Strasbourg, 18 March 2009

MONEYVAL(2009)1 Rev1

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

First written progress report submitted to MONEYVAL by BULGARIA[1]

[1] Adopted by MONEYVAL at its 29th Plenary Meeting (Strasbourg, 16-20 March 2009). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref: MONEYVAL(2009)16 at www.coe.int/moneyval)

1. General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field

- Since the adoption of the assessment report at the MONEYVAL 26th plenary meeting (31.03-4.04.2008) the general framework of Bulgarian AML/CFT system did not change.
- November 2007 draft amendments to the Law on Measures against Money Laundering /LMML/ and Law on Measures against Terrorist Financing /LMTF/ has been adopted in order to transpose the 3rd AML/CFT Directive of EU.
- December 2007 draft amendments to the Regulations on the Implementation of LMML have been adopted in order to transpose the 3rd AML/CFT Directive of EU.
- February 2008 draft amendments to the Law on Funds Transfers, Electronic Payment Instruments and Payment Systems have been adopted. They introduced a license regime for money remittance companies;
- April 2008 the registration authority for bureaux de change was changed – the new registration authority is National Revenue Agency instead of the FIU /Financial Intelligence Agency/, because of its incorporation in the structure of newly established agency – State Agency for National Security.
- January 2008 a new state agency was established - State Agency for National Security (SANS). It merged in its structure 3 former existing state bodies – National Security Service, MoI; Military Counterintelligence, Minister of Defence and Bulgarian FIU- Financial Intelligence Agency, Minister of Finance. The purpose to establish this new agency – restructuring the national security sector and achieving better results and interaction of state bodies involved in the fight against corruption, organized crime and money laundering;
- Beginning of 2008 Bulgarian FIU was transformed from independent agency, subordinated to the Minister of Finance into unit of SANS, but it preserved its operational independence;
- August 2008 the Ministry of Interior also undertook changes – now it has 5 chief directorates. One of these chief directorates, named Criminal Police Chief Directorate, merged the former Chief Directorate for Combating Organized Crime and Economic Police. The new directorates are named Counteraction to Organised and Serious Crime Directorate and Counteraction to Common Crime Directorate. The purpose was to improve interaction within MoI itself and its efficiency.

2. Key recommendations

Please indicate improvements which have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Not all designated categories of offences are fully covered as predicates (insider trading and market manipulation; and one aspect of terrorist financing).*
Measures taken to implement the Recommendation of the Report	Insider Trading and Market Manipulation are regulated in the Measures Against Market Abuse with Financial Instruments Act (Promulgated, SG, No. 84/17.10.2006, effective 1.01.2007, amended and supplemented, SG No. 52/29.06.2007, effective since 3.07.2007). This Act contains clear definitions

	of market manipulation and insider trading as well as prohibitions thereto (Art 8 – 11). Chapter VII regulates the administrative liability and the penalties for violations of the Act: According to Art. 40 para 1 any person who commits or admits the committing of an offence under Art. 8 - 11 shall be liable to a fine from BGN 20 000 to 50 000 (10 000 – 25 000 Euro) if the act does not constitute a crime. Under para 2, in case of a repeated offence the fine is from BGN 50 000 to 100 000 (25 000 – 50 000 Euro). In case of non-compliance with an imposed coercive administrative measure, those who have committed the act and those who have allowed it shall be liable to a fine from BGN 5 000 to 20 000 (2 500 – 10 000 Euro). Those who aid, abet and conceal a crime are also penalized, taking into account the nature and extent of their involvement. For the same offences property sanction are imposed on legal entities and sole traders as follows: from BGN 50 000 to 100 000 (25 000 – 50 000 Euro) and in case of a repeated offence - from BGN 100 000 to 200 000 (50 000 – 100 000 Euro). Assets acquired as a result of the offence shall be confiscated in favor of the State, to the extent to which they cannot be refunded to the damaged persons. The protocols for the establishment of offences shall be drawn up by officials authorized by the deputy chairman of the Financial Supervision Commission, and the penalty warrants shall be issued by the Deputy Chairman. The establishment of offences, the issuing of, appeal against and enforcement of penalty warrants shall be carried out in accordance with the Administrative Violations and Sanctions Act. According to Art. 33 para 2 of the Administrative Violations and Sanctions Act, if an act of violation against which an administrative-penal proceeding have been initiated is established to constitute a crime, such proceedings shall be discontinued and all materials shall be forwarded to the relevant prosecutor. Thus insider trading and market manipulation may be prosecuted as crimes. However, because of the fact that the Penal Code does not contain explicitly their criminalization as separate crimes, their inclusion in the Penal Code is under discussion: Since December 2007 the Advisory Council on Criminal Policy with the Minister of Justice works on the Concept for Criminal Policy of the Republic of Bulgaria and new Penal Code, including through the engagement of a broad circle of practitioners and academics from the criminal and legislative field. The special expert group at the Council has already discussed the issue with explicit incrimination of insider trading and market manipulation in the new Penal Code. Consideration has been given also to the need of full reflection of the requirements of international conventions in the provision stipulating financing of terrorism. In order to provoke a broad discussion, the main ideas of the MJ for the Concept for Criminal Policy were published on the Internet site of the Ministry of Justice on 9 December 2008 inviting comments and suggestions of interested institutions. At present the statements and proposals received are being summarized and a new Concept document will be published at the end of March 2009. Thereafter the concept for new Penal Code will be drafted, where insider trading, market manipulation and the full range of financing of terrorism will be included.
(Other) changes since the last evaluation	
Recommendation	*Liability of the legal persons remain limited to administrative liability.(R.2)*

of the MONEYVAL Report	
Measures taken to implement the Recommendation of the Report	Liability of legal persons for criminal offences, including money laundering was introduced in September 2005 by amending the Law on Administrative Offences and Sanctions. The Law provides for a monetary sanction of up to BGN 1 million (approximately 500 000 Euro) but not less than the amount of the advantage obtained or that could have been obtained. Confiscation of the proceeds of crime is also provided by the Law. The sanctions shall be imposed irrespective of the penal responsibility of the physical perpetrator. The Law provides also for regulation of the procedure for imposing sanctions on legal persons. After its introduction in 2005 this institute has been widely applied by prosecutors and judges and is assessed positively by them. The issue of criminal liability of legal persons is being discussed in different parts of legal society in Bulgaria. The opinions received within the framework of discussion on the new Concept for Criminal Policy (expected to be published till the end of March 2009- see above) are controversial. It is still not decided whether the Concept would include such fundamental change in Bulgarian legal theory. According to the Programme for the Activities of the Inspectorate at the Supreme Judicial Council for 2009 special attention will be paid by the inspectors on the implementation of Art 83 of the Law on Administrative Offences and Sanctions (liability of legal persons for criminal offences). The analysis of the monitoring will show whether next steps in this direction will be made.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Almost half of the final convictions on money laundering were dealt with suspended sentences of imprisonment, fact which raises questions with respect to the compliance with the requirements of "effective and dissuasive sanctions.(R.2)*
Measures taken to implement the Recommendation of the Report	Statistics confirms that Bulgaria has one of the highest numbers of convictions for money laundering. The tendency in the last year shows that courts impose sentences without suspension of their implementation.
Recommendation of the MONEYVAL Report	*Difficulties of proof of intention need further addressing on guidance or legislation to address effectiveness issues.(R.2)*
Measures taken to implement the Recommendation of the Report	The difficulties mentioned by some practitioners during the onsite visit as regards proving intention for money laundering are considered to be overcome by the judicial practice. In October 2008 a very important sentence was pronounced and made public by the Supreme Cassation Court (the Supreme Court upheld the decisions of the Sofia District Court and the Sofia Appelate Court in money laundering case related to bank fraud) which brought clarity in the interpretation of the conditions needed to prove intention in money laundering: In this sentence

	the court states: "Differing from concealment, in case of money laundering it is not necessary the predicate crime to be finally proven with the instruments existing under the Penal Procedure Code. Otherwise it would mean one to accept that money laundering could not be fulfilled. For the predicate crime or the other act dangerous to the public (Art. 253, para 1 Penal Code) only general data must be established. This is the case because normally this activity is related to drug trafficking and/or trafficking of human beings or other actions for which there are no real evidences and which cannot be investigated under the normal penal procedure. The test for availability of evidences about a crime under Art 253 PC (money laundering) requires answers to several questions: - Are there important money flows movements, undertaken by the accused person? - Could these movements be explained by commercial deals or deals of any type, which may justify the origin of such large amount of money? In this respect, can the reason for a sudden wealth of the person and is it explicable? - Are there data about links between the person accused and persons from the criminal underground, which could explain the origin of the assets as criminally acquired assets? If the answers to the first and third questions are positive, and the answer to the second question is negative, the court should accept that the crime money laundering is fulfilled". In this case there is a sentence where the amount of the money from the predicate offence /the amount is smaller than the one from the money laundering/ is established as a result of the gathered circumstantial/indirect evidence for the committed crime In this way, the jurisprudence (Supreme Cassation Court), without explicit provision in the Penal Procedure or Penal Code makes clear that some kind of reversal of the burden of proof must be applied in cases of money laundering. Further an informational system for the Public Prosecutor's Office is yet to be implemented. This informational system shall contain data for all guilty verdicts and the reasons for the guilty verdicts. It shall also contain the approved agreements/plea bargains and methodical guidelines with regard to the investigation of the crime 'money laundering".
(Other) changes since the last evaluation	**Trainings Organised in the field of fight against money laundering for 2007 and 2008** • Five seminars in "Judicial cooperation in criminal matters. European Arrest Warrant" were organized between April 2007 and December 2008. One of the topics concerned "Financing crimes" which also referred to the fight against money laundering. 148 magistrates – judges, prosecutors and investigators, took part in the seminar. • One seminar in "Measures against money-laundering in EU" was held on 28-30 Mai 2007 within the PHARE Twinning project. The seminar was jointly organized by the Bulgarian National Institute of Justice and the Spain National judicial school. 17 judges, 8 prosecutors and 3 investigators took part in the seminar. • One Pilot seminar in "Laundering money – crimes against taxation, financial and insurance system" was held on 14-16 Mai 2008, organized with the cooperation of the American Ministry of Justice. 21 prosecutors took part in the seminar.

	• Training in "Laundering money – crimes against taxation, financial and insurance system" will take place on 23-25 March 2009. 25 prosecutors will participate on this event. **Seminars in the field of fight against money laundering are also planned for 2009**: • Topic: "Judicial cooperation in criminal matters. European Arrest Warrant" – 3 seminars for 100 magistrates; • One seminar in "Protection of EU financial interests" jointly organized with the Technical Assistance and Information Exchange Bureau, European Commission (TAIEX) – 1 seminar for 40 magistrates • Training for trainers in "Protection of EU financial interests" jointly organized with IRZ – 1 seminar for 30 trainers; • Topic: "Protection of EU financial interests" – 3 seminars for 100 prosecutors.

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It was the view of the evaluators that the definition of beneficial owner was not fully understood by all financial institutions*
Measures taken to implement the Recommendation of the Report	Although the recommendation does not refer to the banking sector BNB with the assistance of TAIEX, European Commission has organized a workshop for the banks where the issues of beneficial owner was discussed in details. On-site inspections also were carried out by BNB for assessment the proper implementation of the legal requirement for beneficial owners by the banks. Further also Financial Supervision Commissions` experience has not indicated that the supervised entities from the non-banking financial sector lack understanding on the issue of beneficial ownership the FSC continuously makes efforts to raise the awareness thereof. In 2007, On-site Inspection Manuals were adopted in the field of insurance and capital market supervision providing detailed procedures on the compliance checks regarding the AML/CTF requirements. Based on these manuals every on-site inspection focuses inter alia on the existence of internal rules on the AML/CTF within the supervised entity as well as whether they are approved by the FIU and complied with by the entity. In these procedures, in case lack of clear understanding is estimated, proper guidance can be provided. Furthermore, meetings between experts of the Financial Supervision Commission (FSC) and representatives of the supervised entities (from the investment sector) are held at the FSC's premises on a monthly basis. So far, the supervised entities have not stated any difficulties in understanding the term "beneficial owner" nor have they posed any questions concerning its interpretation. Should there be any questions regarding this issue, experts from the FSC are open to discuss. In addition according to the observations from on-site inspections carried out by FID-SANS in 2008 and 2009 the definition of beneficial owner is clear to the inspected reporting entities.

	The training materials elaborated by FID, SANS also cover the issue during the usual trainings, where FID, SANS is invited to make a presentation on AML/CFT framework and counter measures.
Recommendation of the MONEYVAL Report	*Obligation to perform full CDD measures for terrorists financing should be required in the law*
Measures taken to implement the Recommendation of the Report	Draft amendments of the LMTF were elaborated by FID, SANS. They were sent for consideration to the MoI; a working group was established to review the proposed amendments. Further the draft will be disused at Multidisciplinary Task Force for the Prevention of ML and TF, it is planed to be included in the Council Ministers Program for discussions in the period July-December 2009. Each non-banking financial entity is obliged by law to establish and apply, within 4 months of its registration in Court, internal rules for control and prevention of money laundering and terrorist financing. Upon on-site visits, experts from FSC are examining these rules and make sure they are in line with the relevant law's requirements, as well as whether the process of customer identification is executed correctly and all the documentation required before a money transaction is made or an order executed, is presented to the employees of the supervised entities. Up to now, during on-site visits, experts from FSC have not found any deficiencies of the internal rules application.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Lack of guidance on applying simplified due diligence*
Measures taken to implement the Recommendation of the Report	Guidance on applying the simplified due diligence is issued by BNB. Further draft guidance is elaborated by FID, SANS recently. It should be coordinated with other supervisory bodies and then will be published on FID-SANS web-site. Also, the Regulations on the Implementation of LMML elaborate further the provisions on simplified due diligence under the LMML. Also article in news bulletin of Financial Supervision Commission no 5/2007 reviewed the Control and Prevention of ML and TF within financial institutions including simplified due diligence. The positive list of counties applying same AML/CFT standards was adopted by the Minister of Finance and Governor of BNB in October 2008 and published in Bulgarian SG 96/7.11.2008.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Requirement to verify source of funds was not fully demonstrated throughout the financial sector.*
Measures taken to implement the Recommendation	Although the recommendation does not refer to the banking sector BNB with the assistance of TAIEX, European Commission has organized a workshop for the banks covering the topic of verification of source of funds. In addition

of the Report	on-site inspections were conducted focusing on the bank procedures for verification the source of funds and the way the procedures were implemented by the banks. There is an explicit obligation in art. 4, para 7 of LMML that requires persons effecting a transaction or a deal via or with a person referred to in Article 3, paragraphs (2) and (3) of the same act, at a value exceeding BGN 30,000 or its equivalent in foreign currency or, respectively, exceeding BGN 10,000 or its equivalent in foreign currency where payment is made in cash, shall be bound to require a source-of- funds declaration prior to effecting such transaction or deal. The format for the declaration referred to in paragraph (7) and under Article 6, paragraph (5), Item (3), the terms and procedure for filing, as well as the terms and procedure for exception from the declaration requirement shall be regulated in the rules for implementing this Act (annex 2 of RILMML contains a sample of a source-of- fund declaration that is required upon the above stated circumstances). Customer identification, for counter terrorism financing purposes, is an obligation emerging from art. 9, para 5 of LMFT. The same criteria for suspicious transactions apply for both anti money laundering and counter terrorism financing purposes. If the customer or the person entering into a business relationship is required to present a source-of-funds declaration and the declines to provide such, the latter will be refused to enter in such a relationship. No money order or a transaction will be executed. According to art.11a of LMML, persons referred to in Article 3, paragraphs (2) and (3) of LMML shall notify the Financial Intelligence Directorate of the State Agency for National Security by the 15th day of the month following the month of the information supplied, of any payment in cash at a value exceeding BGN 30,000 or its equivalent in foreign currency made by or to any of their clients. All the information required by LMML, is kept by the supervised entity for 5 years and is available to FSC and FIA upon their request The on-site inspections conducted so far by the supervisory bodies and FIU indicated that inspected reporting institutes understand and apply their obligations. Further the issue was discussed among the supervisors and FIU and was noted that further attention to this issue should be pay in future inspections.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*The evaluators found that some financial institutions needed more training on risk assessment*
Measures taken to implement the Recommendation of the Report	Although the conclusion is not relevant to the banking sector a seminar was organized with the assistance of TAIEX covering the topic of AML/CFT risks specific to banking activities and the risk assessment. Further FID-SANS conducted analysis on the conclusion and its observations from the daily work of reporting entities, following this analysis a target groups for further trainings on the issue are planed. Training campaign is planned for the summer with different target groups.

	According to the art. 16, para 2 of LMML, the internal rules for control and prevention of money laundering and terrorist financing must set out „criteria for detecting suspicious transactions or deals and clients, the procedure for personnel training and the use of technical means for the prevention and detection of money laundering, as well as a system for internal control over the implementation of all measures under this law". In this sense, the information collected by each investment firm (reporting entity) when business or professional relations are established, is analyzed by special unit established within the entity in accordance with article 6 (5) of LMML. Pursuant to art. 8 of RILMML, the special unit analyses the information and thus assess the client's risk profile. Clients with a higher risk profile are put under special observation. The criteria defining higher risk profile for clients have to be provided in the internal rules of the entity. For high-risk profile clients, the extended measures provided by article 8 (3) of RILMML are applied. According to art. 18 of RILMML, a continuous training for the employees must be provided by the special unit. All the employees of the investment firm must be trained and made familiar with the internal rules for control and prevention of money laundering and terrorist financing. Special and more detailed training is provided to the employees having a direct contact with clients, i.e. the employees under art. 39 (1) of Markets in financial instruments act. If there are any questions or matters of ambiguity, FIU will provide further guidance.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*With the exception of banks financial institutions need to work harder to raise awareness and be effective in CDD due diligence*
Measures taken to implement the Recommendation of the Report	There is on-going process on this issue. In 2007 the FIU took part in 5 AML/CFT trainings for staff of reporting entities /3 commercial banks, 1 investment intermediary, 1 pension funds and insurance companies./
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP[2]	
Recommendation of the MONEYVAL Report	*Several DNFBP lack awareness and full knowledge of this obligation to perform CDD*
Measures taken to implement the Recommendation of the Report	It was discussed during a meeting of Multidisciplinary Task Force for the Prevention of ML and TF. So far the observations and experience of the FIU based on conducted on-site inspections by the FIU indicated that great part of reporting entities in the respective sectors have AML awareness and perform accordingly their obligations.
(Other) changes since the last	

[2] i.e. part of Recommendation 12.

evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Transactions records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity*
Measures taken to implement the Recommendation of the Report	The evaluator's conclusion was discussed during meeting of Multidisciplinary Task Force for the Prevention of ML and TF in October 2008. The expressed view by the state institutions following this discussion is that the legal provisions are clear to reporting entities and practice confirmed that, but the FIU will prepare in addition guidelines on this to explain the legal provisions.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*There is not requirement in law or regulation to keep documents longer than five years if requested by a competent authority*
Measures taken to implement the Recommendation of the Report	The evaluator's conclusion was discussed during meeting of Multidisciplinary Task Force for the Prevention of ML and TF in October 2008. The state bodies represented in the task force do not consider that amendments of legal provisions on this issue are urgently necessary, but this recommendation shall be taken under consideration by future version of the LMML.
(Other) changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*Casinos should undertake steps to improve record keeping*
Measures taken to implement the Recommendation of the Report	The State Commission on Gambling (SCG) advises casino operators and their association BAAGG (Bulgarian Association for Amusing Games and Gambling) to update "The internal rules for control and prevention of the money laundering on the part of persons, organizing and implementing casino gambling". Detailed instructions for identification complex control must underlie in the rules, as well as more précised criterions for registers maintaining improvement. Further meetings between representatives of FID-SANS and SCG /respectively BAAGG took place during which recommendations under the assessment report were discussed. FID, SANS and SCG planed some joint on-site inspections in 2009 to check

[3] i.e. part of Recommendation 12.

	the level of compliance. BAAGG submitted beginning of 2009 updated draft of Internal rules for control and prevention of the money laundering, which was approved. A workshop for members of BAAGG is planned for the end of March 2009 in order FID, SANS lecturers to make more detailed presentations on record keeping, CDD for the purposes of ML/TF as well as PEPs and other relevant issues.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Certain DNFPBs record keeping was only for tax compliance purpose*
Measures taken to implement the Recommendation of the Report	The issue was also discussed during the meeting between representatives of FID-SANS, SCG and BAAGG. FID, SANS and SCG planed some on-site inspections in 2009 to check the level of compliance.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Attempted suspicious transactions are not explicitly covered*
Measures taken to implement the Recommendation of the Report	The wording of art.7 (1) LMML is sufficiently broad so as to cover even attempted suspicious transactions. Further the issue was discussed among the Bulgarian state bodies and although they consider that attempted transactions are covered in the LMML, by future version of the LMML until the end of 2009 this will be specifically provided. "Art.7 (1) Where a suspicion for money laundering arises, the persons under Article 3, paragraphs (2) and (3), shall be bound to collect information about the material components and the size of the transaction or deal, the respective documents and other identification data. (2) (Amended, SG No. 54/2006, SG No. 109/2007) The data collected for the purposes of this Act shall be documented and stored in a way providing access to the Financial Intelligence Directorate of the State Agency for National Security, the relevant supervisory authorities, and the auditors."
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Insider trading and market manipulation are not predicate offences and therefore not covered by the reporting obligation*
Measures taken to implement the Recommendation of the Report	Please see comments under R.1

(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No reporting obligation covering funds suspected to be linked or related to, or to be used for terrorist acts or by terrorist organisations.*
Measures taken to implement the Recommendation of the Report	Provisions of Art 9 (1) and (3) of the LMTF cover the reporting obligation for all types of funds suspected to be linked or related to financing of terrorism. Further the working group established to review the proposed amendments to the LMTF will further discuss this issue. The draft amendments will be disused at Multidisciplinary Task Force for the Prevention of ML and TF, it is planed to be included in the Council Ministers Program for discussions in the period July-December 2009. **Article 9.** (1) (amended SG 109 of 20.12.2007) Any person, who knows that given financial operations or transactions are intended to finance terrorism, must immediately notify the Minister of Interior and the chairperson of the State Agency for National Security. (3) (Amended, SG No. 31/2003, SG No. 92/2007; SG 109/2007; amend and suppl. SG 36/2008) Should suspicion arise about the financing of terrorism, the persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering must immediately notify also the Financial Intelligence Directroate of State Agency for National Security before the operation or transaction is performed, while delaying its implementation within the admissible period laid down by the legislative regulations on the relevant type of activity. In such cases, the Agency shall exercise the powers vested therein under Articles 13 and 18 of the Law on Measures against Money Laundering.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*There are few STRs from non –banking financial institutions (effectiveness issue)*
Measures taken to implement the Recommendation of the Report	The issue was discussed on Multidisciplinary Task Force for the Prevention of ML and TF in October 2008. It was decided supervisory bodies to undertake expounding campaign during regular on-site inspections of reporting entities.
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*The same deficiencies in the implementation of Recommendation 13 in respect of financial institutions apply to DNFBP*
Measures taken to implement the	The issue was discussed on Multidisciplinary Task Force for the Prevention of ML and TF in October 2008. It was decided supervisory bodies to

[4] i.e. part of Recommendation 16.

Recommendation of the Report	undertake expounding campaign during regular on-site inspections of reporting entities.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Further education required on filing of suspicious activity reports*
Measures taken to implement the Recommendation of the Report	This is on-going process. For the trainings, planned in the beginning of 2009, the issue is included as separate part in the training materials for real estate agents and casino operators /March and April 2009/. The issue will be covered also in future trainings for lawyers, notaries and real estate agents, which are planned for the end of 2009. Additionally FID-SANS plans to have 1 days AML/CFT trainings for real estates, notaries and layers in the last week of October where also UK experts will join as presenters to the FID-SANS`s lecturers.
(Other) changes since the last evaluation	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Not clear if the offense as provided in the Bulgarian CC also includes contributions for <u>any</u> purpose (including legitimate activity)*
Measures taken to implement the Recommendation of the Report	The issue was discussed on Multidisciplinary Task Force for the Prevention of ML and TF in October 2008, presently Bulgarian authorities do not consider that amendment of art. 108a of the Penal Code is necessary, because the Bulgarian legislator decided to use the possible large wording. The Article 108a para 2 (New, SG No. 92/2002) of Penal Code provides for the criminalization of terrorist financing in Bulgaria: "(1) Anyone who, in view of causing disturbance or fear among the population or of threatening, or forcing a competent authority, a representative of a public institution or of a foreign state or international organization to perform or omit part of his/her duties, commits a crime under art. 115, 128, art. 142, par. 1, art. 216, par. 1, art. 326, art. 330, par. 1, art. 333, art. 334, par. 1, art. 337, par. 1, art. 339, par. 1, art. 340, paras. 1 and 2, art. 341a, paras. 1 - 3, art. 341b, par. 1, art. 344, art. 347, par. 1, art. 348, art. 349, paras. 1 and 3, art. 350, par. 1, art. 352, par. 1, art. 354, par. 1, art. 356f, par. 1, art. 356h, shall be punished for terrorism by deprivation of liberty from five to fifteen years, and where death has been caused - by deprivation of liberty of up to thirty years, to life imprisonment or to life imprisonment less substitution. (2) Anyone who, regardless of the specific mode of operation, directly or indirectly collects or provides means for accomplishing acts under par. 1, in full knowledge or based on the assumption these would be utilized to the above purposes, shall be punished by deprivation of liberty of three to fifteen years and a fine of up to BGN 30 000 (15 000 Euro). (3) The object under par. 2 above, that has been the focus of crime, shall be expropriated to the benefit of the State, and where this object may not be

	found or has been disposed of, payment of the equivalent sum in cash shall be ruled." However, as stated above, since December 2007 the Advisory Council on Criminal Policy with the Minister of Justice works on the Concept for Criminal Policy of the Republic of Bulgaria and new Penal Code, including through the engagement of a broad circle of practitioners and academics from the criminal and legislative field. The special expert group at the Council has already discussed the issue with explicit incrimination of insider trading and market manipulation in the new Penal Code. Consideration has been given also to the need of full reflection of the requirements of international conventions in the provision stipulating financing of terrorism. In order to provoke a broad discussion, the main ideas of the MJ for the Concept for Criminal Policy were published on the Internet site of the Ministry of Justice on 9 December 2008 inviting comments and suggestions of interested institutions. At present the statements and proposals received are being summarized and a new Concept document will be published at the end of March 2009. Thereafter the concept for new Penal Code will be drafted, where insider trading, market manipulation and the full range of financing of terrorism will be included.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Liability of legal persons still limited to administrative accountability*
Measures taken to implement the Recommendation of the Report	The issue was discussed during meeting f Multidisciplinary Task Force for the Prevention of ML and TF in October 2008. Because the criminal liability of legal persons is advisable and not obligatory Bulgaria does not consider that its introduction in Bulgarian legal framework is pressing. As already explained, liability of legal persons for criminal offences, including preparation for terrorism and terrorist financing, was introduced in September 2005 by amending the Law on Administrative Offences and Sanctions. The Law provides for a monetary sanction of up to BGN 1 million (approximately 500 000 Euro) but not less than the amount of the advantage obtained or that could have been obtained. Confiscation of the proceeds of crime is also provided by the Law. The sanctions shall be imposed irrespective of the penal responsibility of the physical perpetrator. The Law provides also for regulation of the procedure for imposing sanctions on legal persons. After its introduction in 2005 this institute has been widely applied by prosecutors and judges and is assessed positively by them. The issue of criminal liability of legal persons is being discussed in different parts of legal society in Bulgaria. The opinions received within the framework of discussion on the new Concept for Criminal Policy (expected to be published till the end of March 2009- see above) are controversial. It is still not decided whether the Concept would include such fundamental change in Bulgarian legal theory. According to the Programme for the Activities of the Inspectorate at the Supreme Judicial Council for 2009 special attention will be paid by the inspectors on the implementation of Art 83 of the Law on Administrative Offences and Sanctions (liability of legal persons for criminal offences). The

	analysis of the monitoring will show whether next steps in this direction will be made.
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*No reporting obligation covering funds suspected to be linked or related to, or to be used for terrorist acts or by terrorist organisations*
Measures taken to implement the Recommendation of the Report	Provisions of Art 9 (1) and (3), LMTF cover the reporting obligation for all types of funds suspected to be linked or related to financing of terrorism. Further the working group established to review the proposed amendments to the LMTF will further discuss this issue. The draft amendments will be disused at Multidisciplinary Task Force for the Prevention of ML and TF, it is planed to be included in the Council Ministers Program for discussions in the period July-December 2009. …Article 9. (1) (amended SG 109 of 20.12.2007) Any person, who knows that given financial operations or transactions are intended to finance terrorism, must immediately notify the Minister of Interior and the chairperson of the State Agency for National Security. ….(3) (Amended, SG No. 31/2003, SG No. 92/2007; SG 109/2007; amend and suppl. SG 36/2008) Should suspicion arise about the financing of terrorism, the persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering must immediately notify also the Financial Intelligence Directorate of State Agency for National Security before the operation or transaction is performed, while delaying its implementation within the admissible period laid down by the legislative regulations on the relevant type of activity. In such cases, the Agency shall exercise the powers vested therein under Articles 13 and 18 of the Law on Measures against Money Laundering.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Clear provision needed that STRs must be field promptly*
Measures taken to implement the Recommendation of the Report	Further the working group established to review the proposed amendments to the LMTF will further discuss this issue. The draft amendments will be disused at Multidisciplinary Task Force for the Prevention of ML and TF, it is planed to be included in the Council Ministers Program for discussions in the period July-December 2009.
(Other) changes since the last evaluation	
Recommendation of the	*The obligation to report attempted suspicious transactions of financing of*

MONEYVAL Report	*terrorism is not explicitly covered*
Measures taken to implement the Recommendation of the Report	Please, see the comments above**.**
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Only 2 reports filed by banks and the industry as a whole do not seem to be well-versed in this requirements*
Measures taken to implement the Recommendation of the Report	This is an on-going campaign in the framework of regular meetings with representatives of reporting entities or conducted on-site inspections. It will be further covered also in the trainings planned to take place in the beginning of 2009 (for banks).
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	*Further education needs to be conducted on filing terrorist financing reports*
Measures taken to implement the Recommendation of the Report	This is on-going campaign in the framework of regular meetings with representatives of reporting entities or conducted on-site inspections. It will be further covered also in the trainings planned to take place in the beginning of 2009 (for real estate agents and casino operators) and also in future trainings for lawyers, notaries and real estate agents, which are planned for the end of 2009.
(Other) changes since the last evaluation	

3. *Other Recommendations*

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 3	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Differences of view between the Bulgarian authorities on the application of third party confiscation need resolution to ensure it is happening*
Measures taken to implement the Recommendation of the Report	The Inspectorate at the Supreme Judicial Council (a new Institution established in February 2008, which controls the movement of judicial proceedings) has dealt with the implementation of Art. 53 Penal Code on confiscation. There have been meetings between inspectors and prosecutors from the Sofia Prosecutors Office during which the application of the confiscation institute was discussed. In the Programme for the Activities of the Inspectorate for 2009 there are focused check-ups envisaged, which would examine the implementation of freezing and confiscation in all appellate regions in Bulgaria would be conducted. It is expected the results of these check-ups to lead to issuing of concrete instructions for the prosecutors in different levels as well as to the adoption of common Guidelines by the Prosecutor General or the Supreme Cassation Prosecutors Office on the application of the general regime of confiscation which would increase the effectiveness of the law-enforcement and judicial authorities.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Clearer guidance to be given to prosecutors on confiscation of indirect proceeds and value confiscation*
Measures taken to implement the Recommendation of the Report	By virtue of Art 253, par.(6) (New, SG 85/98; prev. para 4, SG 21/00; prev. para 5) of the Penal Code "The subject of the crime or the property into which it has been transformed shall be seized in favour of the state, and if it is missing or alienated, its equivalence shall be adjudged." With regard to this, there are court decisions, according to which if the subject of the crime is missing, the persons /perpetrators/ are convicted to pay the equivalence of the subject.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL	*Lack of effectiveness of the general confiscation regime*

Report	
Measures taken to implement the Recommendation of the Report	Further strengthening of the effectiveness of the general confiscation regime is expected to be achieved trough the Twinning light project titled "Further Strengthening the Administrative Capacity of the Public Prosecutor's Office for fighting crimes under the Law of Divestment in Favour of the State of Property Acquired from Criminal Activity" (LDFSPACA) (launched on 12 January 2009). The specific objectives of the Project are: - Further strengthening of the Administrative Capacity of the Public Prosecutor's Office of the Republic of Bulgaria to fight the types of crime, leading to divestment of property acquired by criminal activity; – Establishment of joint working groups of prosecutors, investigators, financial bodies and CEPACA; – Establishment of efficient inter-institutional cooperation and international cooperation in view of investigating and combating serious crime, potentially leading to divestment of property acquired by crime; – Qualification of specialized prosecutors working on this type of crimes should be enhanced by means of training and better cooperation with other institutions, resulting in effective implementation of the EU standards and optimization of the results of their work and for better understanding by the interpretation and enforcement of the law and additional practical skills; – Training of trainers from the staff of law-enforcement bodies-prosecutors, investigators, s.c. Doznateli, government officials from Mol and MF for revealing and investigating crimes, accomplished by persons holding responsible official positions and magistrates. Activities will be undertaken for the conducting of in-depth discussions of EU 'good' and 'best practices' with regard to crime and corruption on the high levels with an accent on confiscation of property acquired by crime, with the participation of all bodies involved in fighting that type of crimes, i.e. police, investigation, financial intelligence etc. The project also envisaged <u>trainings for magistrates</u> – prosecutors, judges and investigators, as well as to strengthen the cooperation with other state institutions for better understanding the interpretation and enforcement of the law and additional practical skills. The trainings concern accomplishment of 3 workshops for 30 trainers on the field of crimes envisaged by the Law of Divestment in favour of the state of property acquired from criminal activity. Two comprehensive <u>catalogues of recommendations</u> will be elaborated: one for further development of the working relations between the state bodies, the other for ways of identifying the property acquired by crime, and providing a legal advice and assistance by its implementation.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*New agency (CEPACA) not operating for sufficient length of time to judge its effectiveness*
Measures taken to	Presently SEPACA works successfully – it is fully operational, has results by

implement the Recommendation of the Report	applying the Law of Divestment in favour of the State of Property, Acquired from Criminal Activity (LDFSPACA) - SEPACA started totally 335 proceedings for establishing of property acquired from criminal activity. 303 securing measures at total value of 154 402 265 BGN were imposed and 102 motivated requests for divestment in favour of the state of the property, acquired from criminal activity were presented to the court for the period 2006-2008. In 2008 the court of first instance has enacted 8 decisions for forfeiture of property acquired from criminal activity – the court pronounced in favour of the Commission, two of the cases were confirmed at second instance and presently they are appealing before the Supreme Court of Cassation in Bulgaria. For more details please see the short report on its activity in annex I.
(Other) changes since the last evaluation	

Recommendation 6	
Rating:Non-compliant	
Recommendation of the MONEYVAL Report	*There is no clear provision in law or regulation or other enforceable means for the determination of whether a customer is a PEP*
Measures taken to implement the Recommendation of the Report	The recommendation was accordingly addressed in art.8a of RILMML /December 2007/. Art.8a. (new SG 108/2007) (1) Customers pursuant to Art.5a, Para. 1 of the LMML consist of potential customers, existing customers and beneficial owners of the client that is a legal person who are: 1. heads of State, heads of government, ministers and deputy or assistant ministers; 2. members of parliament; 3. members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances; 4. members of courts of auditors; 5. members the boards of central banks; 6. ambassadors and charges d'affaires; 7. high ranking officers in the armed forces; 8. members of the administrative, management or supervisory bodies of state-owned enterprises; (2) The categories stipulated in Para. 1, items 1-7 include where applicable the respective positions in the institutions and bodies of the European Union and of the international organizations. (3) The measures stipulated for the categories of customers under Para. 1 shall also be applied in respect of mayors and deputy mayors of municipalities, the mayors and their deputies of the districts and the chairpersons of the municipal councils. (4) The categories stated in Para. 1, items 1-8 do not include officials at intermediate or more junior level. (5) For the purpose of Art. 5a of the LMML the related person shall include: 1. spouse or persons who live in factual partnership with them;

	2. relatives of descending line to the first degree of affinity and their spouse or persons who live in factual partnership with them; 3. the relatives of ascending order of the first degree of affinity; 4. any natural person who is known or it can be supposed from publicly available information to have joint beneficial ownership of legal person, or any other close business relations, with a person referred to in Para. 1; 5. any natural person who has sole beneficial ownership of a legal person which is known or it can be supposed from publicly available information to have been set up for the benefit de facto of the person referred to in paragraph 1. (6) Without prejudice to the application of enhanced due diligence based on the assessment of risk in case the person no longer holds a position under Para. 1 for a period no shorter than 1 year, the persons under Art. 3, Paras. 2 and 3 of the LMML are not obliged to apply Art. 5a, Para.1 of the LMML and Art. 8a, Paras. 7-12 of these Rules. (7) For a person under Art. 3, Paras. 2 and 3 of the LMML to enter into business relations with persons found to fall under the categories pursuant to Para.1 or related persons under Para.5, the approval is required of an official at a managerial position, designated by the respective executive body of the person under Art. 3, Paras. 2 and 3 of the LMML. (8) In cases where after establishing commercial or professional relations it is found out that a customer or the beneficial owner of a customer that is legal person falls under the categories as per Para. 1 or is related person under Para. 5, the continuation of business relations requires prior approval of a person under the preceding paragraph. (9) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to undertake adequate actions to establish the origin of the funds, used in the commercial or professional relations with a customer or the beneficial owner of a customer that is a legal person for whom they have found out that he/she is a person under Para. 1 or a related person under Para. 5. (10) The obligation under Para. 9 also arises when performing separate operation or transaction without establishing professional or commercial relations with the customer or the beneficial owner of the customer that is a legal person, for whom it is found out that he/she is a person under Para. 1 or a related person under Para. 5, regardless of the value of the operations or decal. (11) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to carry out constant and enhanced monitoring over their commercial or professional relations with persons under Para. 1 and related persons under Para. 5. (12) In regard to the potential customer, existing customer or beneficial owner of a customer that is a legal person, who holds a position under Para. 1 or is a related person under Para. 5, the enhanced measures under Art. 8, Para. 3. shall apply. The concrete measures which shall be applied in each respective case are to be decided by the person under Art. 3, Para.2 and 3 of the LMML while taking into consideration the type of customer pursuant to Paras. 1 and 5 and the nature of the commercial or business relation with him/her. (13) Based on the analysis of risk the persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to elaborate effective internal systems, that would allow them to determine whether a potential customer, an existing customer or the beneficial owner of a customer legal person holds a position under Para.1

	or is related person under Para. 5. (14) The systems under Para. 13 can be based on the following sources of information: 1. information gathered through the application of Art. 8, Para. 3; 2. written declaration required from the customer with the purpose of determining whether the person falls within the categories pointed in Paras. 1 and 5; 3. information received through the use of internal or external databases. (15) In case of failure to identify a customer as falling under Art. 5a, Para. 1 of the LMML the control bodies are obliged to discuss the reasons for the infringement and where adequate measures under Para. 13 had been taken, they should abstain from imposing a sanction.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*There is no provision for senior management approval to establish a relationship with a PEP*
Measures taken to implement the Recommendation of the Report	The recommendation was accordingly addressed in art.8a (7) of RILMML /December 2007/.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No provision for senior management approval to continue business relationship where the customer subsequently is found to be or becomes a PEP*
Measures taken to implement the Recommendation of the Report	The recommendation was accordingly addressed in art.8a (8) of RILMML /December 2007/.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No provision to require financial institutions in a business relationship with a PEP to conduct enhanced ongoing monitoring on that relationship*
Measures taken to implement the Recommendation of the Report	The recommendation was accordingly addressed in art.8a (11) of RILMML /December 2007/.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*The evaluators found that some financial institutions needed more training on PEPs*
Measures taken to implement the	Seminar was organized with the assistance of TAIEX, European Commission covering the topic of PEPs for commercial banks. Further the issue will be

Recommendation of the Report	covered in separate part of usual trainings, where FID of SANS lecturers take part.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Reservation about effective implementation*
Measures taken to implement the Recommendation of the Report	The FIU received 18 STRs concerning PEPs for the period 2007-2008
(Other) changes since the last evaluation	

Recommendation 7	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*No enforceable requirement to assess the respondent institution's AML/CFT controls , and ascertain that they are adequate and effective*
Measures taken to implement the Recommendation of the Report	The issue is accordingly addressed in art.5b (1) items 1 and 2 LMML. "Article 5b (New, SG No. 92/2007) (1) When entering in correspondent relations with a credit institution from a third country other than those named in the list under Article 4, paragraph (9), a credit institution under Article 3, paragraph (2), subparagraph (1) shall: 1. gather sufficient information on the respondent credit institution enabling it to gain full understanding of the nature of its activity and to determine, on the basis of publicly available information, the institution's reputation and the quality of its supervision; 2. assess the internal controls against money laundering and financing of terrorism applied by the respondent credit institution."
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No enforceable requirement to obtain senior management's approval before establishing new correspondent relationship*
Measures taken to implement the Recommendation of the Report	The issue is accordingly addressed in art.5b (1) item 3 LMML "3. make arrangements according to which the establishment of any new correspondent banking relations is to take place only upon the prior approval of a person holding a managerial position with the credit institution"
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No enforceable requirement to document the respective AML/CFT responsibilities of each institution*

Measures taken to implement the Recommendation of the Report	The issue is accordingly addressed in art.5b (1) item 4 LMML. "4. allocate the responsibilities of either of the two correspondent institutions concerning the application of measures against money laundering and financing of terrorism and document this allocation accordingly"
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Criteria 7.1 to 7.5 potentially apply to financial institutions other than banks . There is no guidance on this issue by the FIA or other authority*
Measures taken to implement the Recommendation of the Report	Presently FID, SANS and FSC work on such draft.
(Other) changes since the last evaluation	

Recommendation 8	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Financial institutions are not directly required to have policies in place to prevent the misuse of technological developments in ML and TF schemes*
Measures taken to implement the Recommendation of the Report	The issue is accordingly addressed in art.5c LMML, art.8b RILMML "Article 5c (New, SG No. 92/2007) Persons under Article 3, paragraphs (2) and (3) must apply extended measures in respect of products or transactions which might lead to anonymity, under terms and following procedures as determined in the rules for implementing this Act." "Art. 8b. (new SG 108/2007) In regard to products and transactions which might lead to anonymity the persons under Art. 3, Paras. 2 and 3 are obliged to apply the following measures: 1. analyze the risk associated with the respective product or transaction while taking into consideration factors such as the use of the product in more than one jurisdiction, the size of the financial resources associated with the products and transactions and the profile of the customers of the respective product or transaction; 2. undertake constant monitoring of the respective product or transaction and take appropriate measures to determine the level of risk; 3. to acquaint the employees with the risk related to the respective product or transaction and the measures necessary to counteract the risk; 4. document the risk analysis undertaken and the measures taken to counteract the risk."
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Unclear how business issuing and performing operations with emerging technologies such as prepaid or account-linked value cards are implementing measures*

Measures taken to implement the Recommendation of the Report	Please see provisions of art 8b of RILMML.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Enforceable measures to prevent the misuse of new and developing technologies are not implemented.*
Measures taken to implement the Recommendation of the Report	Please see provisions of art 8b of RILMML.
(Other) changes since the last evaluation	

Recommendation 11	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Bulgarian authorities should consider to explicitly incorporating the obligations of Recommendations 11 in law or regulation*
Measures taken to implement the Recommendation of the Report	The FIU considers that present version of the LMML correspond to the requirements of the Recommendation 11 in its part of art.3 (1) i.3. and art 7a of the law, further BNB presented draft texts during consideration of 2006 draft amendments of the LMML, these draft texts will be further disused in 2009. Article 3(1) (Amended, SG No. 54/2006) The measures for prevention against using the financial system for money laundering purposes shall be:.. 3. collection of information from the client regarding the purpose and the nature of the relationship, which has been established or is to be established with the client.. … Article 7a (New, SG No. 54/2006, effective 5.10.2006) (1) Persons under Article 3, Paragraphs 2 and 3 shall place under special monitoring their commercial or professional relations, and transactions involving persons from countries, which do not apply or apply fully the international standards against money laundering. (2) When the transaction under Paragraph 1 has no logical economic explanation or readily visible grounds, persons under Article 3, Paragraph 2 and 3 shall collect to the extent possible additional information on any circumstances related to the transaction, as well as its purpose. (3) (Amended, SG No. 92/2007) Countries which do not apply, or do not fully apply international standards against money laundering, shall be specified in a list approved by the Minister of Finance in accordance with the decisions under Article 40, paragraph 4 of Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Any additional measures against such countries shall be set forth in the rules for implementing this Act

(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Financial institutions should be required to examine the background and purpose of such transactions, set their findings out in writing.*
Measures taken to implement the Recommendation of the Report	Please, see above. The legal provisions of the law and its by-law are further elaborated in the Internal Rules for Prevention ML&TF of reporting entities. So far the FIU and supervisory bodies, based on its observations from on-site visits of reporting entities, consider that financial institutions comply with this requirement.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Financial institutions should keep the finding available for competent authorities and audit for at least five years*
Measures taken to implement the Recommendation of the Report	This is provided in art. 8 and 9 of the LMML and further elaborated in the RILMML, which provisions were further elaborated in chapter 2 of RILMML, art. 12-15. Article 8 (Amended, SG No. 1/2001) In the cases under Articles 4-7, the persons under Article 3, paragraphs (2) and (3), shall be bound to keep the documents and data about clients and about transactions or deals for a period of 5 years following their completion. For clients, the period shall commence from the beginning of the calendar year following the year of terminating the relationship, and for deals and transactions it shall commence from the beginning of the calendar year following the year of effecting the latter. **LMML** Article 9 (Amended, SG No. 1/2001, SG No. 109/2007) The data and documents under Article 8 shall be provided to the Financial Intelligence Directorate of the State Agency for National Security upon request, in the original or a transcript certified ex officio. The procedure, time and regular periods for that shall be established in the implementation rules of the Act. **RILMML**: Art. 12 (1) The gathering of information whenever a suspicion of money laundering arises shall be carried out under the terms and conditions of the LMML, the Rules and the internal rules under Art. 16, Para. 1 of the LMML. (2) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to register in a special log each notification regarding suspicion for money laundering that is disclosed by their employees to a representative of the specialized unit or a member of the managing bodies irrespective of the means for transmitting the notification. (3) The log under Para. 2 shall be strung through, numbered and endorsed with the signature of the head of the specialized unit and the seal of the person under Art. 3, Paras. 2 and 3 of the LMML. (4) Whenever registering a notification under Para. 2 the head of the specialized unit or a person authorized by him/her shall initiate a file in which all documents related to the actions taken by employees of the person under Art. 3, Paras. 2 and 3 in regard to the notification shall be collected and sequenced in accordance with the filing sequence. (5) The head of the specialized unit shall be responsible for the appropriate

	storage and maintenance of the log under Para. 2 as well as of the files under Para. 4. (6) The persons under Art. 3, Paras. 2 and 3 shall perform their obligations under this article personally where it is impossible to establish a specialized unit. (7) (amend. SG 37/2008) The Chairperson of State Agency for National Security may issue obligatory instructions to the persons under Art. 3, Paras. 2 and 3 of the LMML regarding the terms and conditions for collection and storage of the information. Art. 13. (amend. SG 37/2008) (1) The disclosure under Art. 11 of the LMML shall be carried out in writing and using the form adopted by the Director of Financial Intelligence Directorate of State Agency for National Security. (2) Officially certified copies of all gathered documents on the operation or transaction and on the client shall be enclosed in the disclosure. (3) In urgent cases the disclosure may be carried out orally while written confirmation shall be filed within 24 hours. (4) The incompliance with the form does not void the disclosure already carried out. Art. 14. The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to ensure that the information under Art. 12 is stored in a way that would not allow the use of the information for purposes other than those specified in the LMML. Art. 15 (1) In order to check and disclose the information received the Financial Intelligence Directorate of State Agency for National Security may carry out on-site inspection of the persons under Art. 3, Paras. 2 and 3 – on its own or jointly with the supervisory organs. (2) During the inspections under Para. 1 the Financial Intelligence Directorate of the State Agency for National Security has the powers to: 1. unlimited access to the official premises of the persons being subject of the inspection 2. demand documents, information and written explanations about the circumstances related to the subject of the inspection 3. (amend. SG 37/2008) get assistance of expert appraisers or other experts. (3) The ordinance for the inspection shall specify the purpose, duration and place of the inspection, the person that is being inspected as well as the name and position of the inspecting persons.
(Other) changes since the last evaluation	

Recommendation 12	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Several DNFBP lack awareness and full knowledge of their obligations to perform CDD*
Measures taken to implement the	The issue was discussed during meeting of Multidisciplinary Task Force for the Prevention of ML and TF. It was considered to include the issue for

Recommendation of the Report	practical discussions with reporting entities during the regular on-site visits in 2009. Further the observations from on-site inspections of FID, SANS during 2007-2008 showed that great part of reporting entities under the LMML do understand their obligations under the law. In addition some joint on-site inspections of FID-SANS with the State Commission on Gambling /SCG/ are planned for first half of 2009. For this purpose an one half day workshop for employees of State Commission on Gambling are planned for the end of March 2009, where experts from FID-SANS, SCG and Crown Agents will made "refreshment trainings" for inspectors of SCG. Further the issue will be covered in the trainings planed for casinos, real estate agents, lawyers, auditors and notaries.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Same deficiencies for PEPs as described under financial institutions. A list of domestic has been drawn up but DNFBP do not routinely check the list. Most DNFBP were unaware of the timing of CDD or how to conduct such process*
Measures taken to implement the Recommendation of the Report	The issue was discussed during meeting of Multidisciplinary Task Force for the Prevention of ML and TF. Further the PEPs issue is elaborated in separate part of trainings where FID, SANS lecturers took part in 2007 and 2008.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Casinos should undertake steps to improve record keeping*
Measures taken to implement the Recommendation of the Report	The State Commission on Gambling (SCG) advises casino operators and their association BAAGG (Bulgarian Association for Amusing Games and Gambling) to update "The inner rules for control and prevention of the money laundering on the part of persons, organizing and implementing casino gambling". Detailed instructions for identification complex control must underlie in the rules, as well as more précised criterions for registers maintaining improvement
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Measures should be adopted to prevent misuse of technical developments in certain DNFBP sectors*
Measures taken to implement the Recommendation of the Report	The issue was discussed during a meeting with representatives of FID, SANS, SCG and BAAGG. Similar discussions are planed with Notary Chamber and Supreme Bar Council.
(Other) changes since the last evaluation	
Recommendation of the	*Not clear how the provisions on complex/unusual transactions are being*

MONEYVAL Report	*implemented across the range of DNFBP*
Measures taken to implement the Recommendation of the Report	The issue was discussed during a meeting with representatives of FID, SANS, SCG and BAAGG.
(Other) changes since the last evaluation	

Recommendation 16	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The same deficiencies in the implementation of Recommendations 13-15 and 21 in respect of financial institutions apply equally to DNFBP*
Measures taken to implement the Recommendation of the Report	Conducting a training campaign by supervisory bodies was discussed during meeting of Multidisciplinary Task Force for the Prevention of ML and TF October 2008.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Further education needs to be conducted on filing for both suspicious activity and terrorist financing and additionally training on addressing CDD for unusual or suspicious transactions and terrorist financing.*
Measures taken to implement the Recommendation of the Report	Conducting a training campaign by supervisory bodies was discussed during meeting of Multidisciplinary Task Force for the Prevention of ML and TF in October 2008.
(Other) changes since the last evaluation	

Recommendation 21	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*No requirement to set out in writing any findings of examinations on the background and purpose when transactions have no apparent economic or visible lawful purpose and to maintain such finding for at least five years to assist competent authorities*
Measures taken to implement the Recommendation of the Report	The issue is covered by art.8 (4) in relation to (3) of the RILMML. RILMML: Art. 8 (4) (new SG 108/2007) The customers, operations and transactions that are linked to states included in the list under Art. 7a, Para.3 of the LMML shall be considered of higher risk and shall be subjected to enhanced due diligence and the measures under Para. 3 shall be applied
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL	*No advisories for non-compliant countries*

Report	
Measures taken to implement the Recommendation of the Report	The FIU issued advisories regarding statements of FATF and Moneyval /in 2007 and 2008/.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*There are no mechanisms in place to apply counter measures*
Measures taken to implement the Recommendation of the Report	Please, see the reply from previous sections.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Difficult to measure full effectiveness because list of countries is not yet developed*
Measures taken to implement the Recommendation of the Report	The FIU issued advisories regarding statements of FATF and Moneyval /in 2007 and 2008/.
(Other) changes since the last evaluation	

Recommendation 24	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Further outreach and training of the DNFBP sector, NRA and SCG is required to ensure effective implementation*
Measures taken to implement the Recommendation of the Report	In May 2008 with ordinance of the Chairman of the State Agency for National Security (SANS) new Internal Rules of NRA on ML/CF Control and Prevention were approved. The updated rules contain and describe in details the criteria for detecting suspicious operations, transactions and individuals. The internal rules are published at NRA Intranet site and are available to all the officials. Further training for tax and customs officials on AML/CFT counteraction and prevention was conducted in the framework of 2008 project of Crow Agents. Lecturers from Crown Agents and FID of SANS delivered 17 one-day trainings in October 2008. They were attended by 400 officials from NRA and Customs.
(Other) changes since the last evaluation	

Recommendation of the MONEYVAL Report	*Further cooperation between FIA and supervisory authorities is required to ensure full effectiveness*
Measures taken to implement the Recommendation of the Report	In May 2008 Instructions were signed for Cooperation and Information Exchange between NRA and SANS, including measures against money laundering and financing of terrorism. These instructions regulate in details the cooperation, current information exchange and support between the structures of these two agencies both at central and territorial level. FID, SANS planed some meetings for 2009 with other supervisory bodies to reinforce its cooperation with them. Initial meetings to draft possible range of 2009 interaction already took place.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Number of STRs too low to reflect the true risk profile of various sectors*
Measures taken to implement the Recommendation of the Report	In the framework of conducted on-site inspections in 2008 the issue to raise the number of STRs was also covered**.**
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Further training to raise awareness of STR requirements and risk indicators might improve the number and quality of reports*
Measures taken to implement the Recommendation of the Report	In the framework of conducted on-site inspections in 2008 the issue to raise the number of STRs was also covered**.**
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*SRO for casinos should consider increasing monitoring for AML/CFT compliance*
Measures taken to implement the Recommendation of the Report	The issue was discussed during meetings with representatives of FID of SANS and SGG and respectively BAAGG (Bulgarian Association for Amusing Games and Gambling). The BAAGG will discus it during its regular meetings.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*The FIA may consider strengthening enforcement of AML laws by granting authority to sanction by supervisory authorities*
Measures taken to implement the Recommendation	The issue is still under consideration among the agencies. After considering such an option and evaluating its pros and cons FSC has the opinion that it

of the Report	should not result in a reasonable contribution (it should not add value) in the process of strengthening the enforcement of AML. At present, FSC has enough powers to enforce AML law by applying coercive administrative measures in the field of AML and even to withdraw the license of an insurance company (Art. 302, para 1, point 1 of the Code on Insurance, in relation with Art. 32, para 1, point 10 of the Code on Insurance).
(Other) changes since the last evaluation	

Recommendation 32	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The statistics were not consolidated in respect of prosecution and convictions*
Measures taken to implement the Recommendation of the Report	Statistics are kept at the Supreme Cassation Prosecutor's Office about the unfinished pre-trial proceedings for money laundering, the number of the accused persons, the cases which were brought to court and the enacted convictions. Further consolidated statistics is maintained by the Supreme Judicial Council.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Limited information but no statistics showing speed of analysis*
Measures taken to implement the Recommendation of the Report	The issue was disused internally in FID of SANS, it will be taken into consideration by future upgrading of its databases.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*There are no statistics on spontaneous referrals by the FIA to foreign countries*
Measures taken to implement the Recommendation of the Report	The issue was disused internally in FID of SANS, so far the requests which the FIU sent to other FIUs could be regarded also as spontaneous referrals, because they include all relevant information on particular case to particular country. The information is provided even before the FIU decided to forward materials to the law enforcement, but the FIU consider to separate information flow with other FIUs on pure spontaneous referrals.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Joint statistics should be considered. No data on FIU spontaneously sent information. No clear data on prosecution/judicial statistics regarding money laundering seizure and confiscation*

Measures taken to implement the Recommendation of the Report	Please, see the responses to sections above.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*The statistics are not kept on the predicate offences, the nature of the request, whether it was granted or refused, and the time required to respond*
Measures taken to implement the Recommendation of the Report	Ministry of Justice, as the central authority under 141 Council of Europe Convention has commissioned the development of a software which will allow statistics to be kept on the predicate offences, the nature of the request, whether it was granted or refused, and the time required to respond. It is expected the software to be used as from June 2009.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No statistics on underlying reason for filing STRs*
Measures taken to implement the Recommendation of the Report	The issue was disused internally in FID of SANS, so far such statistic can not be extracted automatically from databases. It could be done manually. It is planed to be included in future upgrade of our IT systems.
(Other) changes since the last evaluation	

Special Recommendation VIII	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Although the last review of the law on NPOs was recently undertaken (2006), the examiners do not see it as fully adequate and comprehensive review (relates only to NPOs for public benefit)*
Measures taken to implement the Recommendation of the Report	FID, SANS updated its risk assessment regarding NPOs recently, in addition to support its analyses it requested and received report from Terror Directorate of SANS regarding possible involvement or misuse of NGO and foundations in last 3 years for purposes of terrorist financing. The information from second report confirms the observations of FID, SANS – the money flows were used rather for educational purposes than financing of illegal activities.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Detailed provisions regarding financial obligations and annual reports are only applicable to NPOs for public benefit*
[2]	
(Other) changes since the last	A working group for analyzing the Law on NPOs will be established in 2009

evaluation	at the Ministry of Justice.
Recommendation of the MONEYVAL Report	*Consideration should be given to widening the annual obligations of the NPOs for public benefit to the other NPOS*
Measures taken to implement the Recommendation of the Report	A working group for analyzing the Law on NPOs will be established in 2009 at the Ministry of Justice.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Consideration should be given to introduce the provisions in control and deletion of the registration of NPOs for public benefits to the other NPOs*
Measures taken to implement the Recommendation of the Report	A working group for analyzing the Law on NPOs will be established in 2009 at the Ministry of Justice.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No specific review of the risks in the NPO sector has been undertaken. Though there is some financial transparency and reporting structures (especially for NPOs for pubic benefit); Bulgaria to consider the development of a strategy of monitoring the most vulnerable parts of the NPO sector*
Measures taken to implement the Recommendation of the Report	A working group for analyzing the Law on NPOs will be established in 2009 at the Ministry of Justice.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*(No) Regular outreach to the sector to discuss scope and methods of abuse of NPOs, emerging trends in TF and new protective measures*
Measures taken to implement the Recommendation of the Report	The FIU had regular meetings with the representatives of specialized internal services of reporting entities. Initially this process started with the representatives of banks, then the scope of meetings was widen in 2008 with representatives of DNFBPs and some of NPOs.
(Other) changes since the last evaluation	

Special Recommendation IX	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*No explicit provision to question carriers as to origins of imported currency or bearer negotiable instruments*
Measures taken to	Bulgarian Customs Authorities have applied Regulation (EC) No. 1889/2005

implement the Recommendation of the Report	of the European Parliament and of the Council of 26 October 2005 on control of cash entering or leaving the Community since 15 June 2007. Used declaration form is in conformity with Regulation No. 1889/2005 and include particular information as well concerning origin (provenance) and intended use of cash or bearer negotiable instruments of a value of EUR 10 000 or more.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*No power for Customs to detain pending further investigations by Border Police (effectiveness issue)*
Measures taken to implement the Recommendation of the Report	The power of Customs in cases of failure to fulfil the obligation to declare cash of a value of EUR 10 000 or more is to detain and seize to the benefit of state the undeclared cash as well as to impose a fine according to administrative provisions. Where the committed violation constitutes a crime in accordance of the Bulgarian Penal Code (which means undeclared cash of a value of about EUR 17 000 or more), the case should be delivered to the prosecutor for penal prosecution. Customs have no power of investigation, detaining or interrogation of persons according to provisions in Penal Code. Customs Authorities have power to take written and oral explanations according to the Customs Act. Lack of power for Customs is the reason for lack of customs investigators. Because of this, at failure to fulfil the obligation to declare cash, a police investigator from the Border Police working under the supervision of prosecutor takes on the responsibility for interrogation and detaining / arresting of travellers.
(Other) changes since the last evaluation	
Recommendation of the MONEYVAL Report	*Sanctions regime unclear*
Measures taken to implement the Recommendation of the Report	Where a violation against the currency regime, including the cross-border carriage of cash and failure to fulfill the obligation to declare it, constitutes a crime by virtue of the Bulgarian Penal Code, the subject of crime (the cash not declared) shall be seized to the benefit of state. Furthermore, the cases of crime are punishable by imprisonment of up to 6 years or a fine double the amount of the subject of crime (the cash not declared). Where violations against the regime related to the cross-border carriage of cash, precious metals, gems and objects made with or of them, as well as failure to fulfill the obligation to declare them do not constitute a crime, it shall be subject to administrative sanction as laid down in the administrative and penal provisions of the Bulgarian Currency Act. Seizure to the benefit of state is provided for such violations (the not declared cash, precious metals, gems and objects made with or of them) in addition to imposition of a fine of BGN 1000 up to BGN 3000 which, calculated in EUR based on the official exchange rate, equals to approximately EUR 510 up to EUR 1533. If the offender is a legal entity or sole entrepreneur, a property sanction of BGN

	2000 up to BGN 6000, which is tantamount to approximately EUR 1022 up to EUR 3067, shall be imposed.
(Other) changes since the last evaluation	

4. Specific Questions

1) Please provide information on confiscations achieved by CEPACA since the adoption of the 3rd report. Has CEPACA's approach to following the money been adopted by law enforcement agencies generally? Please give examples.
SEPACA started totally 335 proceedings for establishing of property acquired from criminal activity, 303 securing measures at total value of 154 402 265 BGN were imposed and 102 motivated requests for divestment in favour of the state of the property, acquired from criminal activity were presented to the court for the period 2006-2008. In 2008 the court of first instance has enacted 8 decisions for forfeiture of property acquired from criminal activity – the court pronounced in favour of the Commission, two of the cases were confirmed at second instance and presently they are appealing before the Supreme Court of Cassation in Bulgaria.
2)What steps have been taken to ensure (for relevant FATF Recommendations) that the requirements previously thought to be satisfactorily covered in the internal rules of financial institutions approved by the FIA, are now provided for by acceptable enforceable means?
The conclusion from evaluation report was discussed in details within the meeting of Multidisciplinary Task Force for the Prevention of ML and TF in October 2008. As conclusion from these discussions Bulgarian authorities consider that for the purposes of LMML the present situation of general covering in the law and its by- law and internal rules of reporting entities is sufficient and clear /both for state authorities and reporting entities/.
3) Have all supervisory authorities been given the ability to impose sanctions for AML/CFT infringements and have extra resources been given to the FIA and the other supervisory authorities for AML/CFT supervisory purposes?
The first issue is still under consideration. Extra resources were given to BNB for AML/CFT supervisory purposes since June 2008. At present, FSC has enough powers to enforce AML law by applying coercive administrative measures in the field of AML.
4) Have sanctions been imposed (whether administrative or criminal) specifically for AML/CFT infringements, at the instigation of financial sector supervisors, since the adoption of the 3rd report ? If so, please, indicate the main types of AML/CFT infringement detected by financial sector supervisors since the adoption of the 3rd report. (NB: **It is not necessary for these purposes to provide full detailed statistics, but an overview)**
Warning letters were issued by BNB for improving the bank procedures and their implementation for risk assessment related to AML/CFT area. In 2007 the FIU issued 46 infringement bills, of those number 22 infringement bills against bureaux de change. In 2008 the FIU issued 53 infringement bills. The main types of established AML/CFT infringements are not requiring the declaration on funds` origin, not filing a CTR, not identifying the beneficiary owner, not identifying a client of reporting entity.
5) Has consideration been given to providing for an obligation of registering the ownership of bearer shares or to introducing other adequate transparency measures concerning bearer shares in the legal framework governing commercial companies?

Bulgarian Commercial Code, while envisaging the issuance of bearer shares, contains enough guarantees for transparency, respecting at the same time the third persons rights and the rights of the company:

- The type and number of shares (including bearer shares) and the persons who have subscribed them at the foundation/ incorporation of the company must be registered in the Commercial Register – Art. 165, point. 3, in connection with Art. 174, para. 2 Commercial Code.
- Should the shares (including bearer shares) be acquired by one person after the incorporation of the company, the name, respectively the trade name and the standard identification code of the shareholder are entered in the register - Art. 174, para. 2 Commercial Code.
- Bearer shares are not delivered until payment of their nominal value or issue price – Art. 178, para. 3.
- If the shares (including bearer shares) are to be bought back, the buy-back proposal is made public in the commercial register (чл 187c, para. 2), the datat about the shares acquired by the company are obligatorily stated in the annual activity report of the company (Art. 187d), the same applies also to shares of the company which are acquired and possessed by another company, in which the first company has, directly or indirectly, a majority of the voting rights, or on which it can, directly or indirectly, exercise control (чл. 187f).
- In all cases the company has the possibility to determine in its Statute special conditions for transfer of shares (including bearer shares) – Art. 165, point. 3.
- the company may also determine special conditions for using the rights over shares (including bearer shares) trough the participation in the general meetings of the shareholders, e.g. to regulate in which way a person shall legitimate her/himself as the owner of the shares – Art. 223, para. 4.

In addition to these guarantees, another fundamental issue must be considered – the shares are only legitimating securities, e.g. their issuance is not a constituent ground for the rights of the shareholders but only a ground for using them. E.g. if a person holds bearer shares unlawfully, their real owner has not lost his/her rights thereto and could ask the cancellation of the securities. There is a special procedure in Art. 560 – 568 Civil Procedure Code.

Special consideration has been given to the acquisition of bearer shares in the Amendment of the Ordinance Nr 1 from 2007 on keeping, storage and access to the Commercial Register (published in SG 6/2009, in force since 23. 01. 2009) which determines the forms of applications, quote comprehensively the attachments thereto for each type of entry, expungement or disclosure according to the requirements of the law, as well as the format of the electronic documents.

Art. 24, para. 3, point. 8 of this Ordinance provides for presentation, in addition to the application for registering in the Commercial Register of the acquisition of bearer shares by one person, also evidences for this acquisition – a verification protocol by the governing body, which verifies the fact of acquisition of bearer shares. Thus an additional requirement for publicity and transparency guarantees were introduced, because all documents, included in the Commercial Register and the attachments to the registry applications are accessible on-line for every interested person.

According to Article 11 of the Commercial Register Act (Amended, SG No. 50/2008) The Commercial Register is public and any person has free access thereto and to the scanned form of the documents on the basis of which the entries, expungements and disclosures have been made, as well as to the scanned form of the company files of reregistered traders. The Registry Agency has ensured free access against no charge to applications contained in the Commercial Register database system, the electronic form of the documents attached thereto and refusals decreed at the Internet Portal brra.bg.

In addition a Draft Law on Amending the Law on Public Offering of Securities is pending in the

Parliament, which will further improve transparency in this respect

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[5]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Yes, last notifications were from February 2008.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[6] (please also provide the legal text with your reply)	Yes, art. 3 (6) of the Directive is transposed by art 3 (5) of the RILMML.

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	The law defines strictly the cases to which simplified CDD could be applied. However the financial institutions will apply due diligence higher than the simplified once when as a result of on going monitoring they define the customer as not qualifying for simplified CDD. The law also specifies the cases to which enhanced due diligence must be applied. In this respect the financial institutions could not use the RBA to discharge certain of their obligations.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs	Yes, they are listed in the art. 8a of the RILMML**.** Art.8a. (new SG 108/2007) (1) Customers pursuant to Art.5a, Para. 1 of the LMML consist of potential customers, existing customers

1. [5] *For relevant legal texts from the EU standards see Appendix II*

[6] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

in accordance with the provisions in the Third Directive and the Implementation Directive[7] are provided for in your domestic legislation (please also provide the legal text with your reply).	and beneficial owners of the client that is a legal person who are: 1. heads of State, heads of government, ministers and deputy or assistant ministers; 2. members of parliament; 3. members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances; 4. members of courts of auditors; 5. members the boards of central banks; 6. ambassadors and charges d'affaires; 7. high ranking officers in the armed forces; 8. members of the administrative, management or supervisory bodies of state-owned enterprises; (2) The categories stipulated in Para. 1, items 1-7 include where applicable the resp0ective positions in the institutions and bodies of the European Union and of the international organizations. (3) The measures stipulated for the categories of customers under Para. 1 shall also be applied in respect of mayors and deputy mayors of municipalities, the mayors and their deputies of the districts and the chairpersons of the municipal councils. (4) The categories stated in Para. 1, items 1-8 do not include officials at intermediate or more junior level. (5) For the purpose of Art. 5a of the LMML the related person shall include: 1. spouse or persons who live in factual partnership with them; 2. relatives of descending line to the first degree of affinity and their spouse or persons who live in factual partnership with them; 3. the relatives of ascending order of the first degree of affinity; 4. any natural person who is known or it can be supposed from publicly available information to have joint beneficial ownership of legal person, or any other close business relations, with a person referred to in Para. 1; 5. any natural person who has sole beneficial ownership of a legal person which is known or it can be supposed from publicly available information to have been set up for the benefit de facto of the person referred to in paragraph 1. (6) Without prejudice to the application of enhanced due diligence based on the assessment of risk in case the person no longer holds a position under Para. 1 for a period no shorter than 1 year, the persons under Art. 3, Paras. 2 and 3 of the LMML are not obliged to apply Art. 5a, Para.1 of the LMML and Art. 8a, Paras. 7-12 of these Rules. (7) For a person under Art. 3, Paras. 2 and 3 of the LMML to enter into business relations with persons found to fall under the categories pursuant to Para.1 or related persons under Para.5, the approval is required of an official at a managerial position, designated by the respective executive body of the person under Art. 3, Paras. 2 and 3 of the LMML.

[7] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	(8) In cases where after establishing commercial or professional relations it is found out that a customer or the beneficial owner of a customer that is legal person falls under the categories as per Para. 1 or is related person under Para. 5, the continuation of business relations requires prior approval of a person under the preceding paragraph. (9) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to undertake adequate actions to establish the origin of the funds, used in the commercial or professional relations with a customer or the beneficial owner of a customer that is a legal person for whom they have found out that he/she is a person under Para. 1 or a related person under Para. 5. (10) The obligation under Para. 9 also arises when performing separate operation or transaction without establishing professional or commercial relations with the customer or the beneficial owner of the customer that is a legal person, for whom it is found out that he/she is a person under Para. 1 or a related person under Para. 5, regardless of the value of the operations or decal. (11) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to carry out constant and enhanced monitoring over their commercial or professional relations with persons under Para. 1 and related persons under Para. 5. (12) In regard to the potential customer, existing customer or beneficial owner of a customer that is a legal person, who holds a position under Para. 1 or is a related person under Para. 5, the enhanced measures under Art. 8, Para. 3. shall apply. The concrete measures which shall be applied in each respective case are to be decided by the person under Art. 3, Para.2 and 3 of the LMML while taking into consideration the type of customer pursuant to Paras. 1 and 5 and the nature of the commercial or business relation with him/her. (13) Based on the analysis of risk the persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to elaborate effective internal systems, that would allow them to determine whether a potential customer, an existing customer or the beneficial owner of a customer legal person holds a position under Para.1 or is related person under Para. 5. (14) The systems under Para. 13 can be based on the following sources of information: 1. information gathered through the application of Art. 8, Para. 3; 2. written declaration required from the customer with the purpose of determining whether the person falls within the categories pointed in Paras. 1 and 5; 3. information received through the use of internal or external databases. (15) In case of failure to identify a customer as falling under Art. 5a, Para. 1 of the LMML the control bodies are obliged to discuss the reasons for the infringement and where adequate measures under Para. 13 had been taken, they should abstain from imposing a sanction.

"Tipping off"	
Please indicate whether the prohibition is	Only for STRs - art. 14(1) of the LMML and art. 9(8) of the LMTF LMML, Article 14 (1) (Amended and supplemented, SG No. 1/2001,

limited to the transaction report or also covers ongoing ML or TF investigations.	supplemented, SG No. 31/2003, previous Article 14, SG No. 54/2006, amended, SG No. 109/2007) The persons under Article 3, paragraphs (2) and (3), persons who manage and represent them, and their personnel may not notify their client or any third party of the disclosure of the information in the cases under Articles 9, 11, 11a, 13 and 18. LMTF, Art. 9(8) (New, SG No. 92/2007) The persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering, the persons who supervise and represent them, and their employees, may not notify their customer or third parties about the disclosure of information under this Law, except in the cases of Article 14 (2) - (5) of the Law on Measures against Money Laundering, subject to the restrictions under Article 14 (7) thereof.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	Article 14 (1) (Amended and supplemented, SG No. 1/2001, supplemented, SG No. 31/2003, previous Article 14, SG No. 54/2006, amended, SG No. 109/2007) The persons under Article 3, paragraphs (2) and (3), persons who manage and represent them, and their personnel may not notify their client or any third party of the disclosure of the information in the cases under Articles 9, 11, 11a, 13 and 18. (2) (New, SG No. 54/2006) The information disclosure ban under Paragraph 1 shall not apply to the relevant supervisory authority under Article 3a. (3) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons belonging to one and the same group which is in a Member State or in a country named in the list under Article 4, paragraph (9). (4) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons under Article 3, paragraph (2), subparagraphs (11), (18) and (28) from Member States or from countries named in the list under Article 4, paragraph (9) which conduct their professional activity within the framework of a single legal body or group having joint ownership, management or control in implementing this Act. (5) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons under Article 3, paragraph (2), subparagraphs (1) to (3), (11), (18) and (28) in cases concerning one and the same client or one and the same transaction involving two or more parties, under the following conditions: 1. the parties are located in a Member State or in a country named in the list under Article 4 paragraph (9); 2. the parties belong to one and the same professional category; 3. the parties are subject to confidentiality obligations in respect of proprietary, bank or commercial secrets and personal data protection that correspond to Bulgarian legislation; 4. the information may be used solely to prevent money laundering and financing of terrorism. (6) (New, SG No. 92/2007) Where persons under Article 3, paragraph (2), subparagraphs (11), (18) and (28) are trying to dissuade a client from engaging in illegal activity, this shall not be considered information disclosure in the meaning of paragraph (1). (7) (New, SG No. 92/2007) Exclusions under paragraphs (3) through (5) shall not apply, and no disclosure of information shall be allowed between persons under Article 3, paragraphs (2) and (3) and persons from countries named in the list under Article 7a, paragraph (3), nor where persons under Article 3, paragraphs (2) and (3) are in non-compliance of their obligations under the

	Personal Data Protection Act.

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	Yes: Article 83a of Administrative Violations and Sanctions Act (New, SG, No. 79/2005) (1) A legal person, which has enriched itself or would enrich itself from a crime under Articles 108a, 109, 110 (preparations for terrorism), Articles 142-143a , 159-159c, 209-212a, 213a, 214 , 215, 225c, 242, 250, 252, 253, 254, 254b, 256, 257, 280, 283, 301-307 , 319a-319f, 320-321a and 354a-354c of the Criminal Code , as well as from all crimes, committed under orders of or for implementation of a decision of an organized criminal group, when they have been committed by: 1. an individual, authorized to formulate the will of the legal person; 2. an individual, representing the legal person; 3. an individual, elected to a control or supervisory body of the legal person, or 4. an employee, to whom the legal person has assigned a certain task, when the crime was committed during or in connection with the performance of this task, shall be punishable by a property sanction of up to BGN 1,000,000, but not less than the equivalent of the benefit, where the same is of a property nature; where the benefit is no of a property nature or its amount cannot be established, the sanction shall be from BGN 5,000 to 100,000
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	Yes: According to Art 24 para 2 of the Liable for administrative violations committed in connection with or during the performance of enterprises', administrations' and organisations' business activities shall be the employees who have committed such violations as well **as the managing officers who have ordered or allowed the commission thereof.**

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	Yes art. 24 of the list of reporting entities under the LMML: 24. (New, SG No. 1/2001, amended, SG No. 31/2003, SG No. 92/2007) Persons dealing by occupation in objects where a payment was made in cash and the value exceeded BGN 30,000 or its equivalent in a foreign currency

6. *Statistics*

a. Please complete - to the extent possible - the following tables:

2006 (for comparison purposes)												
	Investigations		Prosecutions*		Convictions*** (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	Cases**	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	62	-	8	9	4 3	4 3	-	-	-	-	-	350 000
FT	0	0	0	0	0	0	0	0	0	0	0	0

* Newly started in the respective year
** Cases brought to the court
*** Cases: 4 convictions and 3 verdicts of not guilty; persons: 4 convicted and 3 discharged

2007												
	Investigations		Prosecutions		Convictions*** (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	91	-	10	11	8 2	9 4	-	-	-	-	-	415 000
FT	0	0	0	0	0	0	0	0	0	0	0	0

*** Cases: 8 convictions and 2 verdicts of not guilty; persons: 9 convicted and 4 discharged

2008												
	Investigations		Prosecutions		Convictions*** (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	134	-	17	36	11 2	23 2	-	10 000 000	-	-	-	286 000
FT	0	0	0	0	0	0	0	0	0	0	0	0

*** Cases: 11 convictions and 2 verdicts of not guilty; 23 convicted and 2 discharged

Notices:

1. The amount of seized proceeds is generated tentative figure in Euros, because the seized proceeds were in Euros, USD and BGN.
2. The amount of seized proceeds in 2008 do not include the amount of 128 230 Euros, on which amount the court of last instance shall pronounce shortly.
3. According to provisions of art 253 of the Penal Code in favour of state shall be deprived the subject of crime, but the law do not provide confiscation of proceeds.

b. STR/CTR*

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"C*ases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2006 (for comparison purposes)*															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions			
								ML		FT		ML		FT	
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons
commercial banks	201 213	267	2	374	2	272	2	3	3	0	0	2	2	0	0
insurance companies	-	0	0												
Notaries	33 740	1	0												
Currency exchange	-		0												
broker companies	-		0												
securities' registrars	-		0												
lawyers	-		0												
accountants/auditors	-		0												
company service providers	-		0												
others (please specify and if necessary add further rows)	-		0												
Financial houses	300	1	0												
All others	57		-												
Tax authorities	-	21	0												
Persons dealing in precious Metals, stones ..	-	1	0												
Customs	-	49	0												
Casinos	-	8	0												
Privatization bodies	-	6	0												

Pursuant art 18(2) of LMM	-	18	0												
Central depository	-	1	0												
Not profit organization	-	1	0												
Total	**235 310**	**374**	**2**												

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	240 550	353	1												
insurance companies	-	0	0												
Notaries	60 160	2	0												
Currency exchange	-	1	0												
broker companies	-	1	0												
securities' registrars	-	0	0												
lawyers	-	0	2												
accountants/auditors	-	0	0	400	1	336	1	1	1	0	0	1	1	0	0
company service providers	-	1	0												
others (please specify and if necessary add further rows)			0												
Financial houses	250	0	0												
Tax authorities	-	10	0												
All others	40	-	-												
Pension funds	-	1	0												
Customs	-	32	0												
Casinos	-	7	0												
Privatisation bodies	-	1	0												
Pursuant art 18(2) of LMM	-	4	0												
Supervisory bodies	-	4	0												
Car dealers		12	0												
Total	**301000**	**431**	**1**	**400**	**1**	**336**	**1**								

2008																
Statistical Information on reports received by the FIU								Judicial proceedings								
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions				
								ML		FT		ML		FT		
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons	
commercial banks	284 937	515	0													
insurance companies		0	0													
Notaries	58 460	1	0													
Currency exchange		1	0													
broker companies		1	0													
securities' registrars		0	0													
lawyers		0	0													
accountants/auditors		0	0													
company service providers		0	0													
others (please specify and if necessary add further rows)		-	-	565	1	400	1	2	8	0	0	1	4	0	0	
Financial houses	400															
All others	1100															
Tax authorities		27	0													
Tax consultants		1	0													
Casinos		5	0													
Customs		33	0													
Financial house		1	0													
Pension funds		4	0													
State bodies		2	0													
Real estate agent		0	1													
Total	344987	591	**1**													

*When comparing statistics on notifications to law enforcement/prosecutors, made by the FIU, and statistics on indictments, one should bear in mind that statistics on indictments reflect only these which are based on direct notification by the FIU to the Prosecutors` Office and do not reflect indictments based on indirect notifications /to the police and from police to the Prosecutors` Office/. Direct notifications from the FIU to the Prosecutors Office are rare. The vast majority of them are sent to the police and SANS.

APPENDIX I - RECOMMENDED ACTION PLAN TO IMPROVE THE AML / CFT SYSTEM

AML/CFT System	Recommended Action (listed in order of priority)
1. General	**No text required**
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & 2)	• Ensure that all designated categories of offences are fully covered as predicates (insider trading and market manipulation; and one aspect of terrorist financing). • Difficulties of proof of intention need further addressing in guidance or legislation to address effectiveness issues. • Liability of the legal persons remains limited to administrative liability. Consideration of more general criminal liability for legal persons should be given.
2.2 Criminalization of Terrorist Financing (SR.II)	• Clarify that the terrorist financing offence includes any purpose (including legitimate activity).
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• Differences of view between the Bulgarian authorities on the application of third party confiscation need resolution to ensure it is happening. • Clearer guidance to be given to prosecutors on confiscation of indirect proceeds and value confiscation.
2.4 Freezing of funds used for terrorist financing (SR.III)	• Ensure that all the reporting entities which are compelled to comply with LMFT provisions are aware of the automatic system of freezing. • Provide for a provision to cover assets controlled by listed persons. • Publicly known procedures to be issued for considering unfreezing of funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person.
2.5 The Financial Intelligence Unit and its functions (R.26)	
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• A proactive approach to the financial investigations performed by the police to better trace the proceeds or organized and economic crimes as a matter of routine should be considered.
2.7 Cross Border Declaration & Disclosure	• Explicit power to question carriers as to origins of imported currency or bearer negotiable instruments should be ensured by a provision in law or regulation. • Power of Customs to detain pending further investigation by Border Police should be provided for in

	law or regulation. • Clarification of the sanctions regime is needed.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	• Clear provision to perform full CDD measures for terrorist financing should be provided in the legislation. • Measures should be taken to ensure that the definition of beneficial owner is fully understood by all financial institutions. • Guidance on applying simplified due diligence is required. • Apart from banks financial institutions need more training on risk assessment. • With the exception of banks financial institutions need to work harder to raise awareness and be effective in CDD due diligence. • Clear provision in law or regulation or other enforceable means for the determination of whether a customer is a PEP to be provided. • Provision for senior management approval to establish a relationship with a PEP to be provided. • Provision for senior management approval to continue business relationship where the customer subsequently is found to be or becomes a PEP to be provided. • A clear obligation to require financial institutions in a business relationship with a PEP to conduct enhanced ongoing monitoring on that relationship is required. • Non-bank financial institutions need more training on PEPs. • Enforceable requirement to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective to be provided. • Enforceable requirement for senior management approval before establishing new correspondent relationship to be provided. • Enforceable requirement to document the respective AML/CFT responsibilities of each institution to be provided. • Guidance on Criteria 7.1 to 7.5 should be given by the FIA or other authority to other financial

	institutions than banks where the Criteria might potentially apply (securities transactions or funds transfers). • Financial institutions should be directly required to have policies in place to prevent the misuse of technological developments in ML and TF. • Clarify how operations with emerging technologies such as prepaid or account-linked value cards are implementing preventive measures. • Enforceable measures to prevent the misuse of new and developing technologies should be implemented.
3.3 Third parties and introduced business (R.9)	
3.4 Financial institution secrecy or confidentiality (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	• Transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. • A clear requirement in law or regulation to keep documents longer than five years if requested by a competent authority should be provided.
3.6 Monitoring of transactions and relationships (R.11 & 21)	• The Bulgarian authorities should consider to explicitly incorporating the obligations of Recommendation 11 in law or regulation. • Financial institutions should be required to examine the background and purpose of such transactions and set their findings out in writing. • Financial institutions should keep the findings available for competent authorities and audit for at least five years. • There should be a specific requirement on financial institutions to set out in writing any findings of examinations on the background and purpose of transactions (with persons from countries which do not or insufficiently apply FATF Recommendations) which have no apparent economic or visible lawful purpose and to maintain such finding for at least five years to assist competent authorities. • Ensure mechanisms are in place to apply counter measures.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19,	• Attempted suspicious transactions (AML and TF)

25 & SR.IV)	should be explicitly covered. • The reporting obligation should also cover insider trading and market manipulation. • Complete protection from all civil liability should be provided. • Consideration should be given to more specific feedback outside the banking sector. • Clear provision that STR on terrorism financing must be filed promptly should be provided. • The reporting obligations (AML and TF) should also cover funds that are suspected to be linked or related to, or to be used for terrorist acts or by terrorist organizations.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	• Improve the understanding of non-bank financial institutions of the obligation to develop CFT internal procedures, policies and control programmes. Further development and refining of these programmes are recommended (effectiveness). • Enforceable requirement for non-bank financial institutions to screen all employees to be provided. • The AML/CFT audit function should be further developed and elaborated to include controls and testing. • Branches and subsidiaries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit, where the minimum AML/CFT requirement of the home and host country differ.
3.9 Shell banks (R.18)	
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	• Considerations should be given to increase the range of permissible sanctions for corporations. • Sanctions imposed are low in comparison with the maximum permitted penalty. The adequacy of this practice should be monitored closely. • It should be considered to strengthening enforcement of AML law by granting independent sanction authority to supervisory authorities. • More resources should be dedicated by both BNB and FSC with respect to AML/CFT issues. • More training and a change in culture is required in the NRA.

	• More co-ordination between all four players (FIA, BNB, FSC and NRA) is required to effectively supervise and control the AML/CFT obligations of all subject persons. • Awareness raising in non-bank industries of the methodological guidelines. • The guidelines should be less generic and more tailored to the particular sector. • Clarify that the FSC/FIA joint inspections adequately account for risks within the various sectors.
3.11 Money value transfer services (SR.VI)	
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• Awareness raising of DNFBP knowledge of their obligations to perform CDD. • Casinos should undertake steps to improve record keeping. • The changes recommended for Recommendation 5, 6, 8 and 11 for financial institutions should be applied also to DNFBP.
4.2 Suspicious transaction reporting (R.16)	• The changes recommended for under Recommendations 13 to 15 and 21 should equally apply to DNFBP.
4.3 Regulation, supervision and monitoring (R.24-25)	• Further outreach and training of the DNFBP sector, NRA and SCG is required to ensure effective implementation. • Further cooperation between FIA and supervisory authorities is required to ensure full effectiveness. • Further training to raise awareness of STR requirements and risk indicators might improve the number and quality of reports. • SRO for casinos should consider increasing monitoring for AML/CFT compliance. • The FIA may consider strengthening enforcement of AML laws by granting authority to sanction by supervisory authorities. • Ongoing guidance on trends and typologies of AML//CFT should be considered • Further feedback for STR may be considered – especially on a case-by-case basis for STRs filed.

4.4 Other non-financial businesses and professions (R.20)	
5. Legal Persons and Arrangements & Non-Profit Organizations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	• It is recommended that ownership of the bearer shares should be verifiable at the Commercial Register or any other register.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organisations (SR.VIII)	• An adequate and comprehensive review of NPOs (others than NPOs for public benefit) should be undertaken. • Detailed provisions regarding financial obligations and annual reports should be extended beyond NPOs for public benefit. • Consideration should be given to widening the annual obligations of the NPOs for public benefit to the other NPOs. • Consideration should be given to introduce the provisions in control and deletion of the registration of the NPOs for public benefits to the other NPOs. • A specific review of the risks in the NPO sector should be undertaken and the Bulgarian authorities should also consider the development of a strategy of monitoring the most vulnerable parts of the NPO sector. • Regular outreach to the sector to discuss scope and methods of abuse of NPOs, emerging trends in TF and new protective measures.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• Consideration should be given to extend administrative liability for legal persons to also cover criminal liability. The differences of interpretation between the Bulgarian authorities of parts of the confiscation regime should be clarified. • A specific procedure should be established for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person
6.3 Mutual Legal Assistance	• Consider a special assets forfeiture fund.

(R.36-38 & SR.V)	
6.4 Extradition (R.39, 37 & SR.V)	
6.5 Other Forms of Co-operation (R.40 & SR.V)	
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	• More resources for law enforcement is recommended to assist proactive investigation and police generated ML cases. • More resources are also recommended to be dedicated by both BNB and FSC with respect to AML/CFT issues. • Statistics should be consolidated in respect of prosecution and conviction; statistics should be showing speed of analysis; spontaneous referrals by the FIA to foreign countries; joint statistics should be considered; clear data on prosecution/judicial statistics regarding money laundering seizure and confiscation should be provided; statistics should be kept on the predicate offences, the nature of the request, whether it was granted or refused, and the time required to respond and statistics on underlying reason for filing STR should also be available.

APPENDIX II

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;
(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

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

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.

APPENDIX III - RELEVANT DOCUMENTS ANNEXED TO THE REPORT

SHORT REPORT OF SEPACA'S ACTIVITY DURING THE PERIOD OF 2006-2008

The present report is referring to the Commission for Establishing of Property Acquired from Criminal Activity (SEPACA), which was constituted in August 2005. The essential work began in 2006 and at the present the SEPACA works successfully – it is fully operational, has results by applying the Law of Divestment in favour of the State of Property, Acquired from Criminal Activity (LDFSPACA) - SEPACA started totally 335 proceedings for establishing of property acquired from criminal activity, 303 securing measures at total value of 154 402 265 BGN were imposed and 102 motivated requests for divestment in favour of the state of the property, acquired from criminal activity were presented to the court.

Further the practice in these 3 years shows some gaps in the law which hamper its functions and SEPACA prepared and submitted a draft law intended to remove these gaps.

I. Statistics on the SEPACA activity

- In 2006, 100 legal procedures for establishing of property acquired from criminal activity were initiated with Commission's decisions taken on the basis of Art. 13, p.1,section 1 of LDFSPACA (Law of Deprivation in favour of State of Property Acquired from Criminal Activity), 3% of them against persons committed a crime on the basis of Art. 253 of the Penal Code /money laundering/; the decisions to impose injunction orders on the basis of Art. 13, p.1, section 2 of the law were 42 with total value of the seizure property 21 771 057.80 BGN, of which 4 242 363 BGN was the value of the seized property acquired by persons committed a crime on the basis of Art. 253 of the Penal Code; 12 civil cases for forfeiture of property acquired from criminal activity were filed with decisions on the basis of Art. 13, p.1, section 3 of LDFSPACA. The claims amounted 3 985 870.40 BGN.

- In 2007, 109 legal procedures for establishing of property acquired from criminal activity were initiated with Commission's decisions taken on the basis of Art. 13, p.1, section 1 of LDFSPACA; 6% of them against persons committed a crime on the basis of Art. 253 of the Penal Code; the decisions to impose injunction orders on the basis of Art. 13, p.1, section 2 of the law were 74 at total value of the seized property 66 574 204 BGN, of which 22 915 824 BGN was the value of the seized property acquired by persons committed a crime on the basis of Art. 253 of the Penal Code; 33 civil cases for forfeiture of property acquired from criminal activity were filed with decisions on the basis of Art. 13, p.1, section 3 of LDFSPACA. The claims amounted of 27 219 705.61BGN.

- In 2008 126 legal procedures for establishing the property acquired from criminal activity were initiated with Commission's decisions taken on the basis of Art. 13, p.1, section 1 of LDFSPACA; 3.17% of them against persons committed a crime on the basis of Art. 253 of the Penal Code; the decisions to impose injunction orders on the basis of Art. 13,p.1, section 2 of LDFSPACA were 188. The total value of the property seized was 66 057 004 BGN, of which 7 770 646 BGN was the value of the seized property acquired by persons committed a crime on the basis of Art. 253 of the Penal Code; 57 civil cases for forfeiture of property acquired from criminal activity were filed with decisions on the basis of Art. 13, p.1, section 3 of LDFSPACA. The claims amounted 32 413 479.23 BGN.

As mentioned above, 335 legal procedures for establishing of property acquired from criminal activity were imposed totally for the period 01.01.2006 - 31.12.2008. 303 injunction orders of established property at total value of 154 402 265 BGN were filed as well as 102 cases for forfeiture of property, acquired from criminal activity, such as the total value of claims is 63 619 055.24 BGN. In 2008 the court of first instance has enacted 8 decisions for forfeiture of property acquired from criminal activity – the court pronounced in favour of the Commission, two of the cases were confirmed at second instance and presently they are appealing before the Supreme Court of Cassation in Bulgaria.

Further, 11 legal procedures for establishing of property acquired from criminal activity are initiated in January 2009. 4 decisions are taken to file in the court reasoned motions of imposing injunction orders of property with total value of 2 036 217 BGN. 7 cases are filed for forfeiture of property, acquired from criminal activity, such as total cost of claims is 22 917 641.56 BGN. 2 cases for forfeiture of property acquired from criminal activity were won in court of first resort - in District Courts of Stara Zagora and Shumen - total value of claims 296 511 94 BGN.

II. Proposed amendments to the LDFSPACA.

The proposed amendments to the law could be categorized into several main groups:

1. Expanding the scope of persons, acquired the property on behalf of verifying person - in addition to existing list in the law to be included: ex- spouses, relatives in a straight line, without restriction in the degrees and collateral - including the second degree. Further third parties acquired the property in its own name at expense of verifying person and with his proceeds should be included and when these proceeds have been acquired from criminal activity.
The purpose of these amendments is to enable the disclosure of actions which conceal the real owner of property acquired. Also to forfeiture property of the third party not only when this third person is spouse or minor child of verifying person, but in all other matters, including ex-spouse. Presently these legal conclusions are reached by interpretative means, which creates some uncertainty. Practice shows that these relatives are most likely third parties with personal simulation in order to concealment of the actual owner of property acquired from criminal activity.

2. The next proposed amendment is associated with reduction in the minimum threshold of property acquired from criminal activity - namely, from 60 000 BGN on 30 000 BGN. It must be noticed that this is one of two imperative prerequisites for the initiation of legal procedure pursuant to LDFSPACA. This amendment is dictated by the need to unify its provisions with the standards of the Law on Measures against Money Laundering /LMML/. The LMML itself provides significant strengthening of state control over the transfer, conversion, concealing and

even on all legal and factual actions with the subject property acquired directly or indirectly from criminal activity.

The proposed amendment will response to the factual and life situation in Bulgaria regarding to striking a bargain at prices lower and different than market / based on tax assessment or lower than market-prices by receiving unequal consideration etc./ In addition the comparative studies with other states found out that in the most member states of EU the minimum threshold is much lower than the threshold provided in LDFSPACA.

These draft amendments were submitted to the present Parliament for voting, but they were rejected at first reading on 05.09.2008.

3. The next group of draft amendments was related to enhance the effectiveness of the SEPACA in the fight against money laundering with stipulation of new hypothesis for actions under the law, namely:

- in case it is established that a person has acquired a property at significant value, for which can be reasonably assumed that this property is acquired from illegal activity - violation of imperative legal provisions of the tax and customs legislation.

- in case it is established that a person, who has criminal way of life and when he was convicted more than twice with conviction for intentional crimes of a general nature entered into force out of crimes referred to in Art. 3, p. 1 of the law, have acquired property of significant value, for which can be reasonably assumed that this property was acquired from criminal activity.

Law on Measures Against Money Laundering

Promulgated State Gazette No. 85/24.07.1998, amended and supplemented, SG No. 1/2.01.2001, amended, SG No. 102/27.11.2001, effective 1.01.2002, amended and supplemented, 31/4.04.2003, amended, SG No. 103/23.12.2005, effective 1.01.2006, SG No. 105/29.12.2005, effective 1.01.2006, No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No. 54/4.07.2006, amended, SG No. 59/21.07.2006, effective on the day of entry into force of the EU Treaty of Accession of the Republic of Bulgaria, SG No. 82/10.10.2006, No. 108/29.12.2006, effective 1.01.2007, SG No. 52/29.06.2007, effective 1.11.2007 amended and supplemented, SG No. 92/13.11.2007, SG No. 109/20.12.2007, effective 1.01.2008, amended, SG No. 16/15.02.2008, amended and supplemented, SG No. 36/4.04.2008, amended, SG No. 67/29.07.2008, **SG No. 69/5.08.2008**

Chapter One

GENERAL PROVISIONS

Article 1(Amended, SG No. 1/2001, No. 54/2006) This Act shall regulate preventive measures against using the financial system for money laundering purposes, as well as organisation and control over such measures.

Article 2 (Amended, SG No. 1/2001, No. 54/2006) (1) Under this Act, money laundering shall be:

1. any transformation or transfer of property acquired through or in connection with any criminal activity or participation therein in order to conceal the unlawful origin of such property, or abetting a person participating in such an activity in order to avoid the legal implications of their actions;

2. concealing the nature, origin, location, allocation, movement or rights related to property acquired through criminal activity or participation therein;

3. acquisition, possession, or use of property, with the knowledge at the time of receiving, that it has been acquired through criminal activity or participation therein;

4. participation in any activity under Items 1-3, association for the purpose of performing such activity, attempt to perform such activity, as well as abetting, inciting, facilitating performing of such activity or its concealment.

(2) Money laundering shall also be the case when the activity, through which the property under Paragraph 1 has been acquired, has been performed in a European Union member state, or another country not falling under the jurisdiction of the Republic of Bulgaria.

Article 3(1) (Amended, SG No. 54/2006) The measures for prevention against using the financial system for money laundering purposes shall be:

1. identification of clients and verifying their identification;

2. identification of the client's beneficial legal-person owner, and taking relevant measures to verify its identification in a way providing enough grounds for the person under Paragraphs 2 and 3 to accept the beneficial owner as being established;

3. collection of information from the client regarding the purpose and the nature of the relationship, which has been established or is to be established with the client;

4. ongoing monitoring of all established commercial or professional relations and

verification of all transactions performed within such relations to determine the extent, to which these comply with the available information on the client, its commercial activity and risk profile, including clarification of the funds' origin in all cases under the law;

5. disclosure of information on any doubtful transactions and clients.

(2) The measures under Article 1 shall be mandatory for:

1. (Amended, SG No. 1/2001, 31/2003, No. 59/2006, No. 16/2008) The Bulgarian National Bank, credit institutions carrying on activity within the territory of the Republic of Bulgaria, financial houses, exchange bureaus and companies performing cash transfers;

2. (Supplemented, SG No. 31/2003, amended, SG No. 103/2005, No. 54/2006) Insurers, re-insurers, and insurance agents, headquartered in the Republic of Bulgaria; insurers, re-insurers, and insurance agents from an European Union Member State or a state - party to the Agreement on Establishment of the European Economic Area, which engage in operations on the territory of the Republic of Bulgaria; insurers and re-insurers, headquartered in states, other than those indicated, licensed by the Commission for Financial Supervision, to conduct operations in the Republic of Bulgaria through a branch; insurance agents, headquartered in states, other than those indicated, listed in a Commission for Financial Supervision registry;

3. (Amended and supplemented, SG No. 1/2001, amended, SG No. 54/2006) Mutual investment schemes, investment intermediaries and management companies;

4. (New, SG No. 1/2001, amended, SG No. 54/2006, supplemented, SG no. 92/2007) Pension funds and health insurance companies;

5. (Renumbered from Item 4, amended, SG No. 1/2001) Privatisation authorities;

6. (Renumbered from Item 5, amended, SG No. 1/2001) Persons who organise the awarding of public procurement orders;

7. (Renumbered from Item 6, SG No. 1/2001) Persons who organise and conduct gambling games;

8. (Renumbered from Item 7, SG No. 1/2001) Legal persons which have employee mutual aid funds;

9. (Renumbered from Item 8, SG No. 1/2001) Persons lending cash against a pledge of chattels;

10. (Renumbered from Item 9, SG No. 1/2001) Postal offices accepting or receiving money or other valuables;

11. (Renumbered from Item 10, SG No. 1/2001) Notaries public;

12. (Renumbered from Item 11, SG No. 1/2001, amended and supplemented, SG No. 31/2003, amended, SG No. 52/2007) Market operator and/or regulated market;

13. (Renumbered from Item 12, SG No. 1/2001) Leasing entities;

14. (Renumbered from Item 13, amended, SG No. 1/2001) State and municipal authorities executing concession agreements;

15. (Renumbered from Item 14, SG No. 1/2001) Political parties;

16. (Renumbered from Item 15, SG No. 1/2001) Trade unions and professional organisations;

17. (Renumbered from Item 16, amended, SG No. 1/2001) Non-for-profit legal entities;

18. (Renumbered from Item 17, SG No. 1/2001, amended, SG No. 67/2008) Registered auditors;

19. (Renumbered from Item 18, SG No. 1/2001, amended, SG No. 105/2005) National Revenue Agency authorities;

20. (Renumbered from Item 19, Amended, SG No. 1/2001) Customs authorities;

21. (New, SG No. 1/2001; Amended, SG No. 31/2003) Merchants selling automobiles by occupation, when a payment was made in cash and the value exceeded BGN 30,000 or its equivalent in a foreign currency;

22. (New, SG No. 1/2001) Sports organisations;

23. (New, SG No. 1/2001) The Central Depository;

24. (New, SG No. 1/2001, amended, SG No. 31/2003, SG No. 92/2007) Persons dealing by occupation in objects where a payment was made in cash and the value exceeded BGN 30,000 or its equivalent in a foreign currency;

25. (New, SG No. 1/2001) Merchants dealing in arms, petrol and petrochemical products;

26. (New, SG No. 1/2001; Amended, SG No. 31/2003) Persons providing, by occupation, advice in taxation matters;

27. (New, SG No. 1/2001) Wholesale traders.

28. (New, SG No. 31/2003) Persons providing, by occupation, advice in legal matters, where they:

a) Participate in the planning or performance of a client deal or transaction concerning:

aa) Purchase or sale of a real property or transfer of a merchant's business;

bb) Management of cash, securities, or other financial assets;

cc) Opening or operating a bank account or a securities account;

dd) Raising funds to incorporate a merchant, increase the capital of a company, **grant** a loan or for any form of raising funds for the business operations of such merchant;

ee) (Supplemented, SG No. 54/2006) Incorporate, organise operations or management of a company or another legal person, an off-shore company, a company managed under a trust arrangement or any other such entity;

ff) (New, SG No. 54/2006) Fiduciary property management;

b) Act for the account or on behalf of their client in any financial or real property transaction;

29. (New, SG No. 31/2003) Persons providing real property intermediation by occupation;

30. (New, SG No. 54/2006) Persons, whose occupation is to provide:

a) management address, correspondence address, or office for the purpose of legal person registration;

b) legal person, off-shore company, fiduciary management company or similar entity registration services;

c) fiduciary management services for property or person under letter b).

(3) Measures under paragraph (1) shall be mandatory for the persons under paragraph (2) also when they have been declared bankrupt and in liquidation.

(4) (Supplemented, SG No. 31/2003) Measures under paragraph (1) shall apply also to branches of persons under paragraphs (2) and (3) registered abroad, and to branches registered in this country held by foreign persons falling within the scope of those described in paragraphs (2) and (3).

(5) (New, SG No. 31/2003, repealed, SG No. 54/2006) .

(6) (New, SG No. 31/2003, amended, SG No. 54/2006) Persons, referred to in Paragraph (2), Item (28), shall not be obliged to disclose under this Act any information obtained by them during or in relation to any court or preliminary proceedings, which are pending, about to be open, or are closed, as well as any information related to establishing a client's legal status.

(7) (New, SG No. 54/2006) All measures under Paragraph 1 shall be mandatory for all persons under Paragraph 2, Item 24, also in cases when more than one transactions are performed, which individually do not exceed BGN 30 000 or the equivalent in foreign currency thereof, but when the circumstances of the performance thereof provide grounds to assume that these transactions are related.

Article 3a (New, SG No. 31/2003)(1) (Amended, SG No. 109/2007) The authorities for supervision of the activities of persons referred to in Article 3, paragraphs (2) and (3) shall be under the obligation to provide information to the Financial Intelligence Directorate of the State Agency for National Security where, in the performance of their supervision activities, they should establish any performance of a transaction or deal related to a suspected money laundering or failure to meet the obligation prescribed in Article 11a.

(2) (Amended, SG No. 109/2007, effective 01.01.2008) The examinations performed by the authorities referred to in paragraph (1) shall also include a check for the compliance of examinees with the requirements of this Act. Where a violation is established, the supervision authorities shall inform the Financial Intelligence Directorate of the State Agency for National Security thereof by sending it an abstract from the relevant part of the memorandum of findings.

(3) (New, SG No. 54/2006, amended, SG No. 109/2007, effective 01.01.2008) The Financial Intelligence Directorate of the State Agency for National Security and the supervisory authorities may exchange classified information for the purpose of their legally established functions.

Article 3b (New, SG No. 54/2006)(1) Banks, registered on the territory of the Republic of Bulgaria, and foreign banks, performing activities on the territory of the country through a branch, shall not enter in any partner (banking) relations with banks in jurisdictions, where they do not have a physical presence, and do not belong to a regulated financial group.

(2) Banks, registered on the territory of the Republic of Bulgaria, and foreign banks, performing activities on the territory of the country through a branch, shall not enter into any partner relations with banks outside the country, which allow their accounts to be used by banks in jurisdictions, where they do not have physical presence, and do not belong to a regulated financial group.

Article 3c(New, SG No. 54/2006)(1) Persons under Article 3, Paragraph 2 and 3 shall ensure application of all measures under this Act and all statutory acts related to its application by its branches and affiliates, where they have majority interest, abroad to the extent made possible by the relevant foreign legislation.

(2) (Supplemented, SG No. 92/2007, amended, SG No. 109/2007, effective 01.01.2008) If the legislation in the foreign country does not allow or if it restricts the application of any measures under Paragraph 1, persons under Article 3, Paragraphs 2 and 3 have the obligation to notify the Financial Intelligence Directorate of the State Agency for National Security and the respective supervisory authority, as well as to undertake additional measures, as appropriate for the risk, as established in the rules for implementing this Act.

(3) (Amended, SG No. 109/2007, effective 01.01.2008) Branches and affiliates, where persons under Article 3, Paragraphs 2 and 3, have majority interests abroad, shall not be obliged to notify the Financial Intelligence Directorate of the State Agency for National Security under Articles 11 and 11a.

Chapter Two

IDENTIFICATION OF CLIENTS; COLLECTION,

STORAGE AND DISCLOSURE OF INFORMATION

Section I

Identification of Clients

Article 4(Supplemented, SG No. 1/2001, amended, SG No. 31/2003)

(1) (Amended, SG No. 54/2006) The persons under Article 3, Paragraphs 2 and 3, shall be bound to identify their clients when business or professional relations are established, including when opening an account, and when executing a transaction or concluding a deal of a value exceeding BGN 30,000 or its equivalent in foreign currency, and persons referred to in Article 3, Paragraphs 2, Items 1-4, 9-11, 13 and 28, shall also be bound to do so in case of any cash transaction exceeding BGN 10,000 or its equivalent in foreign currency. Opening and maintenance of an anonymous account or an account under a dummy name shall not be allowed.

(2) Paragraph (1) shall also apply to cases of effecting more than one transaction or deal

which separately does not exceed BGN 30,000 or its equivalent in a foreign currency, or BGN 10,000 or its equivalent in a foreign currency, respectively, but available data suggest that such transactions or deals are related.

(3) (Supplemented, SG No. 54/2006) The persons under Article 3, Paragraph (2), Item (7), shall be bound to identify their clients following the procedure set out in Article 72, Paragraph (2) of the Gambling Act , as well as upon executing any transaction or concluding a deal exceeding BGN 6,000 or its equivalent in foreign currency.

(4) (Amended, SG No. 54/2006, SG No. 109/2007, effective 01.01.2008) In cases, when person under Article 3, Paragraphs 2 and 3 is not able to identify the client as required by this Act and the statutory acts on its application, as well as upon failure to submit a statement under Paragraph 7, this person shall decline to execute the transaction or to enter into any commercial or professional relations, including opening an account. If the person under Article 3, Paragraphs 2 and 3 is not able to identify the client in cases of already established commercial or professional relations, this person shall terminate the said relations. In such cases, the person under Article 3, Paragraph 2 and 3 shall decide whether to notify the Financial Intelligence Directorate of the State Agency for National Security under Article 11. This provision shall not apply to persons under Article 3, Paragraph 2, Item 28 under the terms of Article 3, Paragraph 6.

(5) (Amended, SG No. 54/2006) In establishing commercial or professional relations or effecting a transaction or deal by an electronic statement, electronic document or electronic signature, or any other form where the client is not present, the persons referred to in Article 3, paragraphs (2) and (3) shall be under the obligation to undertake appropriate measures to verify the authenticity of the client's identification data. Such measures may consist of checking the documents made available, requiring additional documents, confirmation of identification by other person referred to in Article 3, paragraphs (2) and (3) or by a person under the obligation to apply anti-money laundering measures in an EU member country, or the introduction of a requirement for the first payment involved in the transaction or deal to be made using an account set up in the client's name with a Bulgarian bank, a branch of a foreign bank that has received permission (licence) from the Bulgarian National Bank to operate in Bulgaria through a branch, or with a bank from an EU member country.

(6) The measures referred to in paragraph (5) shall be incorporated in the internal rules referred to in Article 16.

(7) Persons effecting a transaction or deal via or with a person referred to in Article 3, paragraphs (2) and (3) at a value exceeding BGN 30,000 or its equivalent in foreign currency or, respectively, exceeding BGN 10,000 or its equivalent in foreign currency where payment is made in cash, shall be bound to require the declaration prior to effecting such transaction or deal.

(8) The format for the declaration referred to in paragraph (7) and under Article 6, paragraph (5), Item (3), the terms and procedure for filing, as well as the terms and procedure for exception from the declaration requirement shall be regulated in the rules for implementing this Act.

(9) (Amended, SG No. 92/2007) Persons under Article 3, paragraphs 2 and 3 shall not perform identification under Article 3, paragraph (1) and shall not require presentation of a declaration under paragraph (7) from its client where such client is a credit institution from the Republic of Bulgaria, from another Member State or a bank from a third country named in a list as endorsed under a joint order issued by the Minister of Finance and the Governor of the Bulgarian National Bank.

(10) The list referred to in paragraph (9) shall include countries the legislation of which provides for requirements consistent with the requirements under this Act. The list shall be promulgated in the State Gazette.

(11) (Amended, SG No. 54/2006) In cases where, because of the nature of the transaction or deal, its value cannot be determined as of the time it is effected, the person referred to in Article 3, paragraphs (2) and (3) shall be bound to identify its client at such time when the value of such

transaction or deal is determined if such value exceeds BGN 30,000 or its equivalent in foreign currency or, respectively, exceeds BGN 10,000 or its equivalent in foreign currency where payment is made in cash. This case does not exclude the identification obligation when establishing commercial or professional relations.

(12) (Amended, SG No. 103/2005, effective 01.01.2006) Persons referred to in Article 3, paragraph (2), Item (2) shall identify their clients when executing an insurance contract under Section I of Annex 1 of the Insurance Code, where the per annum gross amount of periodic premiums or installments under such insurance contract is BGN 2,000 or more, or the premium or installment under such insurance contract is a one-time payment and amounts to BGN 5,000 or more.

(13) Persons referred to in Article 3, paragraphs (2) and (3) shall be under the obligation to identify their clients also outside the cases referred to in paragraphs (1) through (12) where a suspicion of money laundering has arisen.

(14) (New, SG No. 54/2006) Persons under Article 3, Paragraphs 2 and 3 shall identify and verify the identifications of their clients, when a suspicion in the client's identification data arises, or when they have been notified on any change thereof.

(15) (New, SG No. 54/2006, amended, SG No. 92/2007) The verification of the clients' identification data and the beneficial owners shall be conducted before establishing commercial or professional relations, opening an account or executing a transaction under Paragraph 1, 2, or 3. The rules for implementing this Act may provide an exception to this rule.

(16) (New, SG No. 54/2006) Persons under Article 3, Paragraph 2 and 3 may apply, depending on the potential risk assessment, simplified or extended measures under Article 3, Paragraph 1 under terms and procedure, established by the rules for implementing this Act.

(17) (New, SG No. 92/2007) No identification under Article 3, paragraph (1) shall be performed and no declaration under paragraph (7) shall be filed where the client is a government authority of the Republic of Bulgaria.

(18) (New, SG No. 92/2007) No identification under paragraph (1) shall be performed and no declaration under paragraph (7) shall be filed where the client is an institution having government authority functions in accordance with the acquis communautaire provided that:

1. the person under Article 3, paragraph (2) and (3) has gathered sufficient information which does not create any doubt as to the institution's identity;

2. the institution follows accountability procedures and its activity is transparent;

3. the institution reports to a Community authority, to an authority of a Member State, or there are verification procedures which ensure control of its activities.

(19) (New, SG No. 92/2007) Where a bank account of a person under Article 3, paragraph (2), subparagraphs (11) and (28) from the Republic of Bulgaria, from another Member State or from a country named in the list referred to in paragraph (9) is used to deposit amounts of a client of the person under Article 3, paragraph (2), subparagraphs (11) and (28), the bank shall not perform the identification under Article 3, paragraph (1) of such client and shall not require a declaration under Article 7, provided that such identification has been made and the declaration accepted by the notary public or by the person under Article 3, paragraph (2), subparagraph (28) and the information gathered in such identification is available to the bank upon request. The bank shall gather sufficient information so as to verify compliance with the conditions for applying simplified measures.

(20) (New, SG No. 92/2007) Persons under Article 3, paragraphs (2) and (3) cannot apply simplified measures under Article 3, paragraph (1) in respect of persons from countries named in the list under Article 7a, paragraph (3).

Article 5 (Amended, SG No. 1/2001)

(1) (Amended, SG No. 54/2006) Persons under Article 3, Paragraph 2 and 3 shall establish whether their client acts on its own behalf and at its own expense or on behalf and at the expense of a third party. Where a transaction or deal is effected through a representative, the persons

under Article 3, paragraphs (2) and (3), shall be bound to request evidence for the representative powers and to identify the representative and the person represented.

(2) (Amended, SG No. 54/2006) Where a transaction or deal is effected on behalf and at the expense of a third party without proxy, the persons under Article 3, paragraphs (2) and (3) shall be bound to identify such third party, on whose behalf the transaction has been executed, and the person executing the transaction.

(3) (New, SG No. 31/2003) In case of a suspicion that the person effecting the transaction or deal is not acting in their own name and for their own account, persons referred to in Article 3, paragraphs (2) and (3) must make the notification referred to in Article 11 and undertake proper measures to collect information for identifying the person in whose benefit such transaction or deal is actually being effected. Such measures shall be specified in the rules for implementing this Act.

Article 5a (New, SG No. 54/2006, effective 5.10.2006)(1) Persons under Article 3, Paragraphs 2 and 3 shall apply extended measures in relation to clients who are currently holding or have previously held a high government position in the Republic of Bulgaria or a foreign country, as well as any clients, who are persons related to them.

(2) The Council of Ministers shall set forth the terms and procedure for application of Paragraph 1.

Article 5b (New, SG No. 92/2007)(1) When entering in correspondent relations with a credit institution from a third country other than those named in the list under Article 4, paragraph (9), a credit institution under Article 3, paragraph (2), subparagraph (1) shall:

1. gather sufficient information on the respondent credit institution enabling it to gain full understanding of the nature of its activity and to determine, on the basis of publicly available information, the institution's reputation and the quality of its supervision;

2. assess the internal mechanisms for control against money laundering and financing of terrorism applied by the respondent credit institution;

3. make arrangements according to which the establishment of any new correspondent banking relations is to take place only upon the prior approval of a person holding a managerial position with the credit institution;

4. allocate the responsibilities of either of the two correspondent institutions concerning the application of measures against money laundering and financing of terrorism and document this allocation accordingly.

(2) In cases under paragraph (1), where third parties which are clients of the respondent credit institution also have access to the institution's correspondent account, the credit institution under Article 3, paragraph (2), subparagraph (1) must assure itself that the respondent institution carries out identification, identification verification and on-going monitoring of third parties having direct access to its account, and that the respondent institution is able to provide the necessary identification and other data about such clients upon request.

Article 5c (New, SG No. 92/2007) Persons under Article 3, paragraphs (2) and (3) must apply extended measures in respect of products or transactions which might lead to anonymity, under terms and following procedures as determined in the rules for implementing this Act.

Article 6 (1) (Amended, SG No. 54/2006) Identification of clients and verification of identification thereof shall be done as follows:

1. (Supplemented, SG No. 1/2001) In the case of legal persons - by presentation of official statement certifying their current status issued by the respective register, and where such person is not subject to registration - by presentation of a certified copy of the document of incorporation and registration of the name, domicile, address and the representative;

2. In the case of natural persons - by presentation of identity document and registration of its type, number and issuer, as well as the name, address, unified civil registry number, and in addition, for natural persons having the qualifications of a sole trader, by presentation of the

documents under Item (1).

(2) (Repealed, SG No. 105/2005, new, SG No. 54/2006) Persons under Article 3, Paragraphs 2 and 3 shall identify the natural persons, who are beneficial owners of a legal-entity client, as well as take action to verify their identification, depending on the client type and the risk level resulting from establishing the client relationships and/or executing transactions with client of such type. Upon lack of any other possibility, identification may be carried out through a statement, signed by the legal person's legal representative or proxy. The terms and procedure to identify and verify the identification, the terms and procedure for release from the identification obligation, as well as the form and the procedure to submit the statement, shall be set forth in the rules on the application of this Act.

(3) (New, SG No. 1/2001, amended, SG No. 31/2003) A photocopy shall be made of the documents referred to in Paragraph (1), Items (1) and (2), except where the date contained therein are shown precisely in other documents issued by the person referred to in Article 3, paragraphs (2) and (3) and are kept under the terms specified in Article 8.

(4) (New, SG No. 1/2001) In cases where an activity is subject to licensing, permission or registration, persons effecting deals or transactions in relation to such activity shall present a copy of the respective license, permit or certificate of registration;

(5) (Renumbered from Paragraph 3, amended, SG No. 1/2001, No. 31/2003) The persons under Article 3, paragraph (2), Items (1), (2), (3), (4), (5), (6), (7), (10), (12), (14), (18), (19) and (20) shall set up special offices, which shall:

1. Collect, process, store and disclose information about the specific transactions or deals;

2. Collect evidence of the ownership of the property subject to transfer;

3. Require information about the origin of cash funds or valuables that are the subject of the transaction or deal; the origin of such funds shall be certified by a declaration;

4. Collect information about their clients and maintain accurate and detailed documentation about their transactions involving cash funds or valuables;

5. (Amended, SG No. 31/2003, SG No. 109/2007, effective 01.01.2008) In the event of a suspicion of money laundering, present the information collected as per Items (1), (2), (3) and (4) to the Financial Intelligence Directorate of the State Agency for National Security under the procedure set in Article 11.

(6) (Renumbered from Paragraph 4, amended, SG No. 1/2001) The persons under Article 3, Paragraph (2), Items (1), (2), (3), (4), (5), (6), (7), (10), (12), (14), (18), (19) and (20) shall perform the obligations personally, where it is not possible to set up a special office.

(7) (Renumbered from Paragraph 5, amended, SG No. 1/2001, No. 31/2003) All persons under Article 3, paragraphs (2) and (3) shall perform their obligations under this Act, whether they set up a special office or not.

Article 6a (New, SG No. 92/2007) (1) The Bulgarian National Bank, credit institutions under Article 3, paragraph (2), subparagraph (1), and persons under Article 3, paragraph (2), subparagraphs (2), (3) and (4) may refer to a previous identification of the client performed by a credit institution under the following conditions:

1. the seat of the credit institution which has performed the identification is in the Republic of Bulgaria, in another Member State or in a country named in the list under Article 4 paragraph (9);

2. the information required under Article 6, paragraphs (1) through (4) is available to the person which makes a reference to a previous identification performed by the credit institution;

3. upon request, the credit institution which has performed a previous identification is able to provide immediately the person which makes a reference to such identification with certified copies of identification documents.

(2) A reference to a previous identification under paragraph (1) does not relieve the person making such reference from liability for non-compliance with the identification requirements under Article 6, paragraphs (1) through (4).

Section II

Collection of Information

Article 7 (1) Where a suspicion for money laundering arises, the persons under Article 3, paragraphs (2) and (3), shall be bound to collect information about the material components and the size of the transaction or deal, the respective documents and other identification data.

(2) (Amended, SG No. 54/2006, SG No. 109/2007) The data collected for the purposes of this Act shall be documented and stored in a way providing access to the Financial Intelligence Directorate of the State Agency for National Security, the relevant supervisory authorities, and the auditors.

Article 7a (New, SG No. 54/2006, effective 5.10.2006)

(1) Persons under Article 3, Paragraphs 2 and 3 shall place under special monitoring their commercial or professional relations, and transactions involving persons from countries, which do not apply or apply fully the international standards against money laundering.

(2) When the transaction under Paragraph 1 has no logical economic explanation or readily visible grounds, persons under Article 3, Paragraph 2 and 3 shall collect to the extent possible additional information on any circumstances related to the transaction, as well as its purpose.

(3) (Amended, SG No. 92/2007) Countries which do not apply, or do not fully apply international standards against money laundering, shall be specified in a list approved by the Minister of Finance in accordance with the decisions under Article 40, paragraph 4 of Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Any additional measures against such countries shall be set forth in the rules for implementing this Act.

Section III

Storage of Information

Article 8 (Amended, SG No. 1/2001) In the cases under Articles 4- 7, the persons under Article 3, paragraphs (2) and (3), shall be bound to keep the documents and data about clients and about transactions or deals for a period of 5 years following their completion. For clients, the period shall commence from the beginning of the calendar year following the year of terminating the relationship, and for deals and transactions it shall commence from the beginning of the calendar year following the year of effecting the latter.

Article 9 (Amended, SG No. 1/2001, SG No. 109/2007) The data and documents under

Article 8 shall be provided to the Financial Intelligence Directorate of the State Agency for National Security upon request, in the original or a transcript certified ex officio. The procedure, time and regular periods for that shall be established in the implementation rules of the Act.

Section IV
Disclosure of Information
Article 10 (Amended and supplemented, SG No. 1/2001, amended, SG No. 31/2003, supplemented, SG No. 54/2006, repealed, SG No. 109/2007)

Article 11 (1) (Amended and supplemented, SG No. 1/2001, amended, SG No. 109/2007) Where money laundering has been suspected, the persons under Article 3, paragraphs (2) and (3), shall be bound to notify the Financial Intelligence Directorate of the State Agency for National Security immediately prior to the completion of the transaction or deal while delaying its execution within the allowable time as per the regulations dealing with the respective type of activity.

(2) (Amended, SG No. 1/2001, SG No. 109/2007) In case a delay in the transaction or deal is objectively impossible, the person under Article 3, paragraphs (2) and (3) shall notify the Financial Intelligence Directorate of the State Agency for National Security immediately after its completion.

(3) (New, SG No. 1/2001, amended, SG No. 109/2007) Notification of the Directorate may be done also by personnel of the persons under Article 3, paragraphs (2) and (3) that are not responsible for enforcing anti-money laundering measures. The Directorate shall protect the anonymity of such personnel.

(4) (New, SG No. 54/2006, amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security shall provide the person under Article 3, Paragraph 2 and 3, and under Article 3a information, related to the notification made thereby. The decision on the volume of information, which has to be returned for each particular notification case, shall be taken by the director of the Directorate.

Article 11a (New, SG No. 31/2003, effective 01.01.2004) (1) (Amended, SG No. 109/2007) Persons referred to in Article 3, paragraphs (2) and (3) shall notiy the Financial Intelligence Directorate of the State Agency for National Security of any payment in cash at a value exceeding BGN 30,000 or its equivalent in foreign currency made by or to any of their clients.

(2) (Amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security shall keep a register of payments referred to in paragraph (1). The register may only be used for the purposes of counteracting money laundering.

(3) The procedure and time terms for the provision of the information referred to in paragraph (1) shall be determined in the rules for implementing this Act.

Article 11b (New, SG No. 31/2003) (1) (Amended, SG No. 109/2007) The Customs Agency shall provide the Financial Intelligence Directorate of the State Agency for National Security the information about trade credits involved in export and import, about financial leasing between domestic and foreign persons and about the export and import of Bulgarian Leva and foreign currency in cash, which information is being collected under the terms and procedure of the Foreign Exchange Act.

(2) (Supplemented, SG No. 109/2007) The procedure for the provision of the information

referred to in paragraph (1) shall be determined jointly by the Chairperson of the State Agency for National Security and by the Minister of Finance.

Article 11c (New, SG No. 31/2003, repealed, SG No. 109/2007)

Article 12 (Amended, SG No. 1/2001)(1) (Amended, SG No. 54/2006, SG No. 109/2007) In cases under Articles 11 and 18, the Minister of Finance may, upon a proposal by the Chairperson of the State Agency for National Security, put a stay, by an order in writing, on a certain transaction or deal for a period of up to 3 business days as of the day following the issuance of the order. If no preventive measure, impoundment or injunction are imposed within that period, the person under Article 3, paragraphs (2) and (3), shall be free to execute the transaction or deal.

(2) (Amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security shall notify the Prosecutor's Office immediately of the stay on the transaction or deal, providing the relevant information while protecting the anonymity of the person under Article 3, paragraphs (2) and (3) that has made the notification under Article 11 or 18.

(3) The prosecutor may impose a preventive measure or file a request with the relevant court to impose an impoundment or injunction. The court ought to adjudicate on the request within 24 hours of its submission.

(4) (Supplemented, SG No. 31/2003, amended, SG No. 54/2006, SG No. 109/2007, SG No. 36/2008) When, in the course of investigation and analysis of any information obtained under this Act, the suspicion in money laundering has not been cleared, the Financial Intelligence Directorate of the State Agency for National Security shall disclose this information to the prosecutor's office or to the relevant security or public order service, while preserving the anonymity of the person under Article 3, Paragraphs 2 and 3, and under Article 3a, and of its employees, making the notification under Articles 11 or 18.

Article 13(Amended, SG No. 1/2001)(1) (Amended and supplemented, SG No. 31/2003, amended, SG No. 108/2006, SG No. 109/2007) In case of notification under Article 11 or 18 the Financial Intelligence Directorate of the State Agency for National Security may request information about suspicious transactions, deals or clients from the persons under Article 3, paragraphs (2) and (3), with the exception of the Bulgarian National Bank and the credit institutions that operate on the territory of the Republic of Bulgaria. The information requested shall be provided within the time period set by the Directorate.

(2) (Amended and supplemented, SG No. 31/2003, amended, SG No. 54/2006, No. 108/2006, No. 109/2007, SG No. 36/2008) In case of written notification under Article 11 or 18 the Financial Intelligence Directorate of the State Agency for National Security may request information about suspicious transactions, deals or clients from the Bulgarian National Bank and the credit institutions that operate on the territory of the Republic of Bulgaria. The information requested shall be provided within the time period set by the Directorate.

(3) (Amended, SG No. 109/2007) The State Agency for National Security may request information under the terms of Paragraph (1) from state and municipal authorities, which information cannot be denied. The information requested shall be provided within the time period set by the Directorate.

(4) (Amended, SG No. 109/2007) In setting the time period under paragraphs (1) through (3), the Directorate shall take into consideration the volume and contents of the information requested.

(5) (Amended, SG No. 31/2003, SG No. 109/2007) For analysis purposes, the Financial Intelligence Directorate of the State Agency for National Security shall receive from the Bulgarian National Bank information gathered under the Foreign Exchange Act.

(6) (Repealed, SG No. 109/2007).

(7) (Amended, SG No. 109/2007) The provision of information under paragraphs (1) through (5) may nt be refused or restricted due to considerations of official, banking or commercial secrecy.

Article 14 (1) (Amended and supplemented, SG No. 1/2001, supplemented, SG No. 31/2003, previous Article 14, SG No. 54/2006, amended, SG No. 109/2007) The persons under Article 3, paragraphs (2) and (3), persons who manage and represent them, and their personnel may not notify their client or any third party of the disclosure of the information in the cases under Articles 9, 11, 11a, 13 and 18.

(2) (New, SG No. 54/2006) The information disclosure ban under Paragraph 1 shall not apply to the relevant supervisory authority under Article 3a.

(3) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons belonging to one and the same group which is in a Member State or in a country named in the list under Article 4, paragraph (9).

(4) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons under Article 3, paragraph (2), subparagraphs (11), (18) and (28) from Member States or from countries named in the list under Article 4, paragraph (9) which conduct their professional activity within the framework of a single legal body or group having joint ownership, management or control in implementing this Act.

(5) (New, SG No. 92/2007) The ban under paragraph (1) shall not prejudice information disclosure between persons under Article 3, paragraph (2), subparagraphs (1) to (3), (11), (18) and (28) in cases concerning one and the same client or one and the same transaction involving two or more parties, under the following conditions:

1. the parties are located in a Member State or in a country named in the list under Article 4 paragraph (9);

2. the parties belong to one and the same professional category;

3. the parties are subject to confidentiality obligations in respect of proprietary, bank or commercial secrets and personal data protection that correspond to Bulgarian legislation;

4. the information may be used solely to prevent money laundering and financing of terrorism.

(6) (New, SG No. 92/2007) Where persons under Article 3, paragraph (2), subparagraphs (11), (18) and (28) are trying to dissuade a client from engaging in illegal activity, this shall not be considered information disclosure in the meaning of paragraph (1).

(7) (New, SG No. 92/2007) Exclusions under paragraphs (3) through (5) shall not apply, and no disclosure of information shall be allowed between persons under Article 3, paragraphs (2)

and (3) and persons from countries named in the list under Article 7a, paragraph (3), nor where persons under Article 3, paragraphs (2) and (3) are in non-compliance of their obligations under the Personal Data Protection Act.

Article 15 (1) (Supplemented, SG No. 1/2001, No. 31/2003, previous Article 15, SG No. 54/2006, amended, SG No. 109/2007) Disclosure of information in the cases specified under Articles 9, 11, 11a, 13 and 18 shall not result in any liability for violation of other laws or a contract.

(2) (New, SG No. 54/2006) Under the terms of Paragraph 1, no liability shall arise also in cases, when it has been established that no crime has been committed, and the transactions have been legal.

Section V

Protection of Information
(New, SG No. 1/2001)

Article 15a (New, SG No. 1/2001) (1) (Supplemented, SG No. 31/2003, amended, SG No. 109/2007) The Financial Intelligence Directorate of the State Agency for National Security may use information constituting of official, banking or commercial secrets, and protected private information obtained under the terms and following the procedure set in Articles 9, 11, 11a, 13 and 18 solely for the purposes of this Act.

(2) (Amended and supplemented, SG No. 31/2003, amended, SG No. 109/2007) Officers of the Financial Intelligence Directorate of the State Agency for National Security, shall not disclose or use to their own benefit or to the benefit of any persons related to themselves any information or facts constituting of official, banking or commercial secrets that they have become aware of in the performance of their office.

(3) (Amended and supplemented, SG No. 31/2003, amended, SG No. 109/2007) The employees of the Directorate shall sign a declaration of confidentiality as per paragraph 2.

(4) (Amended, SG No. 31/2003, SG No. 109/2007) The provision set in paragraph (2) shall also apply to cases where the said persons are not in office.

Chapter Three
INTERNAL ORGANISATION AND CONTROL

Article 16 (1) (Amended, SG No. 1/2001, No. 31/2003, SG No. 109/2007) The persons under Article 3, paragraphs (2) and (3), shall be bound to adopt, within 4 months following their registration, internal rules for the control and prevention of money laundering, which shall be approved by the Chairperson of the State Agency for National Security.

(2) (Supplemented, SG No. 54/2006) The internal rules under paragraph (1) shall establish clear criteria for detecting suspicious transactions or deals and clients, the procedure for personnel training and the use of technical means for the prevention and detection of money laundering, as well as a system for internal control over the implementation of all measures under this Act.

(3) (New, SG No. 1/2001, amended, SG No. 109/2007) The internal rules under Paragraph (1) shall be submitted to the Chairperson of the State Agency for National Security for endorsement within 14 days of their adoption.

(4) (New, SG No. 31/2003, amended, SG No. 109/2007) Professional organisations or associations of the persons referred to in Article (3), paragraphs (2) and (3), in agreement with the State Agency for National Security, may adopt uniform internal rules for money laundering control and prevention to which rules the members of such organisations and associations may subscribe within the time period set in paragraph (1) by means of a statement of declaration. Such uniform internal rules and statements of declaration shall be sent to the State Agency for National Security within the time period set in paragraph (3).

Article 17

(1) (Supplemented, SG No. 1/2001, amended, SG No. 109/2007, previous Article 17, SG No. 36/2008) Control of the implementation of this Act shall be assigned to the Minister of Finance and the Chairperson of the State Agency for National Security.

(2) (New, SG No. 36/2008) In implementation of their functions according to this act, the Ministry of Finance and the State Agency for National Security shall collaborate per a procedure set by a joint instruction of the Minister of Finance and the Chairperson of the Agency.

Article 17a (New, SG No. 1/2001, repealed, SG No. 109/2007)

Article 18 (1) (Amended and supplemented, SG No. 1/2001, amended, SG No. 54/2006, No. 109/2007, previous Article 18, SG No. 36/2008) The Financial Intelligence Directorate of the State Agency for National Security may receive information on suspicion for money laundering, apart from the persons under Article 3, Paragraphs 2 and 3, also from government authorities and through international exchange.

(2) (New, SG No. 36/2008) Financial Intelligence Directorate of the State Agency for National Security on its own initiative and if requested shall exchange information on cases related to suspicion for money laundering with the respective international authorities, authorities of the European Union and authorities of other states, based on international treaties and conditions of reciprocity.

Article 19 (Amended, SG No. 54/2006) (1) Should a person under Article 3, Paragraph 2 fail to fulfil its obligations under this Act, the Minister of Finance may order such a person to take specific measures as necessary to eliminate the violations or revoke the licence issued thereto, if issued by him, or order the licence to be deleted from the registry for the relevant activity, if there is a registration regime.

(2) The issuing authority for the licence of a person under Article 3, Paragraph 2 may revoke the licence issued acting at its discretion or upon proposal by the Minister of Finance made under Paragraph 1.

Article 20 (Amended, SG No. 30/2006, No. 54/2006) The acts under Article 19 may be appealed pursuant to the Administrative Procedure Code.

Chapter Four
INTERNATIONAL CO-OPERATION

Article 21 (Amended, SG No. 1/2001, repealed, SG No. 54/2006)

Article 22 (Amended, SG No. 1/2001, amended and supplemented, SG No. 31/2003, supplemented, SG No. 54/2006, repealed, SG No. 109/2007)

Chapter Five
ADMINISTRATIVE AND PENAL PROVISIONS

Article 23(1) (Amended and supplemented, SG No. 1/2001, supplemented, No. 31/2003, amended, SG No. 109/2007) A person who commits a violation or allows commitment of violation pursuant to Articles 4, 5, 6, 7, 8, 9, 13, 15a shall be punished by fine of BGN 500 to BGN 10,000, unless such an offence constitutes a crime.

(2) (Supplemented, SG No. 31/2003, amended, SG No. 54/2006) A person who commits a violation or allows commitment of violation pursuant to Articles 11, 11a and 14, shall be punished by fine of BGN 5,000 to BGN 20,000, if the offence does not constitute a crime.

(3) (Supplemented, SG No. 1/2001) A person who commits, or allows another to commit a violation pursuant to Article 16 shall be punished by fine of BGN 200 to BGN 2,000.

(4) (Amended, SG No. 54/2006) Where a violations under paragraphs (1), (2) and (3) has been committed by a sole trader or a legal person, financial sanctions shall be imposed to the amount of BGN 2,000 to BGN 50,000.

(5) (New, SG No. 54/2006) If a person commits or allows a violation under this Act or the statutory acts on its application to be committed, outside of cases under Paragraphs 1-4, shall be imposed a fine of BGN 500 to BGN 2,000.

(6) (New, SG No. 54/2006) When the violation under Paragraph 5 has been committed by a sole trader or a legal person, financial sanction to the amount of BGN 1,000 to BGN 5,000 shall be imposed.

Article 24 (1) (Amended, SG No. 1/2001, supplemented, SG No. 54/2006, amended, SG No. 109/2007) The protocols establishing violations shall be drawn up by officers of the Ministry of Finance or of the State Agency for National Security, while the penal decrees shall be issued by the Minister of Finance or the Chairperson of the State Agency for National Security, or by officials duly authorized by them for that purpose.

(2) The preparation of statements, the issuance, appeal and execution of penal orders shall be done pursuant to the procedure specified in the Administrative Violations and Sanctions Act.

ADDITIONAL PROVISIONS
(Title amended, SG No. 92/2007)

§ 1. In the meaning of this Act,

1. (Amended, SG No. 54/2006) "Commercial or professional relation" shall be any relation, associated with the occupation of the institutions and persons bound under this Act, and assumed to have an element of continuity by the moment the relation is established.

2. (Amended, SG No. 54/2006) "Regulated financial group" shall be any financial group, which is subject to effective consolidated supervision;

3. (Repealed, SG No. 54/2006, new, SG No. 92/2007) A "group" shall be a group of companies consisting of:

a) a parent company and its subsidiaries; the group includes also companies in which the

parent company or its subsidiaries participate, or

b) companies managed jointly under a contract or under an establishment charter or articles of incorporation or association, or

c) companies where more than half of the members of their management or supervisory bodies are the same persons in the respective financial year and until the date of preparing their consolidated financial statements.

4. (New, SG No. 31/2003, amended, SG No. 109/2007) "Security services" shall denote the National Intelligence Service and the Military Information Service under the Minister of Defence.

5. (New, SG No. 31/2003, amended, SG No. 82/2006, No. 109/2007, SG No. 69/2008) "Public Order Services" shall denote the chief and regional directorates of the Ministry of Interior, and the Military Police Service under the Minister of Defence.

6. (New, SG No. 31/2003) "A supervision authority" shall be a government authority empowered by law or another piece of legislation to exercise overall control over the activity of a person referred to in Article 3, paragraphs (2) and (3).

7. (New, SG No. 92/2007) A "Member State" shall be a state which is a member of the European Union.

8. (New, SG No. 92/2007) A "third country" shall be a state which is not a member state in the meaning of item (7).

§ 1a. (New, SG No. 92/2007) This Act shall transpose the provisions of Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and Commission Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of `politically exposed **persons**' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 2. This Act shall repeal the Law on measures against money launering(SG, No. 48/1996).

§ 3. The persons under Article 3, paragraphs (2) and (3), shall be bound to submit to the Financial Intelligence Agency, within 3 months following the coming of this Act into force, any available information related to money laundering.

§ 4. The persons under Article 3, Paragraph (2), Items (1), (2), (3), (4), (5), (9), (11), (13) and (18) shall be bound to bring their organisation and activities in compliance with the requirements of this Act and to submit their internal rules under Article 16 to the Minister of Finance, within 5 months following the coming of this Act into force.

§ 5. In Article 10 of the Administrative Violations and Sanctions Act (Promulgated, SG No. 92/1969, amended, SG No. 54/1978, No. 28/1982, Nos. 28 & 101/1983, No. 89/1986, No. 24/1987, No. 97/1990, No. 105/1991, No. 59/1992, No. 102/1995, Nos. 12 & 110/1996, and Nos. 11, 15 & 59/1998), after the words "persons concealing", a comma shall be placed, and the phrase "as well as allowing" shall be added.

§ 6. The implementation of this Act shall be hereby assigned to the Council of Ministers, which shall adopt Rules for its implementation within two months of the effective date of this Act. This Act was passed by the 38th National Assembly on 9 July 1998 and the State Seal was affixed thereto.

LEV RE-DENOMINATION ACT

Promulgated, State Gazette No.20/5.03.1999, amended, SG No. 65/20.07.1999 (effective 5.07.1999).

TRANSITIONAL AND FINAL PROVISIONS

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§ 4. (1) (Amended, SG No. 65/1999) Upon the entry of this Act into force, all figures expressed in old lev terms as indicated in the laws which will have entered into force prior to the 5th day of July 1999 shall be replaced by figures expressed in new lev terms, reduced by a factor of 1,000. The replacement of all figures expressed in old lev terms, reduced by a factor of 1,000, shall furthermore apply to all laws passed prior to the 5th day of July 1999 which have entered or will enter into force after the 5th day of July 1999.

(2) The authorities, which have adopted or issued any acts of subordinate legislation which will have entered into force prior to the 5th day of July 1999 and which contain figures expressed in lev terms, shall amend the said acts to bring them in conformity with this Act so that the amendments apply as from the date of entry of this Act into force.

. . . . . .

§ 7. This Act shall enter into force on the 5th day of July 1999.

TRANSITIONAL AND CONCLUDING PROVISIONS
of the ACT ON THE AMENDMENT AND SUPPLEMENT
TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING

Promulgated State Gazette No. 1/2001, amended, SG No.102/2001, effective 01.01.2002

§ 24. Everywhere in the Act the words “the Financial Intelligence Bureau” shall be replaced with “the Financial Intelligence Bureau Agency”.

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§ 28. (Repealed, SG No. 102/2001).

§ 29. (Repealed, SG No. 102/2001).

ACT ON THE AMENDMENT AND SUPPLEMENT
TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING
Promulgated State Gazette No. 31/04.04.2003

ADDITIONAL PROVISION

§ 19. Everywhere in the Act the words “the Financial Intelligence Bureau Agency” shall be replaced with “the Financial Intelligence Agency”.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 20. (1) Persons referred to in Article 3, paragraphs (2) and (3) for which the obligation to apply measures against money laundering has arisen prior to the adoption of this Act shall bring

their internal rules referred to in Article 16 into compliance with the requirements of the Act and send them to the Financial Intelligence Agency within 4 months following the coming into force of this Act.

(2) Persons referred to in Article 3, paragraphs (2) and (3) for which the obligation to apply measures against money laundering has arisen pursuant to this Act shall adopt their internal rules under Article 16 and send them to the Financial Intelligence Agency within the time terms referred to in paragraph (1).

. . . . . .

§ 28. (1) All assets, liabilities, records and any other rights and obligations of the Financial Intelligence Bureau Agency shall be taken over by the Financial Intelligence Agency.

(2) Grandfathered legal relations of employment and service shall not be terminated, and Article 123 of the Labour Code shall apply accordingly.

§ 29. Paragraph 7 shall become effective from 01.01.2004.

ACT ON THE AMENDMENT AND SUPPLEMENT
TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING (SG No. 54/2006)
FINAL PROVISIONS

. . . . . .

§ 29. § 8 and § 11 provisions shall become effective three months after the Act's promulgation in State Gazette.

ACT ON THE AMENDMENT AND SUPPLEMENT
TO THE LAW ON MEASURES AGAINST MONEY LAUNDERING
(Promulgated State Gazette No. 92/13.11.2007)

FINAL PROVISIONS

§ 10. The Council of Ministers shall adopt any amendments to the rules for implementing this Act ensuing from this Act by 15 December 2007.

Rules on the Implementation of the Law on Measures against Money Laundering

(Adopted by decree № 201 dd. 1.08.2006, published SG 65 dd. 11.08.2006., in force since 12.11.2006., amend. and suppl. SG 108, dd. 19.12.2007; SG 37/8.04.08)

Chapter 1.
IDENTIFICATION OF CUSTOMERS AND VERIFICATION OF THE IDENTIFICATION DATA

Identification of customers

Art. 1. (1) The identification of a customer and of a beneficial owner of a customer-legal entity, as well as the verification of the identification data shall be done through the use of documents, data or information from an independent source.

(2) The identification and the verification of the identification can be done by demanding additional documents, confirmation of the identification by another person pursuant to Art. 3, paras 2 and 3 of the Law on Measures against Money Laundering (LMML) or by a person obliged to implement measures against money laundering in an EU member state or in a country enlisted pursuant to Art. 4, paragraph 9 of the LMML, or in another suitable manner which gives sufficient grounds to the person under Art. 3, paras 2 and 3 of the LMML to accept the identification of the customer as trustworthy performed.

(3) (*amend. SG 108/2007*). By way of derogation the persons under Art. 3, Para. 2, Items 1 - 4 of the LMML can conclude the verification of the identity of the client or the beneficial owner that is legal person during the establishment of business relations when all of the following conditions are met:

1. the performance of the verification before the establishment of business relations would lead to interruption of the normal conduct of the respective business activity;
2. measures for effective management of the money laundering risk have been taken in each concrete case;
3. the verification is completed within a reasonably short period after the initial contact with the customer.

(4) (*new SG 108/2007*) By way of derogation the verification of the beneficiary to an insurance policy can be performed after establishing business relations only if it is carried out at the time or before payment is effected under the insurance policy or at the time or before the beneficiary exercises rights vested under the insurance policy.

(5) (*new SG 108/2007*) By way of derogation a credit institution that carries out activities in the Republic of Bulgaria can allow the opening of a bank account before the verification of the client's identity is completed under the following conditions:

1. the account is not closed before the completion of the verification
2. no operations by or on behalf of the holder of the account are carried out before the completion of the verification including transfers to the account on behalf of or at the expense of its owner.

Art. 2. (1) Identification and verification of natural persons shall be performed through producing of official identification document and providing of a copy of the latter.

(2) Natural persons – sole traders produce also the documents pursuant to Art. 3.

(3) At identifying natural persons also data is collected on:

1. the names
2. date and place of birth;
3. official personal identification number or another unique element of identity ascertainment which is contained in a valid official document bearing a photography of the customer;

4. citizenship;

5. state of permanent residence and address (post office box is insufficient);

(4) The persons under Art. 3, paras 2 and 3 of the LMML can, upon risk assessment, gather further data like:

1. address for correspondence;
2. telephone, fax and e-mail address;
3. profession;
4. position;
5. employer.

(5) Whenever in the official identification document no data are available under paragraph (3), their gathering shall be performed through producing other official documents.

Art. 3., (1) Identification, and verification of the identification of legal persons shall be performed through producing of an original or a copy certified by a public notary of an official excerpt of the respective register, showing their actual status, and a certified copy of the agreement, or act of establishment. The purpose of the latter is to ascertain the ownership, the management and the control of the customer-legal entity.

(2) At identifying a legal entity, data are gathered on the name, the legal and organisational form, the official seat, the address of management and the address for correspondence, the activity pattern or purpose, the term of existing, the managerial and representative bodies, the kind and structure of the managerial body, the basic place of commercial activity.

(3) Whenever in the official excerpt of the respective register the data under paragraph (2) are not available, their gathering shall be performed through producing other official documents.

(4) The customers-legal entities with nominal directors, secretaries or owners of the capital produce certificate or another valid document in accordance with the legislation of the jurisdiction in which they have been registered, where the certificate has been given by a central register or by a registry agent, and the beneficial owners of the customer-legal entity must be evident therein.

(5) Beneficial owner of a customer-legal entity is:

1. natural person or natural persons who directly or indirectly own more than 25% of the shares or of the capital of a customer-legal entity, or of another similar structure, or exercise direct or indirect control over it;

2. natural person or natural persons in favour of which more than 25% of the property is controlled or distributed, whenever the customer **is** a foundation, a non-profit organisation or another person performing trustee management of property or property distribution in favour of third persons;

3. a group of natural persons in favour of whom a foundation, or a public benefit organisation, or a person performing trustee management of property or property distribution in favour of third persons is established, or acts, when these persons are not determined but can be determined by specific signs.

(6) The legal representatives of a customer-legal entity, the proxies and other natural persons subjects to identification in relation to the identification of the customer-legal entity, shall be identified according to Art. 2.

Art. 4. (1) The persons under Art. 3, paras 2 and 3 of the LMML verify the information under Art. 3 by means of one or more of following methods:

1. revision of the balance sheet, the financial reports and the accountability bills, (including the auditing report, if any);
2. inquiry through an intermediary about business information;

3. inquiry assignment to lawyers partnerships or either natural or legal persons rendering accountancy services of good reputation;
4. demanding bank references;
5. demanding references from persons who are, or have been using the services of the customer, or either have been or are in commercial or professional relations with them;
6. obtaining information from the commercial register or other sources to find out whether the company has been or is being in procedure of insolvency, obliteration, liquidation or termination;
7. making use of other independent sources (accessible databases of public and private organisations, internet)'
8. visits to production premises or administrative offices of the company;
9. telephone, postal or e-mail contacts.

(2) After estimation of the persons under Art. 3, paragraphs 2 and 3 of the LMML other methods may be used provided that the confidentiality principles and a formal assessment of the veracity of the documents produced by the customers are not infringed.

Art. 5. (1) The persons subject to enlisting in the BULSTAT register shall produce a copy of the identification card or respectively of the certificate of registration within the validity term according to Art. 17, paragraphs 3 and 4 of the Law on the BULSTAT Register.

(2) The persons whose registration is subject to enlisting according to the requirements of the Code of Tax and Insurance Procedure shall produce the respective identification number.

(3) In the cases of certain activity – subject of licensing, permission or registration, the persons conducting deals and operations related to such activity shall produce a copy of the respective licence, permission or registration certificate.

Art. 6. (1) In the cases of conducting an operation or deal on behalf or for the account of a third person there shall be identified the person who performs the operation or deal, and also the person on whose behalf the operation or deal is performed and also the relation between them should be found out.

(2) In the cases of performing an operation or deal through a third person-bearer of a document for the performance of the operation or deal, also the third person-bearer of the document shall be identified.

Art. 7. The persons under Art. 3, paras 2 and 3 of the LMML are obliged to effectively apply the procedures for identification of the customer and verification of the identification data also in the cases of establishment of commercial or professional relations or performance of an operation or deal in the absence of the customer.

Art. 8. (1) The information pursuant to Art. 2 and 3 shall be used by the persons under Art. 3., paras 2 and 3 of the LMML for an initial assessment of the risk profile of the customer.

(2) On the base of analysis the persons under Art. 3, paras 2 and 3 of the LMML shall define a category of customers or business relations of a higher risk whom they shall put under special supervision and in relation to whom they shall apply extended measures. In those categories can be included customers who do not have permanent residence or place of commercial activity in the country, as well as the off-shore companies, the companies of nominal owners or of bearer shares, the companies of trustee management or other similar structures.

(3) The enhanced customer due diligence in regard to the clients under Para. 2 may include:

1. undertaking visits to the address indicated by the client;

2. requesting additional documents and information from the client

3. gathering information through another client

4. referring to the internet

5. requiring references from the counterparts inside the country or abroad or from other persons under Art. 3, Para. 2 of the LMML

6. gathering information on the origin of the incomes

7. verification of the activities of the client including through visits to the production facilities or administrative premises of the client, or by acquiring information from the counterparts

8. verification through the employer of a client being a natural person

9. (*amend. SG37/2008*) measures included in the instructions issued by the Director of the Financial Intelligence Directorate of State Agency for National Security.

10. other measures deemed appropriate by the person under Art. 3, Para. 2 and 3 of the LMML.

(4) (*new SG 108/2007*) The customers, operations and transactions that are linked to states included in the list under Art. 7a, Para.3 of the LMML shall be considered of higher risk and shall be subjected to enhanced due diligence and the measures under Para. 3 shall be applied.

(5) (*new SG 108/2007; amend. 37/2008*) Depending on the level of risk, measures under Para. 3 shall be also applied in the cases under Art. 3c, Para. 2 of the LMML. The Director of Financial Intelligence Directorate of State Agency for National Security following a notification under Art. 3c, Para. 2 of the LMML can issue concrete guidelines for the application of enhanced due diligence in each concrete case.

(6) (*new SG 108/*2007) Under the terms of Paras. 1-5 the persons under Art.3, Para.2 and 3 of the LMML depending on the assessment of risk shall carry out enhanced due diligence of the information under Art. 3 through the means under Para. 4.

(7) (*former para 4, SG 108/2007*).The persons under Art. 3, Para. 2 and 3 of the LMML shall decide in each concrete case the concrete measures to be taken based on the type of client, the nature of the client's activity and the business relations with the client.

Art.8a. (*new SG 108/2007*) (1) Customers pursuant to Art.5a, Para. 1 of the LMML consist of potential customers, existing customers and beneficial owners of the client that is a legal person who are:

1. heads of State, heads of government, ministers and deputy ministers;
2. members of parliament;
3. members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
4. members of courts of auditors;
5. members the boards of central banks;
6. ambassadors and charges d'affaires;
7. high ranking officers in the armed forces;
8. members of the administrative, management or supervisory bodies of state-owned enterprises;

(2) The categories stipulated in Para. 1, items 1-7 include where applicable the respective positions in the institutions and bodies of the European Union and of the international organizations.

(3) The measures stipulated for the categories of customers under Para. 1 shall also be applied in respect of mayors and deputy mayors of counties, the mayors and deputy mayors of districts and the chairpersons of the municipal councils.

(4) The categories stated in Para. 1, items 1-8 do not include officials at intermediate or more junior level.

(5) For the purpose of Art. 5a of the LMML the related person shall include:

1. spouse or persons who live in factual partnership with them;

2. relatives of descending line to the first degree of affinity and their spouse or persons who live in factual partnership with them;

3. the relatives of ascending order of the first degree of affinity;

4. any natural person who is known or it can be supposed from publicly available information to have joint beneficial ownership of legal person, or any other close business, professional or other relations, with a person referred to in Para. 1;

5. any natural person who has sole beneficial ownership of a legal person which is known or it can be supposed from publicly available information to have been set up for the benefit de facto of the person referred to in paragraph 1.

(6) Without prejudice to the application of enhanced due diligence based on the assessment of risk, in case the person no longer holds a position under Para. 1 for a period no shorter than 1 year, the persons under Art. 3, Paras. 2 and 3 of the LMML are not obliged to apply Art. 5a, Para.1 of the LMML and Art. 8a, Paras. 7-12 of these Rules.

(7) For a person under Art. 3, Paras. 2 and 3 of the LMML to enter into business relations with persons found to fall under the categories pursuant to Para.1 or related persons under Para.5, there is required the approval of an official at a managerial position, designated by the respective executive body of the person under Art. 3, Paras. 2 and 3 of the LMML.

(8) In cases where after establishing commercial or professional relations it is found out that a customer or the beneficial owner of a customer that is legal person falls under the categories as per Para. 1 or is related person under Para. 5, the continuation of business relations requires prior approval of a person under the preceding paragraph.

(9) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to undertake adequate actions to establish the origin of the funds, used in the commercial or professional relations with a customer or the beneficial owner of a customer that is a legal person for whom they have found out that he/she is a person under Para. 1 or a related person under Para. 5.

(10) The obligation under Para. 9 also arises when performing separate operation or transaction without establishing professional or commercial relations with the customer or the beneficial owner of the customer that is a legal person, for whom it is found out that he/she is a person under Para. 1 or a related person under Para. 5, regardless of the value of the operations or deal.

(11) The persons under Art. 3, Para. 2 and 3 of the LMML are obliged to carry out constant and enhanced monitoring over their commercial or professional relations with persons under Para. 1 and related persons under Para. 5.

(12) In regard to the potential customer, existing customer or beneficial owner of a customer that is a legal person, who holds a position under Para. 1 or is a related person under Para. 5, the enhanced measures under Art. 8, Para. 3. shall apply. The concrete measures which shall be applied in each respective case are to be decided by the person under Art. 3, Para.2 and 3 of the LMML while taking into consideration the type of customer pursuant to Paras. 1 and 5 and the nature of the commercial or business relation with him/her.

(13) Based on the analysis of risk the persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to elaborate effective internal systems, that would allow them to determine whether a potential customer, an existing customer or the beneficial owner of a customer – legal person holds a position under Para.1 or is related person under Para. 5.

(14) The systems under Para. 13 can be based on the following sources of information:

1. information gathered through the application of Art. 8, Para. 3;

2. written declaration required from the customer with the purpose of determining whether the person falls within the categories pointed in Paras. 1 and 5;

3. information received through the use of internal or external databases.

(15) In case of failure to identify a customer as falling under Art. 5a, Para. 1 of the

LMML the control bodies are obliged to discuss the reasons for the infringement and where adequate measures under Para. 13 had been taken, they should abstain from imposing a sanction.

Art. 8b. (*new SG 108/2007*) In regard to products and transactions which might lead to anonymity the persons under Art. 3, Paras. 2 and 3 are obliged to apply the following measures:

1. analyze the risk associated with the respective product or transaction while taking into consideration factors such as the use of the product in more than one jurisdiction, the size of the financial resources associated with the products and transactions and the profile of the customers of the respective product or transaction;

2. undertake constant monitoring of the respective product or transaction and take appropriate measures to determine the level of risk;

3. to acquaint the employees with the risk related to the respective product or transaction and the measures necessary to counteract the risk;

4. document the risk analysis undertaken and the measures taken to counteract the risk.

Art. 9. (1) Whenever a change occurs in the circumstances related to the identification during the carrying out of the operation or transaction or of the professional or commercial relations, the clients being legal persons or sole traders shall submit to the persons under Art. 3, Para. 2 and 3 of the LMML an official extract of the respective register within 7 days of the registration of the change.

(2) Whenever a change to the circumstances related to the identification occurs during the carrying out of the operation or transaction or of the professional or commercial relations, the clients being natural persons shall notify the persons under Art. 3, Paras. 2 and 3 of the LMML submitting the respective certifying documents within 7 days of the change.

(3) The persons under Art. 3, Paras. 2 and 3 of the LMML shall maintain up-to-date information on their clients and the operations and transactions carried out by them while periodically checking and updating the existing databases.

(4) The databases of the clients and the business relations of potentially higher risk shall be checked and updated at shorter intervals.

(5) Where necessary the information is checked for being updated and additional action is taken for the identification and verification of the identification when:

1. a transaction or operation of value that differs from the typical value for the concrete client takes place

2. there is a significant variation from the usual use of the opened account

3. the person under Art. 3, Para. 2 and 3 becomes aware that the information gathered about an existing client is insufficient.

Art. 10 – (1) The declaration under Art. 4, Para. 7 and Art. 6, Para. 5, item 3 of the LMML is filed before the person under Art. 3, Para. 2 and 3 of the LMML or before a person authorized by the latter prior to the performance of the operation or transaction.

(2) The declaration shall contain the fields required pursuant to Annex 1.

(3) The declaration may form a part of another document, issued by the declaring person; however it shall contain all the required fields under Annex 1 and not raise suspicion about the person filing it or about its contents.

(4) The banks and the banks having a seat abroad and having received permit (license) from the Bulgarian National Bank to carry out activity in Bulgaria through a branch, may relief their clients from the obligation to file declaration under Art. 4, Para. 7 of the LMML by an ordinance of the persons that manage and represent the respective bank provided that the following conditions are simultaneously met for each separate operation:

1. the client has once and for all declared the origin of the funds it operates or shall operate with

2. the client is known to the respective bank as a result of permanent business relations established with the bank or the bank has received the necessary references from another bank with which it maintains permanent relations.

3. the operations undertaken permit the tracing of the origin of the funds with which the client operates or the respective banks disposes of other credible information on the origin of those funds.

(5) Whenever performing operations or transactions with funds of origin different from the declared, as well as whenever suspicion on the origin of the funds arises, the person under Art. 3, Para. 2 and 3 of the LMML shall require that the client file a declaration under Art. 4, Para. 7 of the LMML.

(6) (*amend. SG 37/2008*) The respective bank shall submit to the Financial Intelligence Directorate of State Agency for National Security a copy of the ordinance under Para. 4, which shall enter into force subject to prior endorsement by the Director of the Financial Intelligence Directorate of SANS. The endorsement is considered fulfilled if the Financial Intelligence Directorate of SANS does not object, based on information available under LMML or the Law on Measures against the Financing of Terrorism, within 5 business days considered from the reception of the notification.

(7) (*amend. SG 37/2008*) Whenever a change in the circumstances for the client relieved from the obligation for declaring occurs, the Director of Financial Intelligence Directorate of State Agency for National Security may issue an obligatory instruction to the respective bank to revoke its ordinance.

(8) The bank revokes its ordinance under Para. 4 on its own initiative whenever the conditions for its issuing have disappeared or the bank decides that its revocation is instrumental for the purposes of the LMML.

(9) The specialized units under Art. 6, Para. 5 of the LMML within the respective bank shall carry out their obligations pursuant to the Law, the Rules and the internal rules under Art. 16, Para. 1 of the LMML also in respect to the operations and transactions of the bank's clients being relieved from the obligation to file declaration under Para. 4.

Art. 11. (1) The declaration under Art. 6, Para. 2 of the LMML shall be filed to the person under Art. 3, Paras. 2 and 3 of the LMML or to the official authorized by the person before carrying out the operation or transaction.

(2) The declaration shall contain the fields as required pursuant to Annex 2.

Chapter 2
Gathering, Storing and Disclosing Information

Art. 12 (1) The gathering of information whenever a suspicion of money laundering arises shall be carried out under the terms and conditions of the LMML, the Rules and the internal rules under Art. 16, Para. 1 of the LMML.

(2) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to register in a special log each notification regarding suspicion for money laundering that is disclosed by their employees to a representative of the specialized unit or a member of the managing bodies irrespective of the means for transmitting the notification.

(3) The log under Para. 2 shall be strung through, numbered and endorsed with the signature of the head of the specialized unit and the seal of the person under Art. 3, Paras. 2 and 3 of the LMML.

(4) Whenever registering a notification under Para. 2 the head of the specialized unit or a person authorized by him/her shall initiate a file in which all documents related to the actions taken by employees of the person under Art. 3, Paras. 2 and 3 in regard to the

notification shall be collected and sequenced in accordance with the filing sequence.

(5) The head of the specialized unit shall be responsible for the appropriate storage and maintenance of the log under Para. 2 as well as of the files under Para. 4.

(6) The persons under Art. 3, Paras. 2 and 3 shall perform their obligations under this article personally where it is impossible to establish a specialized unit.

(7) (*amend. SG 37/2008*) The Chairperson of State Agency for National Security may issue obligatory instructions to the persons under Art. 3, Paras. 2 and 3 of the LMML regarding the terms and conditions for collection and storage of the information.

Art. 13. (*amend. SG 37/2008*) (1) The disclosure under Art. 11 of the LMML shall be carried out in writing and using the form adopted by the Director of Financial Intelligence Directorate of State Agency for National Security.

(2) Officially certified copies of all gathered documents on the operation or transaction and on the client shall be enclosed in the disclosure.

(3) In urgent cases the disclosure may be carried out orally while written confirmation shall be filed within 24 hours.

(4) The incompliance with the form does not void the disclosure already carried out.

Art. 14. The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to ensure that the information under Art. 12 is stored in a way that would not allow the use of the information for purposes other than those specified in the LMML.

Art. 15 (1) In order to check and disclose the information received the Financial Intelligence Directorate of State Agency for National Security may carry out on-site inspection of the persons under Art. 3, Paras. 2 and 3 – on its own or jointly with the supervisory organs.

(2) During the inspections under Para. 1 the Financial Intelligence Directorate of the State Agency for National Security has the powers to:

1. unlimited access to the official premises of the persons being subject of the inspection

2. demand documents, information and written explanations about the circumstances related to the subject of the inspection

3. (*amend. SG 37/2008*) get assistance of expert appraisers or other experts.

(3) The ordinance for the inspection shall specify the purpose, duration and place of the inspection, the person that is being inspected as well as the name and position of the inspecting persons.

Art. 16. (1) The persons under Art. 3, Paras. 2 and 3 of the LMML shall submit the information under Art. 11a of the LMML to the Financial Intelligence Directorate of State Agency for National Security in hard copy or using magnetic media or electronically using the form provided in Annex 3, on a monthly basis not later than the 15th day of the month following the month of the information supplied.

(2) (*amend. SG 37/2008*) The Bulgarian National Bank, the banks and the banks being seated abroad, and having obtained permit (license) by the Bulgarian National Bank to carry out activities in Bulgaria through a branch shall submit the information under Art. 11a of the LMML to the Financial Intelligence Directorate of State Agency for National Security pursuant to the terms and conditions of Para. 1 using the form adopted through joint instruction of the Chairperson of the Bulgarian National Bank and the Chairperson of State Agency for National Security.

(3) The information under Art. 11a of the LMML may be submitted electronically subsequent to the setup of a protected electronic link between the respective person under Art. 3, Paras. 2 and 3 and the Financial Intelligence Directorate of State Agency for National

Security.

Chapter 3
Internal Organization, Control and Training

Art. 17. The internal rules pursuant to Art. 16, Para. 1 of the LMML shall lay down:

1. clear criteria for detecting suspicious operations or transactions or clients

2. the terms and conditions for collection, analysis, storage and disclosure of information on operations or transactions

3. the rules of the organization and the work of the specialized unit pursuant to Art. 6, Para. 5 of the LMML

4. (*supplemented SG 108/2007*) the distribution of responsibilities for the implementation of the measures against money laundering within the branches of the person under Art. 3, Paras. 2 and 3 of the LMML as well as the measures including risk assessment procedures in regard to branches and affiliates under the terms of Art. 3c, Para. 2 of the LMML if applicable.

5. the use of technical means for the prevention of money laundering

6. the system for internal control on the implementation of the obligations provided for in the LMML and the acts of its implementation

7. the rules for the training of the officials within the specialized units under Art. 6, Para. 5 of the LMML

8. the rules for the training of the other employees

9. other requirements depending on the characteristics of the activities of the persons under Art. 3, Paras. 2 and 3 of the LMML.

Art. 18. (1) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to ensure self-sustained training of its employees within the specialized units under Art. 6, Para. 5 of the LMML and the rest of the employees in regard to their activities on the prevention of money laundering and the implementation of the LMML and the acts for the implementation of the LMML.

(2) The Financial Intelligence Directorate of State Agency for National Security shall provide methodological assistance to the persons under Art. 3, Paras. 2 and 3 of the LMML for the elaboration and the implementation of training programs.

Art. 19. (1) (*amend. SG 37/2008*) The internal rules under Art. 16, Para. 1 of the LMML are endorsed by the Chairperson of State Agency for National Security.

(2) (*amend. SG 37/2008*) Whenever the internal rules under Art. 16, Para. 1 of the LMML do not comply with the LMML or the Rules on Implementation, have not been adopted by a competent organ of the person under Art. 3, Para. 2 and 3, or the measures included are not adequate for the purposes of the Law, the Chairperson of State Agency for National Security shall return the rules to the person under Art. 3, Paras. 2 and 3 of the LMML and provide obligatory instructions for the elimination of the incompliance found.

(3) (*amend. SG 37/2008*) The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to eliminate the incompliance within one month subsequent to the reception of the instructions and to re-submit their internal rules to the Chairperson of State Agency for National Security for endorsement.

Art. 20. The persons under Art. 3, Paras. 2 and 3 of the LMML are obliged to submit to the Financial Intelligence Directorate of the State Agency for National Security their contacts in writing within 7 days following the reception of the license, permit or certificate for registration or, whenever the respective activity does not fall within a regime requiring licensing or permission or is not subject to registration, within 7 days following the start of

business activity.

Art. 21. The specialized unit under Art. 6, Para. 5 of the LMML is headed by an employee of the persons under Art. 3, Paras. 2 and 3 of the LMML having managerial position.

Art. 22. The organs that are entitled to control over the persons under Art. 3, Paras. 2 and 3 through a special law, may cooperate with the Financial Intelligence Directorate of State Agency for National Security for the elaboration of clear criteria for detecting suspicious operations or transactions and clients as well as for the elaboration of measures for the prevention and detection of money laundering in the respective sector.

Art. 23 (new – SG 37/2008) (1) The control bodies of State Agency for National Security shall perform on-site inspections of the persons under Art. 3, paras 2 and 3 in relation their compliance with the measures on prevention the misuse of financial system for the purposes of money laundering and terrorist financing.

(2) The control bodies of the State Agency for National Security shall be the officers from Financial Intelligence Directorate, approved the Chairperson of State Agency for National Security.

(3) The on-site inspections shall be carried out based on written order of the Chairperson of State Agency for National Security or other official pointed by him/her, where the order contains information on the purposes, term and place of the on-site visit, inspected person, as well as name and position of inspecting officers.

(4) By performing the on-site inspections the control bodies under para (2) have powers under the art. 15, para 2, item 1 and 2.

Additional provision
(new SG 108/2007)

§ 1. This Rules implement the provisions of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed persons' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

Concluding Provisions

§ 2. (former §1, SG 108/2007) The instruction of the Bulgarian National Bank and the Minister of Finance under Art. 16, Para. 2 of the Rules on the Implementation of the Law on Measures against Money Laundering, adopted by Ordinance No. 223 of the Council of Ministers of 1998 (promulg. SG, issue 119 of 1998; amended and complemented Issue 14 of 2000, Issues 16 and 111 of 2001 and Issues 49 and 71 of 2003) shall continue in force until the adoption of a new instruction under Art. 16, Para. 2 of the Rules.

§ 3. (former §2, amended, SG 108/2007) The Chairperson of State Agency for National Security shall issue instructions on the implementation of the Rules.

§ 4. (former §3, SG 108/2007) The Rules are adopted pursuant to § 6 of the Transitory and Concluding Provisions of the LMML.

DECREE № 66 of the Council of Ministers dated 28.03.2008 for amendment and supplementation of legal acts of the Council of Ministers

(SG No. 37/2008 г.)

.....

§ 5. In the Rules on the Implementation of the Law on Measures against Money Laundering adopted by decree № 201 from 2006 (promulgated with SG No. 65/2006; amended and supplemented, SG No. 108/2007) there are made the following amendments and supplements:

.....

11. Everywhere in the Act the words "the Financial Intelligence Agency" shall be replaced with "the Financial Intelligence Directorate of State Agency for National Security".

.....

Annex № 1

Pursuant to Art. 10, Para 2
(Supplemented, SG No. 37/2008)

DECLARATION
Under Art. 4, Para 7 and under Art. 6, Para 5, item 3 of the LMML

The undersigned: .....,

(name, surname, family name)

EGN (Unified civil registry number): .....,

Permanent address: .....,

Citizenship: .....,

ID ducument: .....,

in my capacity of .....……in .....,

BULSTAT (number in the Bulgarian commercial registers): .....,

Tax № .....,

I declare that the money assets – subject of the present operation (deal), to the value of.....

have the following origin: .....

I am fully aware of the penal responsibility under Art. 313 of the Penal Code for

declaring of false circumstances.

Date of declaration: Declarer:

....

(signature)

Annex № 2

Pursuant to Art. 11, Para 2

DECLARATION
Under Art. 6, Para 2 of the LMML

The undersigned: .....,

(name, surname, family name)

EGN (Unified civil registry number): .....,

Permanent address: .....,

Citizenship: .....,

ID ducument: .....,

in my capacity of legal representative (proxy) of .....,

incorporated in the register at .....,

I declare that beneficial owner in the meaning of Art. 6, Para 2 of the LMML
In connection with Art. 3, Para 5 of the RILMML, of the aforementioned legal person
is/are the followingnatural person/persons:

1. .....,

(name, surname, family name)

EGN (Unified civil registry number): .....,

Permanent address: .....,

Citizenship: .....,

ID ducument: .....,

2. .....,

(name, surname, family name)

EGN (Unified civil registry number): .....,

Permanent address: .....,

Citizenship: .....,

ID ducument: .....,

3. .....,

(name, surname, family name)

EGN (Unified civil registry number): .....,

Permanent address: .....,

Citizenship: .....,

ID ducument: .....,

I am fully aware of the penal responsibility under Art. 313 of the Penal Code for declaring of false circumstances.

Date of declaration: Declarer:

....

(signature)

Annex № 3

Pursuant to Art. 16, Para 1

FOR OFFICIAL USE ONLY! INFORMATION UNDER ART. 11a OF THE LAW ON MEASURES AGAINST MONEY LAUNDERING		
A. DESCRIPTION OF THE OPERATION		
1. Date of the operation:		
2. Type of the operation: ? acceptance of assets in cash ? payment of assets in cash ? exchange of currency ? other (indicate):		3. Description of the operation

4. Ammount:	5. Currency:	6. Ammount in BGN:
B. IDENTIFICATION OF THE PERSON WHO HAS CONDUCTED THE OPERATION		
7. The operation is carried out by:	? one person	? several persons
8. Family name:		9. Name and surname:
10. Permanent address:		
11. ID document: ? personal identity card ? passport ? driving licence ? other (indicate):		12. Number of the document: 13. Issued by:
14. EGN (Unified civil registry number)/ ECN (Unified number of a foreigner in Bulgaria)……		
C. PERSON IN WHOSE FAVOUR IS CONDUCTED THE OPERATION		
In favour of a legal person:		
15. Name (entity):		16. Address:
17. Incorporation: court....., company's file ....., number ....., volume....., page ..... BULSTAT (number in the Bulgarian commercial registers):		
In favour of a natural person:		
18. Family name:		19. Name and surname:
20. EGN (Unified civil registry number)/ ECN (Unified number of a foreigner in Bulgaria):……		
D. IDENTIFICATION DATA OF THE PEROSN UNDER ART. 3, PARAS 2 AND 3 OF THE LMML		
21. Name (entity):		22. Address:
23. Incorporation: court....., company's file ....., number ....., volume....., page ..... BULSTAT (number in the Bulgarian commercial registers):		
Officer:		
24. Family name:		25. Ocupation:
26. Date:		27. Signature:

Law on Measures against Financing of Terrorism

Promulgated, State Gazette No. 16/18.02.2003, amended, SG No. 31/4.04.2003, amended and supplemented, SG No. 19/1.03.2005, amended, SG No. 59/21.07.2006, effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended and supplemented, SG No. 92/13.11.2007 and SG No. 109/20.12.2007, effective as from 1.01.2008; SG 28/14.03.08; SG 36/4.04.02008

Article 1. This Law defines the measures against the financing of terrorism, as well as the procedure and the control with respect to the application of the said measures.

Article 2. The purposes of this Law shall be to prevent and detect actions by natural persons, legal persons, groups and organizations that are directed at financing terrorism.

Article 3. (1) The measures under this Law shall be:

1. blocking/freezing of funds, financial assets and other property;
2. prohibition to provide financial services, funds, financial assets or other property.

(2) (amend.and suppl., SG No. 19/2005*; suppl. 28/2008*) The persons who have implemented a measure under Paragraph (1) shall immediately notify the Minister of Interior, the Minister of Finance, Chairperson of the State Agency for National Security and the Criminal Assets Identification Commission.

(3) The blocking/freezing under Paragraph (1) shall have the effect of an attachment or distraint.

Article 4. (ammend. SG 28/2008) The information necessary to achieve the purposes of this Law shall be collected, processed, systematized, analyzed, stored, used and provided by the State Agency for National Security.

Article 5. (suppl. SG 28/2008) (1) Acting on a motion by the Minister of Interior, Chairperson of State Agency for National Security or the Prosecutor General, the Council of Ministers shall adopt, supplement and modify a list of the natural persons, legal persons, groups and organizations in respect whereof the measures under this Law should be applied.

(2) The following shall be included in the list referred to in Paragraph (1):

1. natural persons, legal persons, groups and organizations identified by the United Nations Security Council as associated with terrorism, or with respect to whom sanctions for terrorism have been imposed by a resolution of the United Nations Security Council;
2. persons against whom criminal proceedings have been instituted for terrorism; financing of terrorism; forming, managing or membership of an organized crime syndicate having as its purpose the practice of terrorism or the financing of terrorism; preparation to practise terrorism; manifest incitement to practising terrorism; or a threat to practise terrorism, within the meaning given by the Penal Code.

(3) Any other persons, identified by the competent authorities of another country or of the European Union, may also be included in the list referred to in Paragraph (1).

(4) The decision of the Council of Ministers under Paragraph (1) shall be promulgated immediately after the adoption thereof.

(5) The persons referred to in Paragraphs (2) and (3) can appeal against the decision of the Council of Ministers, whereby they are included in the list referred to in Paragraph (1), before the Supreme Administrative Court. Any such appeal shall not stay the execution of the law appealed against.

(6)(suppl. SG 28/2008) In case the grounds for including a person in the list have ceased to

exist, the Minister of Interior, Chairperson of the State Agency for National Security or the Prosecutor General shall, acting on his or her own initiative or at the request of the parties concerned, submit a proposal to the Council of Ministers to remove the said person from the list within 14 days after becoming aware of the grounds for removal. The decision of the Council of Ministers whereby the list is modified shall be promulgated according to the procedure established by Paragraph (4).

(7) A copy of the judgement of the Supreme Administrative Court granting an appeal under Paragraph (5) shall be transmitted to the Council of Ministers, which shall immediately introduce the required modifications. The decision of the Council of Ministers, whereby the list is modified, shall be promulgated according to the procedure established by Paragraph (4).

(8)(suppl. SG 28/2008). The investigating magistrates and the prosecutors shall immediately notify the Prosecutor General and the Chairperson of the State Agency for National Security where they institute criminal proceedings for terrorism; financing of terrorism; forming, managing or membership of an organized crime syndicate having as its purpose the practice of terrorism or the financing of terrorism; preparation to practise terrorism; manifest incitement to practising terrorism; or a threat to practise terrorism, within the meaning given by the Penal Code.

Article 6. (1) Any funds, financial assets and other property owned by persons included in the list under Article 5 herein, regardless of the fact in whose possession they are found, as well as any funds, financial assets and other property found in the possession of, or held by, persons included in the list under Article 5 herein, shall be blocked or frozen, except for the items and the rights that cannot be subject to execution.

(2) The measure under Paragraph (1) shall also be applied to any funds, financial assets and other property acquired after the promulgation of the list under Article 5 herein.

(3) The implementation of the measure under Paragraph (1) shall not prevent the accrual of interest on and the acquisition of other civil fruits from the funds, financial assets and other property blocked/frozen, and anything that is newly acquired shall also be blocked/frozen.

(4) The Minister of Finance may authorize that payments or other laws of disposition be effected with the funds, financial assets and other property blocked/frozen, when necessary for the following purposes:

1. medical treatment or other urgent humanitarian needs of the person whose property is blocked/frozen, or of a member of the family thereof;
2. payment of liabilities to the State;
3. payment of remunerations for work performed;
4. compulsory social insurance;
5. meeting current needs of the natural persons included in the list under Article 5 herein, and the members of the families thereof.

(5) The authorization under Paragraph (4) shall be issued on a case-by-case basis, upon a reasoned application by the person concerned or, regarding the payment of liabilities to the State, also on the initiative of the Minister of Finance. The Minister of Finance shall pronounce within 48 hours after receiving any such application.

(6) Any refusal of the Minister of Finance to grant an authorization under Paragraph (4) shall be appealable before the Supreme Administrative Court.

Article 7. (1) Natural and legal persons shall be prohibited from providing funds, financial assets or other property, as well as financial services, to any persons included in the list under Article 5 herein, except with an authorization issued under the terms and according to the procedure established by Article 6 herein.

(2) The prohibition under Paragraph (1) shall not apply to ordinary petty transactions intended to meet current needs of the natural person included in the list under Article 5 herein or of the members of the family thereof.

Article 8. (1) Any transactions in blocked/frozen funds, financial assets and other property of persons included in the list under Article 5 herein, as well as any transactions relating to the provision of funds, financial assets and other property to such persons, shall be prohibited.

(2) Anything given by the parties to a transaction carried out in violation of Paragraph (1) shall be forfeited to the Exchequer.

(3) An action under Paragraph (2) shall be brought by the Minister of Finance in the area where the property is located or the transaction is performed. If the place of performance of the transaction is abroad, the action shall be brought before the Sofia City Court.

(4) If the funds, financial assets or other property subject to forfeiture are no longer available, the cash equivalent shall be awarded.

(5) Third parties acting in good faith who claim independent rights to blocked/frozen funds, financial assets and other property may bring their claims within six months after the promulgation in the State Gazette of the decision of the Council of Ministers to adopt, supplement or modify the list under Article 5 herein.

Article 9. (1) (amended SG 109 of 20.12.2007) Any person, who knows that given financial operations or transactions are intended to finance terrorism, must immediately notify the Minister of Interior and the chairperson of the State Agency for National Security.

(2) (revoked SG 109 of 20.12.2007)

(3) (Amended, SG No. 31/2003, SG No. 92/2007; SG 109/2007; amend and suppl. SG 36/2008) Should suspicion arise about the financing of terrorism, the persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering must immediately notify also the Financial Intelligence Directroate of State Agency for National Security before the operation or transaction is performed, while delaying its implementation within the admissible period laid down by the legislative regulations on the relevant type of activity. In such cases, the Agency shall exercise the powers vested therein under Articles 13 and 18 of the Law on Measures against Money Laundering.

(4) (New, SG No. 92/2007; amend. SG 28/2008) In case of objective impossibility that the operation or transaction be delayed, the person under Article 3 (2) and (3) of the Law on Measures against Money Laundering must also notify and State Agency for National Security immediately after the operation or transaction is performed.

(5) (Renumbered from Paragraph 4, SG No. 92/2007) The persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering shall include in the internal rules thereof referred to in the Law on Measures against Money Laundering, criteria for the identification of suspicious operations, transactions and customers directed at financing terrorism.

(6) (Renumbered from Paragraph 5, SG No. 92/2007; amend. 28/2008) The disclosure of information under Paragraph (3) may not be restricted on considerations of classified information constituting an official, commercial or bank secret and shall entail no liability for violation of other laws.

(7) (New, SG No. 92/2007) Subject to paragraph 6, neither shall any liability ensue in cases when it is established that no criminal offence has been committed and the operations and transactions have been lawful.

(8) (New, SG No. 92/2007) The persons under Article 3 (2) and (3) of the Law on Measures against Money Laundering, the persons who supervise and represent them, and their employees, may not notify their customer or third parties about the disclosure of information under this Law, except in the cases of Article 14 (2) - (5) of the Law on Measures against Money Laundering, subject to the restrictions under Article 14 (7) thereof.

Article 9a. (New, SG No. 92/2007; amend.28/2008) (1) The supervisory bodies of the persons referred to under Article 3 (2) and (3) of the Law on Measures against Money Laundering shall inform the Minister of Interior and the State Agency for National Security if, in the course of performing their supervision activities, they find out the presence of operations or deals wherein suspicion of financing of terrorism is involved.

(2) (amend. SG/28/2008) The inspections carried out by the bodies referred to under paragraph (1) shall also include verification of whether the inspecting persons satisfy the requirements hereof. If any infringements are found out, the supervisory bodies shall inform the State Agency for National Security by sending an excerpt from the relevant part of the statement of ascertainment.

Article 10. (1) The competent authorities, which have received information in connection with the application of this Law, shall not disclose the identity of the persons who have provided any such information.

(2) The information collected under this Law may only be used for the purposes of this Law or to counter crime.

Article 11. (amend. SG 109/2007; supl. 28/2008)(1) In the cases under Article 9 (1) and (3) herein, the Minister of Interior or the Chairperson of the State Agency for National Security may issue a written order to suspend a particular operation or transaction for a period of up to three days reckoned from the day succeeding the date of issuing of the order. The Minister of Interior shall immediately notify the prosecuting magistracy and shall provide it with all relevant information.

(2) (suppl. 28/2008) In urgent cases, where this is the only opportunity to block/freeze funds, financial assets or other property of a person in respect of whom there is reason to believe that he or she prepares to commit a terrorist act, the Minister of Interior or Chairperson of the State Agency for National Security may, by a written order, block/freeze funds, financial assets or other property for a period of up to 45 working days reckoned from the day succeeding the date of issuing of the order. The Minister of Interior shall immediately notify the prosecuting magistracy and shall provide it with all relevant information.

(3) (suppl. SG 28/2008) The orders of the Minister of Interior, repstectivly of the Chairperson of the State Agency for National Security under Paragraphs (1) and (2) shall be appealable before the Supreme Administrative Court. The Supreme Administrative Court shall pronounce on any such appeal within 24 hours after its receipt. Any such appeal shall not stay the execution.

(4) The persons obliged to comply with the orders under Paragraphs (1) and (2) shall be considered notified as of the date on which they receive a transcript of the said orders.

(5) (suppl. SG 28/2008) Where a corporeal immovable is blocked, a copy of the order of the Minister of Interior under Paragraph (2) and the judgment of court under Paragraph (3) shall be transmitted to the competent recording office.

Article 12. (Amended, SG No. 19/2005) The measures under Article 3 (1) herein shall be lifted within seven days after the promulgation in the State Gazette of the decision of the Council of Ministers whereby the natural or legal persons, groups or organizations are removed from the list, unless the Criminal Assets Identification Commission presents, within the same time limit, a court ruling on extension of the said measures.

Article 13. (amend. And suppl. SG 28/2008) The Minister of Interior as well as the Chairperson of the State Agency for National Security shall exchange with the competent authorities of other countries and of international organizations information for the purpose of preventing and detecting actions by natural and legal persons directed at financing terrorism.

Article 14. (Amended, SG No. 31/2003; SG109/2007) The State Agency for National Security shall, acting on its own initiative or if requested to so, exchange information under this Law with the corresponding international bodies and with the authorities of other countries on the basis of international treaties and bilateral agreements or under conditions of reciprocity.

ADMINISTRATIVE PENALTY PROVISIONS

Article 15. (1) Any person, who commits or suffers another to commit any violation under Article 6 (1), Article 7 (1), Article 9 (1) and (3), and Article 11 (1) and (3) herein, shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 5,000, unless the act committed constitutes a criminal offence.

(2) Where a violation under Paragraph (1) is committed by a sole trader or a legal person, a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 50,000 shall be imposed.

Article 16. (1) The written statements ascertaining the commission of violations shall be drawn up by the authorities of the Ministry of Interior, and the penalty decrees shall be issued by the Minister of Interior or by officials authorized by him.

(2) The ascertainment of violations, the issuing, appeal against and the execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Law.

SUPPLEMENTARY PROVISION

§ 1. (Amended, SG No. 59/2006) "Financial services," within the meaning given by this Law, shall be: carrying out the activities under Article 2 (1) and (2) of the Credit Institutions Law; insurance, reinsurance or insurance-related services; public offering of securities and trade in securities; all forms of management of funds or properties on a professional basis; all forms of management of collective investments, management of social insurance companies and funds; provision and dissemination of financial information, processing of financial data and the respective software ensuing from providers of other financial services, as well as consulting, in termediation, accounting and other auxiliary activities related to the financial services described above.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. (Amended, SG No. 31/2003) The persons under Article 3 (2) and (3) of the Measures against Money Laundering Law shall, within four months after the entry of this Law into force, supplement the internal rules thereof under Article 16 (1) of the Measures against Money Laundering Law by adding criteria for identification of suspicious operations or transactions and customers directed at financing terrorism, and shall transmit the said regulations to the Director of the Financial Intelligence Agency for approval.

§ 3. Items 1 and 2 of § 21 of the 2003 State Budget of the Republic of Bulgaria Law (promulgated in the State Gazette No. 120 of 2002; corrected in No. 2 of 2003) are repealed.

§ 4. The implementation of this Law is entrusted to the Minister of Interior and the Minister of Finance.

The Law was passed by the 39th National Assembly on the 5th day of February 2003 and the Official Seal of the National Assembly has been affixed thereto.

Extract of the Rules on the Implementation of the Law on SANS in the part of Financial Intelligence Directorate

Art. 27. (1) Financial Intelligence Directorate shall receive, store, explore, analyze and disclose information gathered pursuant to the terms and order specified in the Law on Measures against Money Laundering (LMML), the Law on Measures against Terrorism Financing (LMTF) and the Law on the State Agency for National Security (LSANS) and observe the implementation of LMML.

(2) The Directorate is the Financial Intelligence Unit (FIU) of the Republic of Bulgaria pursuant to Art. 2, Paras 1 and 3 of the Decision of the EU Council from 17.10.2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information.

(3) The Directorate has a separate registrar's office and archive as well as a round seal on which shall be written "State Agency for National Security – Financial Intelligence Directorate".

(4) In execution of its duties the Directorate shall receive notifications pursuant to Art. 11 of LMML and Art. 9, Para 3 of LMTF.

(5) The Directorate shall establish, use, control and store its own data pool.

(6) The access of the other structural bodies of the State Agency for National Security to the data pool of the Directorate shall be defined by the Chairperson of the Agency.

(7) Financial Intelligence Directorate shall:

1. maintain registers of money laundering and terrorism financing data, a register of cash payments amounting over BGN 30 000 pursuant to Art.11a of LMML, and a register of information submitted by the Customs Agency pursuant to Art.11b of LMML;

2. Exchange information with the security and public order agencies under the terms and order established by LMML and LMTF;

3. Carry out financial intelligence analysis of cases under LMML, collect additional information under the terms and order of Art. 13 of LMML, and draw conclusion whether the initial suspicion of money laundering is confirmed;

4. Propose forwarding of cases to the Prosecutors' Office, to the public order and security agencies, or closure of cases pursuant to the conclusion under Item 3;

5. Carry out financial intelligence analysis of cases under the LMTF, collect additional information under the terms and order of Art. 13 of LMML and draw conclusion whether the initial suspicion of terrorism financing is confirmed;

6. Propose forwarding of cases to the Prosecutors' Office, to the public order and security agencies, or closure of cases pursuant to the conclusion under Item 5;

7. Participate in its capacity under Art. 1, Para 2, in the proceedings of the respective committees and organizations at the European Union and the Council of Europe, and other international governmental and non-governmental bodies and organizations responsible for the counteraction against money laundering and terrorism financing;

8. exchange information with the financial intelligence services and other states' bodies competent in that field on cases and suspicion of money laundering and terrorism financing under the terms and order established under Art.18 of the LMML and Art.14 of the LMTF;

9. Organize, supervise and be in charge of the protected EGMONT-Group website security of use and of the Internet international exchange of information;

10. Coordinate the Directorate officials' participation in workshops, seminars, instruction travels and other forms of training;

11. Assist the competent institutions in harmonizing the Bulgarian legal order in the money-laundering field with the European Union normative regulations;

12. Elaborate the legal basis on the interaction of the Agency with the financial intelligence units of other states in the field of money laundering counteraction;

13. coordinate the interaction of the Agency with other governmental agencies on matters related to free movement of capital, corruption, payoffs in international trade transactions and confiscation in relation to the implementation of the measures of counteraction against money laundering and terrorism financing;

14. Carry out inspections on the spot with persons under Art. 3, Paras 2 and 3 of the LMML on the implementation of the measures against money laundering and the measures against terrorism financing, as well as where suspicion of money laundering and terrorism financing exists;

15. Propose to the Chairperson of the Agency measures for improvement of the organization and activity of the specialized services of the persons under Art. 3, Paras 2 and 3 of the LMML;

16. Participate in joint inspections with the bodies supervising the persons under Art. 3, Paras 2 and 3 of the LMML;

17. Together with the bodies supervising the persons under Art. 3, Paras 2 and 3 of the LMML, and their professional organizations and associations, organize and carry out seminars, workshops and other forms of training in relation to the implementation of the LMML and LMTF;

18. Provide assistance to the persons under Art. 3, Paras 2 and 3 of the LMML on methodological aspects of their internal rules' elaboration under Art. 16 of the LMML;

19. Carry out current and incidental control over implementation of the duties under the LMML and the LMTF and their acts on implementation;

20. Draw up protocols of findings for LMML and LMTF infringements and prepare projects for penal decrees;

21. Present reports on committed infringements, containing infringement analysis and proposals of measures to be undertaken to obviate infringement consequences and to prevent future infringements.

(8) The Director of the Financial Intelligence Directorate shall:

1. Coordinate the interaction of the Directorate with the persons under Art. 3, Paras 2 and 3 of the LMML, the supervising bodies under Art. 3a of the LMML, the Prosecutors' Office and the respective public order and security agencies under Art. 12 of the LMML.

2. Provide the organizational link between the Directorate and the other structural units of the Agency;

3. Represent the Agency before the international organization of the financial intelligence units as well as the respective structures of the European Union and the Council of Europe;

4. Coordinate the interaction of the Directorate with the financial intelligence units and the exchange information under Art.18 of the LMML and Art.14 of the LMTF;

5. Open cases on the basis of money laundering reports submitted pursuant to the terms and order specified in LMML and entrust the task to an official;

6. Open cases on the basis of terrorism financing reports, submitted pursuant to the terms and order of the Law on Measures against Terrorism Financing (LMTF) entrust the task to an official;

7. Constitute the commission for closure and backup of cases under Items 5 and 6;

8. Close the cases under Items 5 and 6 on a conclusion of the commission under Item 7;

9. Exercise powers proceeding from the LMML, LMTF and the respective rules on implementation;

10. Prepare the Directorate's annual report of activities and submit it to the Chairperson of the State Agency for National Security.