agreement, certified by a notary.

13. Payment organization of payment system shall be obliged to inform the National Bank in writing on the date of beginning activity related to money transfer, within 15 calendar days after the day of beginning such activity.

14. Payment organization of payment system shall be obliged, within 30 calendar days after amendment of the system rules, which were agreed by the National Bank, to submit to the National Bank, for purpose of agreement of these rules, an application for agreement of amendments to the rules of payment system per sample, which is given in annex 3 to this Regulation, as well as a copy of the amendments, which must be certified by signature of the CEO and stamp of the bank/non-banking institution.

The National Bank shall, within the term envisaged in paragraph 7 of this section, send the payment organization of payment system a certificate on agreement of amendments to the rules of the payment system or inform on the refusal to agree amendments to the rules of the payment organization.

15. Payment organization of payment system shall have no right to provide services of the system according to amendments introduced to the rules, which are not agreed with the National Bank, except for amendments on commission fees or other kinds of fees for services of corresponding payment system.

16. Payment organization of payment system, which agreed the rules of the system with the National Bank, shall inform the National Bank, within 15 calendar days after it begins to provide services of the system to a resident member/resident participant of corresponding payment organization, on agreement concluded with this member/participant. Information on members/participants must contain data on the date and number of the concluded agreement, full name of the member/participant, for non-banking financial institution – date and number of the money transfer license, list of services related to money transfer, which corresponding member/participant has the right to provide to its customers under the agreement, as well as conditions and the order of mutual payments under the conducted transfers in the system.

Payment organization of payment system shall, within 10 calendar days after introduction of amendments, prolongation or termination of the agreement, which was mentioned in part one of this paragraph, inform the National Bank thereof.

17. Payment organization of payment system, which received a certificate at the National Bank on agreement of the rules of this system /permit for conducting of activity related to transfer of money, must return original of this certificate/ permit to the National Bank within seven calendar days after registration of amendments according to legislation of Ukraine in case of changing the name of the legal entity for the purpose of receiving a new certificate/permit.

18. In case of losing or damaging of the certificate on agreement of the rules of this system /permit for conducting of activity related to transfer of money, payment organization of payment system can receive a duplicate of corresponding document in compliance with procedure, which is mentioned in paragraph 10 of section III of this Regulation.

VI. Procedure of annulling agreement of the rules of payment system and revoking permit for conducting of activity related to transfer of money/certificate on agreement of the rules of payment system

1. The National Bank shall annul agreement of the rules of payment system and revoke permit for conducting of activity related to transfer of money /certificate on agreement of the rules of payment system on the following grounds:

- a) revoking by the National Bank of the banking license from a bank, which is payment organization of payment system;
- b) revoking by special authorized executive body in the sphere of regulation of financial services markets of the money transfer license from a non-banking financial institution;
- c) revoking by special authorized executive body in the sphere of regulation of financial services markets of decision on registration of the national mail operator, which is payment organization of payment system;
- d) liquidating of a legal entity;
- e) establishing of the fact of agreement of the rules or amendments to the rules of payment organization on basis of inadequate data;

f) breaching requirements of Ukrainian legislation on matters related to transfer of money, including regulations of the National Bank;

g) non-conducting by payment organization of payment system of activity related to transfer of money during 1 year from the date of receiving permit of the National Bank for conducting activity related to transfer of money or certificate on agreement of the rules of payment system.

2. The National Bank shall inform payment organization of payment system on annulling agreement of the rules of payment system with indication of the grounds of such annulling.

3. Payment organization of payment system, in which transactions on transfer of money were not conducted, must return the certificate on agreement of the rules of payment system/permit for conducting of activity related to transfer of money to the National Bank within 10 calendar days after receiving of the National Bank's notification.

4. After receiving of the National Bank's notification on annulling agreement of the rules of payment system, payment organization, in which transactions on transfer of money were conducted, shall be obliged to:

stop provision of services of payment system and return the certificate on agreement of the rules of payment system/permit for conducting of activity related to transfer of money to the National Bank within the term established in the notification;

inform other resident/non-resident legal entities, with which agreements were concluded on provision by these persons of the services of corresponding payment system, of the need to stop providing of such services within the term established by the National Bank.

Mutual payments under conducted transfers in payment system shall be made and membership/participation in payment system shall be terminated according to the rules of this system and corresponding agreements.

5. Paragraph 5 of section VI was excluded.

VII. Procedure of informing by resident payment organization of international payment system on conclusion/termination of agreement with non-resident legal entity

1. Resident payment organization of international payment system, which agreed the rules of this system with the National Bank, must submit to the National Bank a copy of the agreement certified by signature of the CEO and stamp of resident payment organization within 15 calendar days after the beginning of providing services of the system to non-resident legal entity.

2. In case of concluding agreement with non-resident payment organization of international payment system for the purpose of transferring money with participation of two payment systems, resident payment organization of international payment system must submit the following documents to the National Bank:

a copy of the agreement, which must be certified by signature of the CEO and stamp of resident payment organization of international payment system;

information on conditions, under which joint activity on transfer of money shall be conducted with non-resident payment organization of international payment system, and general scheme of transfer, including movement of information notifications and movement of funds from the time of initiating transfer till the end of mutual payments under this transfer with non-resident payment organization of international payment system;

list of resident legal entities, which provide services on transfer of money, conducting of which is secured with help of two payment systems.

3. Resident payment organization of international payment system must submit to the National Bank a copy of the amendments to agreement mentioned in paragraphs 1 and 2 of this section, which must be certified by signature of the CEO and stamp of resident payment organization of international payment system, within 30 calendar days after introduction of amendments to the agreement.

4. Resident payment organization of international payment system must inform the National Bank on termination of the agreement mentioned in paragraphs 1 and 2 of this section within 10 calendar days after such termination.

**Director of the Payment Systems
Department**

N. G. Lapko

**CABINET OF MINISTERS OF UKRAINE
AND NATIONAL BANK OF UKRAINE**

**RESOLUTION
October 21, 2009 № 1119
Kyiv**

On Adoption of the AML/CTF Action Plan for 2010

Cabinet of Ministers of Ukraine and National Bank of Ukraine considering recommendations of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) under the results of the 3rd round of evaluation of Ukraine **resolve:**

1. To adopt AML/CTF Action Plan for 2010 enclosed.
2. To amend AML/CTF Action Plan for 2009 adopted by the Resolution of the Cabinet of Ministers of Ukraine and National Bank of Ukraine on December 10, 2008 № 1077 as enclosed.
3. Ministries, other central agencies of executive power, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol should submit SCFM quarterly till the 15 day of the following month the information on implementation of the Plan adopted by the current resolution for submission quarterly till the 25 day of the following month the report to the Cabinet of Ministers of Ukraine and the National Bank of Ukraine.

Prime Minister of Ukraine Head of the National Bank

Yulia TYMOSHENKO

Volodymyr STELMAKH

APPROVED

Resolution of the Cabinet of Ministers of
Ukraine and the National Bank of Ukraine
on October 21, 2009 № 1119

AML/CTF ACTION PLAN for 2010

**Prevention of emergence of preconditions for legalization (laundering) of the proceeds from
crime and terrorist financing**

1. Ensure following in the Parliament of Ukraine of the Draft Law «On Introduction Amendments to the Law of Ukraine «On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime» (registration number 3062).

SCFM, Ministry of Justice.

Till adoption of the current Law by the Parliament
of Ukraine.

2. Take part in the activity of Parliamentary committees and plenary sessions during consideration of the Draft Laws of Ukraine:

«On Introduction Amendments to some Laws of Ukraine (on terrorist financing)» (registration number 4309).

SCFM, Ministry of Justice.

Till adoption of the current Law by the Parliament
of Ukraine;

«On Introduction Amendments to some Laws of Ukraine (on prevention legalization (laundering) of the proceeds from crime)» (registration number 4819).

SCFM, Ministry of Justice.

Till adoption of the current Law by the Parliament of Ukraine.

3. Elaborate and submit the Cabinet of Ministers of Ukraine with proposals to amend: the Criminal Procedure Code of Ukraine in part of improvement of the procedure for receiving by the law-enforcement agencies from banks and other legal persons of the documents containing banking secrecy.

Ministry of Interior, Ministry of Justice, State Tax Administration, Security Service, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, National Bank of Ukraine, by consent - General Prosecutor's Office of Ukraine and Supreme Court of Ukraine.

I quarter;

the Customs Code of Ukraine in part of establishing powers of the State Customs Service to impose arrest on currency values in case of a suspicion of ML/FT; increasing volumes of penalties for non-declarations or false declaration of goods transferred through the customs border of Ukraine.

State Customs Service, Ministry of Justice.

I quarter;

the Law of Ukraine On State Register of Natural Persons – Payers of Taxes and Other Obligatory Payments on regulation issue of reporting entities access to the data contained in the State Register of Natural Persons – Payers of Taxes and Other Obligatory Payments.

State Tax Administration, Ministry of Justice, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, National Bank.

I quarter;

the Law of Ukraine On Payment Systems and Money Transfer if Ukraine regarding implementation of FATF VII Special Recommendation and definition of state agencies powers while executing control over adherence of AML legislation during conducting transfers via payment and settlement systems.

National Bank, State Commission on Financial Markets Regulation, Ministry of Transport and Communication, Ministry of Justice.

II quarter.

4. Elaborate proposals to amend legislation on:

conduction verification of reliability of information about owners (founders, participants) of the legal persons, improvement procedure for business entities registration, state agencies access to information on owners (founders, participants) of the legal persons.

State Committee for Entrepreneurship, Ministry of Finance, Ministry of Justice, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, State Tax Administration, Security Service, SCFM, state administrations in oblasts and cities of Kyiv and Sevastopol, National Bank, General Prosecutor's Office of Ukraine (by consent).

I quarter;

including to the list of information announced by the citizens in case of transfer of goods through Ukrainian customs border and inserted to the customs declaration the information on carrying travel cheques, payment documents and other bearer securities.

State Customs Service, National Bank.

I quarter;

assignment of state authorities powers for execution of spontaneous information exchange to ensure international AML/CTF cooperation.

SCFM, Ministry of Justice, Ministry of Finance, Ministry of Interior, Ministry of Economy, State Customs Service, Security Service, State Tax Administration, State Commission on Financial Markets Regulation, State Committee for Entrepreneurship, other interested executive power authorities, National Bank, General Prosecutor's Office of Ukraine (by consent).

II quarter.

5. Review the internal normative-legal acts for further implementation of the provisions of MONEYVAL Recommended Action Plan for enhancement of Ukrainian AML/CTF system.

SCFM, Ministry of Justice, Ministry of Finance, Ministry of Interior, State Customs Service, State Committee for Entrepreneurship, State Commission on Financial Markets Regulation, State Commission on Securities and Stock Market of Ukraine, Security Service, State Tax Administration, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol, National Bank, General Prosecutor's Office of Ukraine (by consent).

I quarter.

6. Elaborate relevant proposals to introduce amendments to the legislation under results of analysis of legislative regulation volume, activity risks and possible use of:

non-profit organizations (charitable and social organizations, political parties, etc) for terrorist financing. Notify non-profit organizations on analysis results regarding their risks and list of measures that may protect them from being used for terrorist financing.

Security Service, Ministry of Justice, State Statistics Committee, SCFM, state administrations in oblasts and cities of Kyiv and Sevastopol.

II quarter;

non-financial institutions (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries; providing accounting, legal and audit services), notaries, lawyers, natural persons – business entities providing legal services; auditors, for money laundering and terrorist financing.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice, State Tax Administration, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

II quarter.

7. Elaborate the issue on practicability of introducing unified requirements for organization of financial monitoring by reporting entities in AML/CTF sphere and initiate introduction of relevant amendments to the legislation if necessary.

SCFM, Ministry of Finance, Ministry of Justice, State Committee for Entrepreneurship, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol, National Bank.

I quarter.

8. On the basis of analysis the foreign countries experience on application to natural and legal persons from the countries which do not or insufficiently apply the FATF Recommendations of prohibitions or restrictions for establishing with such persons business relations and conduction financial transactions elaborate proposals on the possibility of legislative regulation of current issue.

SCFM, Ministry of Justice, State Commission on Financial Markets Regulation, State Commission on Securities and Stock Market, National Bank.

IV quarter.

9. On the basis of working out FATF standards, defined in 40+9 Recommendations and Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations submit FATF with the proposals for improvement of current recommendations.

SCFM, Ministry of Interior, Ministry of Economy, Ministry of Finance, Ministry of Justice, State Commission on Securities and Stock Market, State Commission on Financial Markets Regulation, State Tax Administration, Security Service, National Bank.

During the year.

Eliminate risks connected with use of the financial system for legalization (laundering) of the proceeds from crime and terrorist financing

10. Provide generalization of money laundering schemes on the basis of experience gained in 2009-2010 by the foreign competent authorities, financial, law-enforcement and control agencies of Ukraine to be used for prevention commitment of such crimes and notify schemes to reporting entities by publishing on SCFM official web-site.

SCFM, Ministry of Interior, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, State Customs Service, State Tax Administration, Security Service, National Bank.

IV quarter.

11. Take measures on detection and activity termination of sham business.

State Tax Administration, Ministry of Interior, State Committee for Entrepreneurship, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation.

During the year.

Enhancing mechanism for regulation and supervision over reporting entities

12. Conduct inspections of reporting entities adherence of AML/CTF legislation, in particular: financial institutions conducting wire transfers, participants and members of payment systems, providing currency exchange.

State Commission on Financial Markets Regulation, National Bank.

During the year;

gambling institutions (considering requirements of the Law of Ukraine On Prohibition of the Gambling Business in Ukraine).

Ministry of Finance, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

During a month after adoption of special legislation providing the right to conduct gambling business.

13. Elaborate ML/TF risk assessment methodology on providing services by non-banking financial institutions and on its basis to generate schedule for conduction inspections of the designated categories of reporting entities.

State Commission on Financial Markets Regulation, State Commission on Securities and Stock Market.

I quarter.

14. Elaborate and notify reporting entities on methodological recommendations for AML/CTF requirements and detection of transactions which relates to, connected with or intended for financing of terrorist activity, terrorist acts or terrorist organizations.

State Commission on Financial Markets Regulation, Security Service, State Commission on Securities and Stock Market of Ukraine, SCFM, National Bank.

I quarter.

15. Continue conduction analysis on effectiveness of AML/CTF measures taken by reporting entities and ensure publication of such reviews on official web-site.

SCFM.

Quarterly.

16. Elaborate action plan for adherence of AML/CTF legislation requirements by non-financial institutions (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries and other gambling (considering requirements of the Law of Ukraine On Prohibition of the Gambling Business in Ukraine), provide accounting, legal and audit services); notaries, lawyers, natural persons – business entities providing legal services; auditors and ensure its implementation.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

During a month from the day of entering into force of the Law of Ukraine «On Amendments to the Law of Ukraine «On Prevention and Counteraction to legalization (laundering) of the Proceeds from Crime».

17. Consider following issues:

after adoption of legislation providing the right for conduction gambling business within the specially created areas to revise the list of licensing agencies in part of licensing organization and maintaining of totalizators, gambling institutions and organization of activity for conduction gambling in order to prevent double licensing and application of sanctions to gambling institutions;

establish requirements for owners and managers of gambling institutions.

Under results of consideration of current issues submit the proposals for amending legislation.

State Committee for Entrepreneurship, Ministry of Finance, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

During a month after adoption of special legislation providing the right to conduct gambling business.

18. Ensure execution of action plan for detection business entities conducting illegal activity in the sphere of gambling business and ensure its implementation.

Ministry of Interior, State Tax Administration, Ministry of Finance, Council of Ministers of Autonomous Republic of Crimea, state

administrations in oblasts and cities of Kyiv and Sevastopol.

During a year.

Enhancing efficiency of law enforcement and other state agencies activity

19. Elaborate:

unified AML/CTF reporting form on the basis of reporting forms established for courts, prosecutor's authorities, law-enforcement agencies, Security Service, State Tax Administration, which should be supplemented with the data on the status of investigation of cases on crimes provided by the Article 258³ «Establishment of a terrorist group or terrorist organization» and Article 258⁴ «Assistance in commitment of a terrorist act» of the Criminal Code of Ukraine and the number of cases of current category with confiscation of proceeds or other property received from crime, and confiscation of property as well as sums of the proceeds and value of property confiscated;

instruction on filling the current reporting form.

Ministry of Interior, Ministry of Justice, State Statistics Committee, Security Service, State Tax Administration, State Judicial Administration, SCFM, General Prosecutor's Office of Ukraine (by consent) .

I quarter.

20. Introduce amendments to the legislation on establishing mechanism for implementation paragraph 1 of the UN Security Council Resolution 1452 (2002) on 20.12.2002 in part of authorizing persons convicted in terrorist financing to access funds and other assets arrested within the terrorist financing conviction.

Ministry of Justice, Ministry of Finance, Ministry of Foreign Affairs, SCFM, Security Service, National Bank, General Prosecutor's Office of Ukraine (by consent).

III quarter.

21. Generalize problem issues arising in law-enforcement agencies activity in pre-investigation inspection of applications and reports on crimes related to money laundering and terrorist financing and pre-trial investigation in relevant criminal cases in particular receiving of documents and information essential for investigation of criminal cases initiated under such crimes and elaborate proposals for elimination of such issues.

Ministry of Interior, State Tax Administration, General Prosecutor's Office of Ukraine (by consent).

IV quarter.

22. Conduct assessment (inspection) on correspondence of law-enforcement and judicial officers to requirements on professional and ethical standards.

Ministry of Interior, State Tax Administration, Security Service, by consent — General Prosecutor's Office of Ukraine and Supreme Court of Ukraine.

During a year.

23. Revise the Procedure for composition of the list of persons related to terrorist activity adopted by Cabinet of Ministers` of Ukraine Resolution on May 25, 2006 #751 for providing mechanism of excluding persons from the list if the grounds exist. Under results elaborate proposals to amend the current Procedure.

SCFM, Security Service, Ministry of Foreign Affairs.

I quarter.

24. Elaborate proposals to empower State Customs Service to detain and arrest currency values transferred through the customs border of Ukraine in case of suspicion in money laundering or terrorist financing.

State Customs Service.

I quarter.

25. Execute inspection on the status of combating corruption in law-enforcement agencies and courts.

Security Service, Ministry of Interior, State Tax Administration, by consent -General Prosecutor`s Office of Ukraine and Supreme Court of Ukraine.
First six months.

26. Work out the issue on the possibility to provide mutual legal assistance in criminal matters when the deed according to legislation of one of the countries is not a crime and to apply less strict enforcement measures and if necessary elaborate proposals to amend legislation.

Ministry of Justice, General Prosecutor`s Office of Ukraine (by consent).
II quarter.

27. Ensure keeping unified register of mutual legal assistance requests in criminal matters and execution of extradition procedure (including requests for suspension of transactions, restraint on alienation, seizure and confiscation) related to legalization (laundering) of the proceeds from crime, predicate offences and terrorist financing, including data on the nature, terms of receiving, execution of requests and results of their consideration.

Ministry of Justice, Ministry of Interior, State Tax Administration, Security Service, Prosecutor`s Office of Ukraine (by consent).
During a year.

28. Elaborate the action plan for reporting entities access to the Unified State Register of Legal Persons and Natural Persons – Business Entities and ensure its implementation (in case of relevant financing).

State Committee for Entrepreneurship, Ministry of Finance, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, National Bank.
I quarter.

29. Elaborate recommendations on:

procedure for providing legal assistance on criminal matters and execution of extradition procedures.

General Prosecutor`s Office of Ukraine (by consent).
I quarter;

solution and investigation of crimes related to money laundering, terrorist financing and economic crimes.

Ministry of Interior, State Tax Administration, Security Service, General Prosecutor`s Office of Ukraine (by consent).
IV quarter;

procedure for transit through the Ukraine`s customs border of cash, including traveler`s cheques, as well as payment documents and other bearer`s securities, and detection and counteraction to money laundering schemes that might be used by persons while transit of cash in and from Ukraine.

State Customs Service
I quarter;

organization of financial monitoring in AML/CTF sphere and detection of risks and taking actions for prevention misuse of reporting entities in the current area, for non-financial institutions (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries, providing accounting, legal and audit services), notaries, lawyers, natural persons – business entities providing legal services; auditors.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice, Security Service, State Tax Administration.
During a year from the day of entering into force of the Law of Ukraine «On Amendments to the Law of Ukraine «On Prevention and

Counteraction to legalization (laundering) of the Proceeds from Crime».

30. Ensure activity on prevention corruption offences by State Customs Service officers, particularly by introducing systematic trainings on application of anticorruption legislation and informing on suspicions in conducting corruption deeds.

State Customs Service.

During a year.

31. Ensure execution of AML/CTF Action Plan for 2009 adopted by the Resolution of the Cabinet of Ministers of Ukraine and National Bank of Ukraine on December 10, 2008 #1077.

State Commission on Financial Markets Regulation.

During a year.

32. Conduct analysis of implementation of Concept for Development of the Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime and Terrorist Financing System on 2005 – 2010, adopted by the Resolution of the Cabinet of Ministers of Ukraine on 03.08.2005 #315-p under which to elaborate the new strategic plan for development of the national system on 2011-2015.

SCFM, Members of the Interagency Working Group on research of money laundering methods and trends.

IV quarter.

33. Ensure participation of reporting entities and SROs in discussion of issues on functioning of Ukrainian AML/CTF system, including normative-legal issues through the joint meetings, seminars, round-tables, conferences etc.

SCFM, Ministry of Justice, Ministry of Economy, Ministry of Interior, Ministry of Finance, State Customs Service, Security Service, State Tax Administration, State Commission on Financial Markets Regulation, State Commission on Securities and Stock Market of Ukraine, State Committee for Entrepreneurship, other interested executive power authorities, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol, National Depository, National Bank, by consent - Association of Ukrainian Banks, League of Insurance Organizations.

Permanently.

Enhancing expert's qualification

34. Conduct AML/CTF training and professional development of state agencies employees.

State Commission on Securities and Stock Market of Ukraine, Ministry of Justice, Ministry of Finance, Ministry of Interior, State Tax Administration, Security Service, State Customs Service, State Commission on Financial Markets Regulation, Main Department for Civil Service, National Bank, General Prosecutor's Office of Ukraine (by consent).

During a year.

35. Continue conduction by the state agencies, including law-enforcement agencies and with participation of judges (by consent) of AML/CTF seminars for regional division's experts.

SCFM, Ministry of Interior, Ministry of Finance, Ministry of Justice, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation,

State Tax Administration, Security Service, Main Department for Civil Service of Ukraine, National Bank, Supreme Court of Ukraine (by consent).

During a year.

36. Conduct AML/CTF trainings for non-financial institutions representatives (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries, and providing accounting, legal and audit services); notaries, lawyers, natural persons – business entities providing legal services; auditors.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol, SCFM AML/CTF Training Center (by consent).

During a year from the day of entering into force of the Law of Ukraine «On Amendments to the Law of Ukraine «On Prevention and Counteraction to legalization (laundering) of the Proceeds from Crime».

37. Conduct analysis of practice of application by reporting entities of methods and trends of detection of financial transactions subject to financial monitoring on the basis of which to elaborate and notify the reporting entities with generalized reviews on practices of the best methods and trends of detection of financial transactions subject to financial monitoring.

State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation.

Each six months.

Participation in international cooperation

38. Conduct activity on concluding international agreements on sharing of confiscated assets received from crime in Ukraine with the states where such assets could be situated.

Ministry of Justice, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Finance, State Customs Service, State Tax Administration, SCFM, Security Service, General Prosecutor's Office of Ukraine (by consent).

During a year.

APPROVED

Resolution of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine

on October 21, 2009 № 1119

AMENDMENTS to AML/CTF Action Plan for 2009

1. To supplement part “Prevention of emergence of preconditions for legalization (laundering) of the proceeds from crime and terrorist financing” with paragraphs 4¹—4⁸ with the following wording:

“4¹. Ensure following in the Parliament of Ukraine of the Draft Law «On Introduction Amendments to the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime» (registration number 3062).

SCFM, Ministry of Justice.

Till adoption of the current Law by the Parliament of Ukraine.

4². Take part in the activity of Parliamentary committees and plenary sessions during consideration of the Draft Laws of Ukraine:
«On Introduction Amendments to some Laws of Ukraine (on terrorist financing)» (registration number 4309).

SCFM, Ministry of Justice.

Till adoption of the current Law by the Parliament of Ukraine;

«On Introduction Amendments to some Laws of Ukraine (on prevention legalization (laundering) of the proceeds from crime)» (registration number 4819).

SCFM, Ministry of Justice.

Till adoption of the current Law by the Parliament of Ukraine.

4³. Elaborate and submit the Cabinet of Ministers of Ukraine with the proposals to amend the Laws of Ukraine:

On Operational and Search Activity in part of introducing the procedure for SCFM case referrals consideration.

Ministry of Interior, Ministry of Justice, State Tax Administration, Security Service, SCFM, by consent — General Prosecutor's Office of Ukraine, Supreme Court of Ukraine.

IV quarter;

On Banks and Banking in part of improving enforcement measures and sanctions for violation of legislation by banks, definition of term «irreproachable business reputation».

National Bank, Ministry of Justice, Ministry of Interior, State Tax Administration, Security Service, SCFM, by consent — General Prosecutor's Office of Ukraine and Supreme Court of Ukraine.

IV quarter;

On State Regulation of Securities Market in Ukraine in part of establishing requirements:

- on prevention persons with convictions from holding controlling interest (or its significant part) in professional securities market participants;

- on organization of financial monitoring by branches and representative offices created by the professional securities market participants abroad.

State Commission on Securities and Stock Market of Ukraine, Ministry of Justice.

IV quarter;

On Financial Services and State Regulation of Financial Services Markets regarding realization of FATF 23 Recommendation provisions in part of introducing requirements to the managers of financial institutions and persons having significant interest in the business entity, and definition of terms «irreproachable business reputation» and «owner of financial institution and person executing control over financial institution».

State Commission on Financial Markets Regulation, State Commission on Securities and Stock Market of Ukraine, Ministry of Justice.

IV quarter;

On State Service for elimination of the period for professional development of civil servants.

Main Department for Civil Service of Ukraine, Ministry of Justice, other interested executive power authorities.

IV quarter.

4⁴. Submit proposals on introducing to the normative and legal acts requirements on keeping by non-profit organization (charitable and social organizations, political parties etc):

information on persons which manage the activity of non-profit organizations and/or manage its property (funds), including managers, members of the board and associates as well as ensure open access to such information, including data on purpose and tasks of named organization activity;

documents on the grounds of which such organizations execute internal and international transactions, and relevant registration data no less than 5 years.

Ministry of Justice, State Tax Administration, Security Service, State Statistics Committee, state administrations in oblasts, regions and cities of Kyiv and Sevastopol.

IV quarter.

4⁵. Introduce amendments to the order of Ukrainian State Enterprise of Postal Service on 16.05.2007 № 164 «On approval and implementation of Procedure for postal transfer» in order bringing in line with the Resolution of the Board of National Bank of Ukraine on 25.09.2007 № 348 «On approval Resolution on functioning of domestic and international payment systems in Ukraine» and requirements of FATF VII Special Recommendation.

Ministry of Transport and Communication, State Commission on Financial Markets Regulation.

IV quarter.

4⁶. Ensure introducing by reporting entities recruiting requirements on qualification, business reputation of managers and other employees and selection procedure for such personnel.

SCFM, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, Ministry of Finance, State Committee for Entrepreneurship, National Bank.

IV quarter.

4⁷. Submit proposals for improvement procedure for provision of mutual legal assistance, especially on detailed procedure.

Ministry of Justice, General Prosecutor`s Office of Ukraine (by consent).

IV quarter.

4⁸. Provide analysis on correspondence of the normative-legal acts on extradition of persons related to money laundering or terrorist financing to FATF 40 Recommendations, FATF IX Special Recommendations, 3rd EU Directive and elaborate relevant proposals on introducing amendments to legislation.

Ministry of Justice, Ministry of Interior, State Tax Administration, Security Service, SCFM, by consent - General Prosecutor`s Office of Ukraine and Supreme Court of Ukraine.

IV quarter.”.

2. To supplement part “ Eliminate risks connected with use of the financial system for legalization (laundering) of the proceeds from crime and terrorist financing ” with paragraph 5¹ of the following wording:

“5¹. Take measures on detection and activity termination of sham business.

State Tax Administration, Ministry of Interior, State Committee for Entrepreneurship, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, National Bank of Ukraine.

IV quarter.”.

3. To supplement part “Enhancing mechanism for regulation and supervision over reporting entities” with paragraphs 9¹— 9⁴ of the following wording:

“9¹. Conduct inspections on reporting entities adherence of AML/CTF legislation, in particular: financial institutions conducting wire transfers, participants and members of payment systems, providing currency exchange.

State Commission on Financial Markets Regulation, National Bank.

IV quarter;

gambling institutions (considering requirements of the Law of Ukraine On Prohibition of the Gambling Business in Ukraine ”).

Ministry of Finance, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

During a month after adoption of special legislation providing the right to conduct gambling business.

9². Establish requirements for financial institutions and other entities conducting transfers through domestic and international payment systems to ensure maintaining and keeping of the list of customers conducting such transfers.

National Bank of Ukraine, State Commission on Financial Markets Regulation, Ministry of Transport and Communication.

IV quarter.

9³. Elaborate action plan for adherence of AML/CTF legislation requirements by non-financial institutions (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries and other gambling (considering requirements of the Law of Ukraine On Prohibition of the Gambling Business in Ukraine”), provide accounting, legal and audit services); notaries, lawyers, natural persons – business entities providing legal services; auditors and ensure its implementation.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

During a month from the day of entering into force of the Law of Ukraine «On Amendments to the Law of Ukraine «On Prevention and Counteraction to legalization (laundering) of the Proceeds from Crime»

9⁴. Elaborate action plan for detection business entities conducting illegal activity in the sphere of gambling business and ensure its implementation.

Ministry of Interior, State Tax Administration, Ministry of Finance, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol.

IV quarter.”.

4. To supplement part “Enhancing efficiency of law enforcement agencies activity” with paragraphs 11¹—11¹² of the following wording:

“11¹. Provide analysis on possibility to bring person to criminal liability under Article 209 «Legalization (Laundering) of the Proceeds from Crime» of the Criminal Code of Ukraine without prior or simultaneous conviction for a predicate offence and if person is unable to confirm the legal source for obtaining funds or other property, and under its results to provide relevant proposals.

Ministry of Justice, Ministry of Interior, State Tax Administration, Security Service, by consent - General Prosecutor`s Office of Ukraine and Supreme Court of Ukraine.

IV quarter.

11². Review the procedure for elaboration and submission of case referrals to law-enforcement agencies and if necessary introduce.

SCFM, Ministry of Interior, State Tax Administration, Security Service, General Prosecutor`s Office of Ukraine (by consent).

IV quarter.

11³. Generalize problem issues arising in law-enforcement agencies activity in pre-investigation inspection of applications and reports on crimes related to money laundering and terrorist financing and pre-trial investigation in relevant criminal cases in particular receiving of documents and information essential for investigation of criminal cases initiated under such crimes and elaborate proposals for elimination of such issues.

Ministry of Interior, State Tax Administration, General Prosecutor`s Office of Ukraine (by consent).

IV quarter.

11⁴. Conduct assessment (inspection) on correspondence of law-enforcement and judicial officers to requirements on professional and ethical standards.

Ministry of Interior, State Tax Administration, Security Service, by consent — General Prosecutor`s Office of Ukraine and Supreme Court of Ukraine.

IV quarter.

11⁵. Elaborate and adopt:

procedure for SCFM receiving electronic cargo-customs declarations and information on suspicious cases of transit of goods by the citizens through the customs border of Ukraine.

State Customs Service, SCFM.

IV quarter;

procedure for electronic keeping of customs declarations and data registration on suspicious cases of transit of goods by the citizens through the customs border of Ukraine.

State Customs Service.

IV quarter.

11⁶. Elaborate recommendations on:

procedure for providing mutual assistance in criminal cases and execution of extradition procedures.

General Prosecutor`s Office of Ukraine (by consent).

IV quarter;

on organization of financial monitoring in AML/CTF sphere and detection of risks and taking actions for prevention misuse of reporting entities in the current area, for non-financial institutions (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries and other gambling; notaries, lawyers, legal and natural persons – business entities providing legal services; auditors.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice , Security Service, State Tax Administration.

During a year from the day of entering into force of the Law of Ukraine «On Amendments to the Law of Ukraine «On Prevention and Counteraction to legalization (laundering) of the Proceeds from Crime».

11⁷. Submit proposals to the Cabinet of Ministers of Ukraine on improvement of peopleware and financial provision of state agencies departments which:

execute functions of detection and prevention the illegal movement through the customs border of currency, including traveler`s cheques, as well as payment documents and other bearer securities.

State Customs Service.

IV quarter;

execute regulation and supervision over reporting entities adherence of AML/CTF legislation.

State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, Ministry of Finance.

IV quarter;

execute submission (receiving) of mutual legal assistance and extradition requests.

Ministry of Justice, General Prosecutor`s Office of Ukraine (by consent).

IV quarter.

11⁸. Provide analysis of peopleware and financial provision of the National Bank`s departments conducting supervision over banks adherence of AML/CTF legislation and increase their number and financing if necessary.

National Bank.

IV quarter.

11⁹. Execute activities for prevention corruption deeds by officers of the State Customs Service.

State Customs Service.

IV quarter.

11¹⁰. Elaborate and introduce the action plan for personnel turnover.

State Commission on Financial Markets Regulation.

IV quarter.

11¹¹. Consider issues submitted for Interagency Working Group on research of money laundering methods and trends Meetings considering MONEYVAL Recommended Action Plan.

SCFM, Members of the Interagency Working Group on research of money laundering methods and trends.

IV quarter.

11¹². Ensure participation of reporting entities and SROs in discussion of issues on functioning of Ukrainian AML/CTF system, including drafting of normative-legal acts in the current sphere, through the joint meetings, seminars, round-tables, conferences etc.

SCFM, Ministry of Justice, Ministry of Interior, Ministry of Economy, Ministry of Finance, State Customs Service, Security Service, State Tax Administration, State Commission on Financial Markets Regulation, State Commission on Securities and Stock Market of Ukraine, State Committee for Entrepreneurship, other interested executive power agencies, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol, National Depository of Ukraine, National Bank, by consent - Association of Ukrainian Banks and Ukrainian League of Insurance Organizations.

IV quarter.”.

5. To supplement part “Enhancing expert’s qualification” with paragraphs 13¹—13⁵ of the following wording:

“13¹. Continue conduction by the state agencies, including law-enforcement agencies and with participation of judges (by consent) of AML/CTF seminars for regional division’s experts.

SCFM, Ministry of Interior, Ministry of Finance, Ministry of Justice, State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, State Tax Administration, Security Service, Main Department for Civil Service of Ukraine, National Bank, Supreme Court of Ukraine (by consent).

IV quarter.

13². Review the AML/CTF training programs for reporting entities in order to include the risk-based approach issues, procedure for STRs detection and informing SCFM.

SCFM AML/CTF Training Center (by consent), State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation, SCFM, National Bank.

IV quarter.

13³. Elaborate jointly with the educational agencies the AML/CTF training programs for prosecution and judicial representatives to enhance the efficiency of their activity.

SCFM AML/CTF Training Center(by consent), National Academy of Prosecution of Ukraine, Academy of Judges of Ukraine, SCFM, Ministry of Justice, by consent - General Prosecutor`s Office of Ukraine and Supreme Court of Ukraine.

IV quarter.

13⁴. Conduct trainings of non-financial institutions representatives (realtors; business entities providing trading in precious metals and precious stones and products of them; antiques or works of art traders; business entities conducting lotteries and other gambling; notaries, lawyers, legal and natural persons – business entities providing accounting, legal and auditor services; auditors on the issues of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing.

SCFM, Ministry of Economy, Ministry of Finance, Ministry of Justice, Council of Ministers of Autonomous Republic of Crimea, state administrations in oblasts and cities of Kyiv and Sevastopol, district state administrations, SCFM AML/CTF Training Center (by consent).

During a year from the day of entering into force of the Law of Ukraine «On Amendments to the Law of Ukraine «On Prevention and Counteraction to legalization (laundering) of the Proceeds from Crime».

13⁵. Conduct analysis of practice of application by reporting entities of methods and trends of detection of financial transactions subject to financial monitoring on the basis of which to elaborate and notify the reporting entities with generalized reviews on practices of the best methods and trends of detection of financial transactions subject to financial monitoring.

State Commission on Securities and Stock Market of Ukraine, State Commission on Financial Markets Regulation.
IV quarter.”.

PLENARY SUPREME COURT OF UKRAINE

RESOLUTION

15.04.2005 № 5

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

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

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

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

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

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

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

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

- 1) financial operation with money or any other property, obtained from predicate offence or entering the agreement in respect of them;
- 2) actions directed to conceal or disguise: а) illegal origin of such money or any other property; б) their ownership; в) financial and property rights; г) sources of their origin; д) location; е) transfer;
- 3) obtaining, ownership or use of such assets or other property.

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

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

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

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

6. Commitment of financial transaction with money from predicate offence, in accordance with paragraph 5, Article 1, Law № 249-IV, shall mean any transaction involving processing or securing any payment through an entity of initial financial monitoring. Meanwhile, the list of the main types of financial transactions, mentioned in the abovementioned paragraph, is not exhaustive as far as other types of financial transactions may be the subjects of such monitoring. Particularly, financial transaction may be processed both through an entity of initial financial monitoring and any other entities of economic management (Article 55, Commercial Code of Ukraine). The following by-laws that regulate legal relations in this sphere have to be addressed in order for all types of financial transactions to be covered to the utmost: *Law on Foreign Economic Activity, No 959-XII of 16 April 1991, Law on Securities and Stock Exchange, No1201-XII of 18 June 1991, Law on Insurance, No85/96-BP of 7 March 1996 (in wording of the Law No 2745-III of 4 October 2001), Law on the Banks and Banking Activity, No 2121-III of 7 December 2000, Law on Financial Services and State Regulation of the Markets of Financial Services, No 2664-III of 12 July 2001.*

7. Making of agreement on money or any other property resulting from commitment of predicate crime – means commitment of any legal actions regarding them, e.g. actions directed at acquiring, changing or suspending civil rights and obligations (Article 202 of the Civil Code of Ukraine) in the order, specified by this Code independently of their types – bilateral/multilateral (named as agreements) and unilateral as well.

As specified by Article 209 of the CC (2341-14), responsibility arises in the cases when a culprit commits only one financial transaction with money or any other property from predicate offence or makes at least one agreement regarding them.

8. Actions taken to conceal or disguise the illegal origin of money or any other property resulting from predicate offence or possession thereof, titles to such money and property, their sources, location, movement shall mean any actions of a person for the purpose to conceal and disguise the fact of acquisition of such assets or any other property that preceded legalization (laundering) of such assets, committed by both a person himself/herself who acquired such assets or property in such a way and any other person.

Such actions may be directed at: changing legal status of the money or any other property by means of fabrication of the papers certifying titles to such property; receiving of fabricated papers for purchase of the property; making of the civil-legal agreements (simulated buying in the thrift shop, Lombard etc.); processing of the titles on the dummy persons; making sham agreements on granting credits or different services – juridical, auditing and etc.; placement of funds to an accounts of juridical and natural persons, including offshore areas; money transfer from one account to another – if all the mentioned actions were not the means of commitment of the predicate offence.

9. Acquiring money or property known to be obtained from a predicate action, and possession thereof shall mean receiving them in actual possession or economic running under ineffective legal actions (by which receiving such assets or property and possession thereof have got a justified character and allegedly legal status thereof) i.e. the person's acquiring, possession of the titles to such assets or property, provided a person realizes that they were obtained by other persons from crime.

Use of money or any other property from predicate offence shall mean such use or disposal, which is not necessarily connected with financial transaction or making an agreement regarding them, as far as such actions are mentioned in disposition of paragraph 1, Article 209 of the CC (2341-14) as independent ways of commitment of the crime. Mentioned assets or property can be used, in particular, during economic management, including entrepreneur activity.

Use of money or any other property from predicate offence for the purpose of economic management shall mean their use in the process of legal output of products, rendering of services, selling entities of economic management, registered as those in the established by law order, i.e.: 1) investing economic

activity with the mentioned assets or any other property (their including into statute fund of such entity or free of charge transfer, investment into joint economic management etc.); 2) purchase of input materials, and other property to be used in economic management at the expense of the assets; 3) use of such property as half-finished goods, input materials, etc.

Use of the mentioned money and property may be connected/unconnected with their alienation, i.e. passing on to the other persons.

10. Money or any other property shall not be meant as those obtained from predicate offence, if a person didn't seize them (didn't receive) from commitment a crime, but illegally concealed them, didn't pass on to the state, although obliged to do this, including: assets, which have not been paid as taxes; dues and fees; other compulsory payments; unreturned or concealed proceeds in foreign currency from exportation of the goods (works, services) or hidden goods and other tangible property, obtained from such income, as far as it goes about illegal (criminal) disposal of money and other property (if the titles for them were obtained legally), but not illegal acquiring.

Import of contraband goods and other articles in Ukraine, specified by disposition of part 1, Article 201 of the CC, and assets from financial operations with use of bank accounts of enterprises, which have fictitious characters but not from the predicate offence, shall not be recognized as the subject of legalization, if they were legally obtained abroad.

Money or any other property, obtained by official person from the operations, specified by subparagraphs 8.6.1-8.6.3, paragraph 8.6 Art. 8 of the Law "*On the order of extinction of tax payers' obligations to the budget and state specialized funds*" without written permission of a taxing body, with the assets, which are in tax lien and will be used then by the entity of economic management - juridical person in economic activity, as far as they have legal origin, shall not be a subject of legalization.

Money (despite its amount), obtained from subsidies, subventions, donation or credit resulting from providing the creditors, specified by this norm of the Law, with false information on the side of the entities, specified by the disposition of part 1, Art. 222 of the CC, shall not be meant as the subject of legalization, though such money is the subject of next actions, enlisted by Art. 209 of the CC, as far as this money is legally obtained and the crime, elements of which are stipulated by the part 1, Art. 222 of the CC, does not comprise all the signs of predicate offence, provided for part 1, Note to Art. 209 of the CC.

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

12. For the purpose to resolve a question on "corpus delicti", provided for by Art. 209 of the CC, it is necessary to define that a person committed one of the actions, specified by part 1 of this Article, with money or any other property obtained from predicate offence in order to justify possession, management or use of them, acquiring, concealing or disguising their illegal origin or ownership, titles to them, sources of their origin, location, transfer or she/he committed a financial transaction or made an agreement.

In the process of settlement of a question on existence of the signs of this "corpus delicti" in actions of a person who did not commit a predicate offence, the courts have to determine the availability of evidence of the fact that such a person who committed one of the actions, specified by part 1 of Article 209 of the CC, realized that money or any other property had been obtained by other persons from crime.

13. Effective legislation does not identify the minimum of money amount or value of any other property as a subject of legalization, which provides with the grounds to bring to the criminal responsibility under Article 209 of the CC. For the purpose of making a criminal-legal assessment of actions, specified by part 1 of this Article, committed in respect of money or any other property of

insignificant size, it is necessary to proceed from the provisions of part 2, Art. 11 of the CC (misdemeanor) and to take into account the size of income resulting from crime.

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

15. A physical sane person who reached the age of sixteen and – as for some legal actions - even obtained a full legal capacity in the cases and order, established by law, and was not restricted in his/her legal capacity or deprived it by the court, may be a subject of crime, elements of which are provided for by Article 209 of the CC.

Only a person who didn't commit a predicate offence, provide him/her realizes that money and any other property had been obtained by other persons illegally, may be subject of the crime, if it committed in the forms of any actions, specified by part 1, Article 209, CC. The person who committed such action bears responsibility only for commitment of financial transaction with money or any other property or making an agreement with respect to them, as well as for commitment of actions directed to hide or conceal illegal origin of such money or any other property, possession thereof, titles to them, sources of their origin, location, transfer; but for use of such money or any other property – only in the case, if it concerned commitment of financial transaction or making an agreement.

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

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

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

19. An action, committed by a group of two or more persons in their capacity of accomplices upon their prior conspiracy to legalize (launder) proceeds from predicate offence, shall be qualified as commitment of the crime upon prior conspiracy. It is not necessary that all the persons commit the same (identical) actions, as specified by Article 209 of the CC, for the purpose of existence of this qualifying sign. The mentioned sign will also exist in the case, if one person commits any of alternative actions, specified by part 1 of Article 209 of the CC (2341-14), and other persons – any other actions.

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

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

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

On introducing amendments to the Requirements to qualification of reporting entity compliance officer, responsible for conducting of the financial monitoring in prevention and counteraction to introduction in the legal turnover proceeds from crime, and terrorism financing

Order of the State Committee for Financial Monitoring of Ukraine
on October 15, 2009 N 147
Registered in the Ministry of Justice of Ukraine
December 22, 2009 N 1238/17254

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REQUIREMENTS

to qualification of compliance officer of reporting entity in the AML/CFT sphere

1. These Requirements establishes qualification requirements to compliance officer of reporting entity (except banks), in the AML/CFT sphere.
2. Requirements spread compliance officer.
3. In these Requirements the terms shall have the following meanings:
Long term professional training – acquirement with complex of knowledge and skills assisting in qualitative performing their direct obligations by employees. The duration of long term professional training shall be established according to the raining programs;
Short term professional training – advanced study of certain sphere of activity. The duration of short term professional training shall be established according to the purpose and content of relevant training programs;
Managing position – position which prescribes performing functions of managing reporting entity in whole and all its subdivisions or managing separate subdivision (subdivisions) of reporting entity.
4. Compliance officer shall lead and coordinate internal AML/CFT system of reporting entity.
5. Compliance officer shall be appointed on position at the level of leadership of the reporting entity.
6. Compliance officer shall have finished higher education and practical experience no less than during one year in the relevant sphere of activity of reporting entity, or experience on managing position in reporting entity no less than during one year, or experience of work in the AML/CFT no less than during one year.
7. Compliance shall have the business reputation complying with the following requirements:
Compliance officer has no criminal records for intended crime;
Compliance officer has no deprivation of right to occupy certain positions or provide certain activity by the court decision;
Compliance officer wasn't redundant according to the Article 40 Part 1 (2, 3, 8) and the Article 41 Part 1 (1,2) of the Labour Code of Ukraine.
If during last 10 years person was head, participant of leading body or chief accountant of legal person – participant of financial services market designed bankrupt, or sanctioned with removal of leadership or cancelling license for relevant activity by authority regulating relevant financial services market, such person can be appointed as compliance officer with approving of relevant entity of state financial monitoring.
8. Compliance officer shall know the legislation of Ukraine and international standards in the AML/CFT sphere and have skills in the following practical activity:
Rules for internal financial monitoring and program of its providing;
Procedure of revealing financial transactions subject to financial monitoring and which could be related, connected and/or intended for financing of terrorism;
Procedure of identification of person conducting financial transactions, receiveing and keeping documents related to identification, and documents on conducting financial transaction;
Procedure of registration of financial transactions subject to financial monitoring by reporting entity;
Financial transaction suspending procedure;

Procedure of submitting to SCFM information on financial transactions subject to financial monitoring, or which became subject for financial monitoring, and assisting to entities of state financial monitoring in analyzing such financial transactions;

Procedure of training personnel of reporting entity on revealing financial transactions subject to financial monitoring;

Criteria for assessing risk of conducting transaction which could be related to the ML/FT;

Procedure of informing law enforcement authorities on financial transactions about which there are or should be suspicious that they could be related, connected or intended for financing of terrorist activity, acts or organizations;

Requirements on preventing disclosure of information submitting to SCFM, other information on financial monitoring issues, including the fact of its submitting;

Other requirements to reporting entity in the AML/CFT sphere.

9. Compliance officer shall speak state language fluently.

10. Person appointed as compliance officer at first time shall pass course of long term professional training in the AML/CFT sphere in the scopes of relevant educational programs of educational institutions, agreed or approved by entities of state financial monitoring.

11. Compliance officer shall maintain the level of own knowledge through periodical passing short term professional trainings in the scopes of relevant educational programs of educational institutions, agreed or approved by entities of state financial monitoring. Professional trainings of compliance officer on separate issues of financial monitoring can be provided in other educational forms (seminars, practical seminars, seminars – conference, “round tables”, etc.) and self – studying of normative legal acts in AML/CFT sphere.

12. Compliance officer can pass professional training in educational institutions which have the relevant license of Ministry of Education and Science of Ukraine and concluded the agreements with entities of state financial monitoring.

13. Entities of state financial monitoring shall establish special requirements to qualification of compliance officers depending of specific character of reporting entities activity.

On Approval the Procedure for Informing Entities of Initial Financial Monitoring on the List of Persons Related to Terrorist Activity

**Order of the State Committee for Financial Monitoring of Ukraine
April 26, 2006 No. 84**

**Registered
in the Ministry of Justice of Ukraine
as of June 20, 2006 N 726/12600**

**Procedure
for Informing Reporting Entities on the List of Persons Related to Terrorist Activity**

Current Procedure is composed for implementation of Article 12 of the Law of Ukraine On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, and defines the procedure for informing entities of initial financial monitoring on the list of persons related to terrorist activity (further – List of persons).

2. The List of persons or changes to it is approved by the order of the State Committee for Financial Monitoring of Ukraine (further – SCFM of Ukraine) during three working days after receiving information (documents).

3. The List of persons is published on official SCFM web-site in chapter “List of persons related to terrorist activity” and informed to entities of initial financial monitoring in XML format.

4. The List of persons published on official SCFM web-site is supplemented and renovated not later than during two working days after approval of correspondent changes to the List of persons by SCFM of Ukraine.

In case of introducing changes and supplements to the List of persons in the chapter News of official SCFM web-site the correspondent message is placed there on the same day.

5. The List of persons and/or changes to it are informed to banks by SCFM of Ukraine via e-mail of the National Bank of Ukraine during two working days after adoption as file-list of correspondent structure and essential elements.

The bank should submit SCFM of Ukraine with file-receipt of correspondent structure and essential elements on receiving of the List of persons and/or changes to it during three working days after receiving.

6. The List of persons and/or changes to it are informed to entities of initial financial monitoring – non banking institutions by SCFM of Ukraine via Internet e-mail to electronic addresses stated in Reporting Entity Registration Card (separate subdivision) and compliance officers during two working days after adoption as a file-list of correspondent structure and essential elements.

Entity of initial financial monitoring – non banking institution should submit SCFM of Ukraine with file-receipt of correspondent structure and essential elements on receiving of the List of persons and/or changes to it during three working days after receiving.

7. Entities of initial financial monitoring – non banking institution which do not have e-mails, are informed on the List of persons and/or changes to it via post with notification receipt.

8. SCFM of Ukraine informs the new entity of initial financial monitoring on the full List of persons current on the date of informing.

**Director of the Department for interaction and
methodological provision of financial
monitoring system**

**A.
Podkorytov**