Strasbourg, 17 March 2009

MONEYVAL(2008)30 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 the CZECH REPUBLIC[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

During the period of time between evaluation (April 2005) and the time of the discussion the Progress Report there were following significant changes in the area of combating money laundering and terrorist financing in the Czech Republic:

Year	**Significant changes in the legislation/system, important events**
2005	**Personnel Audit in the Ministry of Finance** – unfortunately the result of the audit had a negative impact for FAU – three working positions had been cancelled. In the connection to additional activities of the unit the current number of staff is the same as before audit.
	Websites on AML/CFT FAU created its websites in the framework of websites of the Ministry of Finance.
	Military Intelligence and FAU signed an Agreement on cooperation
	MoneyWeb MoneyWeb, as a system of encrypted connection for information exchange, was developed in the framework of Phare Project. FAU was connected with the relevant police service and some banks.
	Amendment to Act No. 61/1996 Coll. An amendment to Act No. 61/1996 Coll. comes into force stipulating a new FAU responsibility to inform the General Headquarters of the Customs Service and the Tax and Revenue Headquarters on facts of importance for the administration of taxes and duties.
	FAU Digital Archive Preparation and implementation of the FAU Digital Archive
	Memorandum of Understanding with the Macedonian FIU was signed.
2006	**Annual Reports of FAU** The annual report of the FAU including ML and FT typologies, statistics and methodology is regularly published on websites since 2006.
	Expansion of MoneyWeb network participants Number of further banks directly connected had been enlarged.
	Report on FAU Activity 1996 – 2006 Report on the activity of FAU describing the situation from 1 July 1996 to 31 June 2006 was elaborated.
	Act No. 69/2006 Coll. on Carrying out of International Sanctions Act No. 69/2006 Coll., stipulating Ministry of Finance (FAU) activities in implementing the Act on carrying out of international sanctions came into effect on 1 April 2006. FAU is responsible as for legislation as for national coordination of execution of international sanctions.
	Setting up the central supervision under the umbrella of the Czech National Bank The Securities Commission (supervisor on capital market), the Supervision on Pension and Investment funds of the Ministry of Finance, the Supervision on Insurance Companies of the Ministry of Finance and the Supervision on Cooperative Savings fell under the central financial supervision of the Czech National Bank of the Financial Market and Banking. (The Supervision on Lotteries, Gambling Houses and Casinos is a part of the Ministry of Finance up to date.)
	Drafting of a new amendment to Act No. 61/1996 Coll.

	The Act No. 61/1996 Coll. (AML/CFT act) was amended to be harmonised with the EU Directive No. 2005/60/ES and other EU instruments.
	Document Management System Processing of project documentation of the Document Management Systems as a part of the Transition Facility Project.
	Memorandum of Understanding with the Canadian FIU was signed.
2007	**Disestablishment of the Financial Police** So called Financial Police was disestablished as an independent police service and its employees had been taken over back to the Police Service for Combating Corruption and Financial Crime and to the Organise Crime Unit of the Czech Police.
	Drafting a new AML/CFT act The draft of the new AML/CFT (in the connection with implementation of the 3-rd EU Directive) was elaborated and discussed in the government and the parliament of the Czech Republic. On 4 December the draft act was approved by the Czech government.
2008	**New AML/CFT act - Act. No 253/2008 Coll.** On 1st September 2008 the new Czech Act No. 253/2008 Coll. on selected measures against legitimization of proceeds of crime and financing of terrorism came into effect. It implements both 2005/60/EC and 2006/70/EC Directives and others relevant European legislation as well as some FATF requirements.
	Amendment to the Criminal Code – definition of money laundering § 252a of the Criminal Code was amended since 2006 several times. One of those amendments was for example increasing of penalties.
	Document Management System Processing of project documentation of the Document Management Systems as a part of the Transition Facility Project was approved. The realization is expected in 2009.
	MoneyWeb network enlarged Currently the relevant police service and almost all banks are connected with FAU. MoneyWeb is being used for the information exchange with the law enforcement, for receiving STRs from banks (60%) and requesting additional information from banks.
	Memorandum of Understanding with the Australian FIU was signed.

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: Partially compliant	
Recommendation of the MONEYVAL Report	*- to amend Section 252a (Section 160 in the new Criminal Code) so as to cover explicitly the various elements of the international requirements (notably the conversion and transfer of property, and the acquisition and possession of property) and to use a simpler, less proof-demanding definition of ML.*
Measures taken to implement the Recommendation of the Report	Law no. 122/2008 Coll. has amended the above mentioned provision of the Criminal Code. This amendment entered into force on 1 July 2008. (see Appendix 1/Justice) With regard to the terminology used in Section 55 of the Criminal Code regulating a sentence to forfeiture of a thing or other property value, where a distinction is made between a thing or other property value acquired through a criminal offence and acquired as a reward for a criminal offence and thereby what was acquired as a result of it, in the facts stated terminology is also unified, so that there are no difficulties in interpretation. Other property value is newly defined in Section 89 paragraph 13 of the Criminal Code which came into force on 1 July 2006 (see Appendix 1/Justice) as *"property right or property other than a thing assessable by money"* (i.e. it includes, for instance, a receivable, a business share etc.). This wording ensures that the qualified facts of crimes as covered by Sections 251 to 252a of the Criminal Code include all types of money laundering as well as laundering of proceeds of crime). Qualified facts as specified in Sections 251 to 252a and Section 166 of the Criminal Code do implement all requirements of the Convention ratified as no. 33/1997 Coll. Criminalisation of Conversion and transfer of assets in order to conceal its illegal origin is included in Section 252a of the Criminal Code. Any illegal activity referring to the offence of money laundering can be subsumed under the general definition of Section 252a CC: "*anyone who conceals the origin or strives otherwise to seriously hamper or render impossible identification of the origin*". The term *"conceal the origin"* is understood very broadly in jurisprudence (see commentary on the Criminal Code, Šámal, Púry, Rizman, BECK 2003 and the article by JUDr. Púry – *Remarks on legal regulation of measures against legalisation of proceeds of crime* – in the journal Criminal Law Review No. 3/2004, pp. 74 to 80, in which it is similarly stated that the means for concealing the origin of a thing may be a variety of transfers, perhaps even bogus and repeated, failure to disclose the actual nature of the thing or other property value, its concealment, failure to disclose disposition and being in possession of a thing or other property value, failure to disclose or distorting information on ownership or other rights to a thing or other property value, investing it in a business and so on.). Due to the fact that terminology used in Section 252a of the Criminal Code, in concrete the term "conceals the origin", sufficiently implements all requirements of the Convention, there were no legislative changes regarding this section of the Criminal Code. When considering the implementation of the Convention on laundering, search,

	seizure and confiscation of the proceeds from crime ("the Strasbourg Convention") by domestic legislation, it is necessary to take into consideration also the bodies of the offence of participation in its intentional form (Sec 251 of the Criminal Code) and even in its negligent form (Sec 252 of the Criminal Code). These provisions stipulate that punishable shall be anyone who conceals, transfers to himself or to another or uses a thing gained by criminal offence committed by another person, or what has been obtained for it. These provisions enable the prosecution of acquisition; possession or use of laundered proceeds, since under the interpretation of Czech Criminal Code the "acquisition" corresponds to terms "*transfers to himself or to another*" and the "possession" is covered implicitly in "*transfers to himself*". Participation/sharing under Section 252 (paragraph 2) of the Criminal Code provides for sanction of anyone, who negligently enables another person to obscure (cover) the origin of a thing obtained by criminal activity, which exceeds the requirements of the Convention. Intentional form may be penalised by imprisonment for up to 4 years and/or to a pecuniary punishment or to forfeiture of a thing or other property value or to a ban on activity. Stricter penalties apply in relation to amount of benefit obtained. Part of conduct, that is covered by the Strasbourg Convention (conversion or transfer of property with knowledge that it is proceeds from criminal activity or of participation on criminal activity, in order to assist any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions) is covered by body of offence of patronisation under Sec 166 of the Criminal Code. This provision stipulates that anyone who assists the perpetrator of criminal offence in order to enable him to escape the prosecution, punishment or protective measure or execution thereof, is liable to imprisonment for up to 4 years or to a pecuniary punishment or to a ban on activity. However, if such person helps perpetrator that is liable to lighter sanction, this person shall be also punished by such penalty. Besides this sanction, other penalties may be imposed under conditions set by Sections 31 to 57a of the Criminal Code, such as prohibition of specific activity or forfeiture of a thing etc. Breakdown of criminalised actions into a number of facts does not cause problems in practice and is compatible with Czech criminal law tradition, which classifies the element of conduct conceived internationally as money laundering as typical participation. In these cases it is typical that the participator does not carry out specific activity to obscure the origin of a thing but only participates in disposing of the proceeds of crime (transfers it to him/herself, hides it or uses it) either with the intention of acquiring a property benefit or to help the perpetrator of the predicate criminal offence. We see no reason to change the practice established in this respect, when all types of action requested are criminalised. We do not regard terminology and systems that differ from the international agreement as a fact that would cause problems in practical procedure and cause difficulties in prosecution of money laundering. On the contrary, we regard creation of a new fact which copies the international convention system but changes established domestic procedures and interpretations as a procedure which would rather worsen practice than improve it. We are not aware that anyone has demanded from practice the unifying of these actions in one fact and has queried the present concept of the issue. Law enforcement authorities are accustomed to applying the appropriate facts. So, even though the system may appear complicated to examiners looking at it from outside, in domestic theory and practice it causes no problems. The fact that cases which were judged under Section 252a of the Criminal Code in their nature come under the heading rather of "*receiving of stolen property*"

	definitely does not follow from the fact that prosecution of money laundering is broken down into a number of facts. Rather it is due to the fact that dealing in stolen vehicles in the Czech Republic has become considerably more widespread in organised form and is one of the serious problems. In addition to this, it is a type of criminal activity which is easier to prove than sophisticated transfers of assets through a trading company etc. Furthermore, in the given cases judged it was not a question of mere transfer of stolen goods to a person him/herself but also other activity aimed at obscuring its illegal origin (dismantling into parts, re-spraying in a different colour etc). From this fact (lack of other types of case) it is not possible without further evidence to derive the conclusion that these facts do not cover all the required types of conduct or that present legal regulation prevents their prosecution (actually, even cases of sophisticated money laundering relating to securities are currently being prosecuted). Draft of the new Criminal Code which is expected to come into force on 1 January 2010 simplifies the definition of money laundering and decreases evidence requirements as requested. New definition does not contain the term "*with the aim of giving the impression that this thing or other property value was acquired in accordance with the law*" and therefore it will not be necessary to prove this intention of the perpetrator.
Recommendation of the MONEYVAL Report	*- to provide clearly for the possibility to prosecute ML where the predicate offence was committed abroad (as planned in the new Section 192), and for self-laundering.*
Measures taken to implement the Recommendation of the Report	The above mentioned amendment no. 122/2008 Coll. regulates the facts of the criminal offences of participation and legalisation of the proceeds of crime in such a way that they stipulate explicitly that money laundering can be criminally prosecuted in the Czech Republic even in cases when a predicate offence, including corruption, was committed abroad (see Annex 1/Justice). Criminality of the act is assessed under the Criminal Code of the Czech Republic (see Annex 5/Justice, Section 3 – definition of a criminal offence), so it is not necessary to examine regulation in another state where a predicate offence has been committed and to adjudge dual criminality. Draft of the new Criminal Code makes no changes to this practice. As far as self-laundering is concerned, such an activity is criminalised under Section 252a of the Criminal Code (compare different wording of Section 252a and 251 of the Criminal Code: "*a thing or other property value acquired through a criminal offence committed in the Czech Republic or abroad or as a reward for it*" compared to "*thing or other property value which was acquired through a criminal offence committed in the Czech Republic or abroad by another person or as a reward for it*"). Punishability of self-laundering has been introduced through amendment no. 134/2002 Coll. which entered into force on 1 July 2002.
Recommendation of the MONEYVAL Report	*- to make sure the ancillary offence of conspiracy covered under Section 7 on preparation apply in relation with the various elements of ML.*
Measures taken to implement the Recommendation of the Report	The provisions of Section 9 on complicity and Section 10 on participation of the Criminal Code are general provisions which are used for all criminal acts as defined in the special part of the Criminal Code, i.e. also for criminal offences involving money laundering.

	As regards preparation of a criminal offence under Section 7 of the Criminal Code, this is punishable only in cases of especially serious criminal offences as specified in Section 62 of the Criminal Code (Section 251 paragraph 3 and Section 252a paragraph 3 of the Criminal Code are included in the enumeration). In our view, neither the Strasbourg nor the Vienna Convention requires criminality of preparation of money laundering. Concerning the criminality of "counselling", this is dealt with under participation in accordance with Section 10 of the Criminal Code (see "intentional provision of assistance for the commission of a criminal offence through advice"- Appendix 5/Justice).
Recommendation of the MONEYVAL Report	*- to analyse the reasons for the apparent discrepancy between the ML phenomenon in the Czech Republic, and the type of cases concluded successfully in court for ML until now, and take further appropriate initiatives to counter this phenomenon.*
Measures taken to implement the Recommendation of the Report	As far as legislative work is concerned, it has been mentioned earlier that the draft of the new Criminal Code simplifies the definition of money laundering and decreases evidence requirements for money laundering offences. New definition does not contain the term "*with the aim of giving the impression that this thing or other property value was acquired in accordance with the law*" and therefore it will not be necessary to prove the intention of the perpetrator. This simplification might lead to increase in convictions for money laundering offences.
(Other) changes since the last evaluation	Changes introduced through amendment no. 122/2008 Coll. which entered into force on 1 July 2008: The upper limit for a prison sentence for basic facts of the criminal offences of Intentional Participation (Section 251) and Legalisation of the Proceeds of Crime (Section 252a) has been increased from two years to four years. In the most serious cases of money laundering it is possible to impose a prison sentence with an upper limit of 10 years instead of the previous maximum sentence length of 8 years. The scale of sentences which can be imposed separately for these criminal offences has also been extended (forfeiture of a thing or other property value, ban on activity). For the purpose of introducing consistency in applying penal sanctions, penalties for participation by negligence have therefore been increased and extended accordingly - for the basic fact the upper limit of a prison sentence has been increased from 6 months to 1 year, in very serious cases from 3 years to 5 years. The circumstances conditioning use of a greater length of sentence have also been extended. In the most serious cases of money laundering, conditional release from serving a prison sentence will no longer be possible after half of the sentence has been served but only after two-thirds of the sentence having been served. This regulation is incorporated in the draft new Criminal Code. In addition, circumstances allowing use of qualified bodies of offence have been broadened and supplemented (see Annex 1/Justice).

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- full CDD requirements should be introduced in the AML Act (including on-going due diligence and know-your customer, risk-based approach, consequences of incomplete CDD measures and application of CCD requirements to existing*

	customer etc.), with appropriate guidance, beyond the measures currently applicable to identification only. The Czech authorities should also consider redrafting Art. 2 Para. 10 and the exceptions contained therein as they leave room for misunderstanding and misuse for ML and FT purposes. Reference should be made to reduced CDD measures in case the country of origin applies and implements the FATF Recommendations.
Measures taken to implement the Recommendation of the Report	New Czech AML/CFT Act No. 253/2008 Coll. (Annex 2/FAU) arrange in its Section 7 Identification requirement of the customer. The obliged entity, should it be a party to a transaction exceeding EUR 1,000, shall always identify the customer prior to the transaction, unless stipulated otherwise by this Act. The obliged entity shall, without regard to the limit of EUR 1,000, always identify the customer should it concern the following: a) a suspicious transaction, b) an agreement to enter into a business relationship, c) an agreement to establish an account; an agreement to make a deposit into a deposit passbook or a deposit certificate; or an agreement to make any other type of deposit, d) an agreement to use a safety deposit box or an agreement on custody, e) a life insurance contract, should the customer have a right to pay extra premiums above the agreed limit of the one-of or regular premium payments, f) a purchase or reception of cultural heritage, items of cultural value, used goods or goods without a receipt of origin to further trade in such goods, or reception of such items in pawn, or g) withdrawal of a cancelled bearer passbook final balance. The obliged entity shall, at the latest on the day of the payment, identify the individual entitled to receive the life insurance settlement, as well. The obliged entity shall perform the first identification of a customer who is a natural person as well as any natural person acting on behalf of a customer in personal presence of the identified person. New Czech AML Act affords some exemptions in special cases (see Section 10, 11 of Act No. 253/2008 Coll.). Section 9 further provides for the application of full customer due diligence (CDD) in circumstances (a) – (d) above and where a single transaction amounts to EUR 15,000 or more. Client due diligence entails the following: a) collection of information on the purpose and intended nature of the business relationship, b) identification of the beneficial owner, should the customer be a legal person, c) collection of information necessary for ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, the business and risk profile, d) monitoring of sources of funds. The obliged entity shall perform customer due diligence in the extent necessary to determine the potential risk of legitimization of proceeds of crime and financing of terrorism depending on the type of customer, business relationship, product, or transaction. In accordance with the EU AML/CFT Third Directive Section 13 of

	the AML/CFT Act No 253/2008 Coll. provides for specific exceptions to the application of full CDD measures. Moreover, Section 15 further provides for the rejection of a transaction where CDD cannot be completed and in other circumstances. Concerning the verification of obtained data about the customer, in a transaction with a customer, who had already been identified, the obliged entity shall properly verify the identity of the acting natural person (Section 8 paragraph 5 of the Act). The obliged entity shall, when in business relationship with the customer or in further transactions, check the validity and completeness of the customer's identification data, information gathered in the course of the customer due diligence process (see Section 9), or reasons for exempting the customer from the due diligence process (see Section 13), and shall take record of any changes and modifications.
Recommendation of the MONEYVAL Report	*- inconsistencies between the banking regulations and the AML Act on the issue of CDD measures on the occasion of operations with bearer passbooks need to be solved and the identification/CDD process guaranteed no matter what the threshold is.*
Measures taken to implement the Recommendation of the Report	There is an obligation to identify customer by obliged person if withdrawal of a cancelled bearer passbook final balance should concern (see section 7, paragraph 2, letter g) of an AML Act). Bearer passbooks were canceled as an anonymous form of bank deposit by an amendment of Civil Code from 1. 1. 2001. Limitation of time on payment of cancelled bearer passbook final balance will end to on 31. 12. 2012. The obliged entity shall always identify the customer should it concern withdrawal of a cancelled bearer passbook final balance without regard to the limit of EUR 1,000.
Recommendation of the MONEYVAL Report	*- the legislation should be amended in order to require from financial institutions to identify the originator and the beneficiary of funds transfers with at least the following three data: name, address, account number[2] and require also the renewal of customer identification and verification when doubts arise about the identity of the customer or about veracity or adequacy of previously obtained customer identification data.*
Measures taken to implement the Recommendation of the Report	A bank shall ensure identification of depositors when maintaining their accounts or when accepting their deposits in any other form and shall keep identification data on its depositors in its files. "Identification data" shall mean: a) in the case of natural persons: the first name, surname, address, birth certificate number, and if not allocated, date of birth or identification number,

[2] The Czech authorities indicated after the visit that this recommendation is in principle fulfilled as in accordance with Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (valid since 1 January 2007), complete information on the payer is necessary only in cases of transfers of funds from the Community to outside the Community (Article 7). However, in case of transfers of funds within the Community such transfers shall be required to be accompanied only by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer (Article 6).

	b) in the case of legal entities: the commercial name or designation of the legal entity, its registered office and, for domestic legal entities, its identification number. The identification data shall be stated in the account contract, in the deposit book and on the certificate of deposit, deposit slip or other comparable document evidencing the acceptance of the deposit. Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds was completely adopted by the new Czech Act No. 253/2008 Coll. The Czech Republic use the exception of the Regulation (EC) No 1781/2008 when in its section 14 of the Act No. 253/2008 Coll. sais: Obligations under the directly applicable European Communities Regulation stipulating the obligation to accompany transfers of funds with information on the payer20) shall not apply to those payment services or transfers of funds which are used to make payments for goods and services provided that: a) the transaction is made in the Czech Republic, b) the payment service provider is always able to determine, via the payee, the individual payer and the reason for payment, c) the transferred sum does not exceed EUR 1,000.
Recommendation of the MONEYVAL Report	*- to require by law the identification of beneficial owners and to obtain information about the owners of all types of legal entities.*
Measures taken to implement the Recommendation of the Report	Section 8 of the AML Act contains a provision about identifying of customer. When a customer is a legal person the obliged entity shall take a record of and verify such customer's identification data from its business registration documents, identify the natural person acting in the transaction on behalf of such legal person; should the statutory body, its member, or the beneficial owner be another person, the obliged entity shall also record this person's data. Section 9 of the AML Act provides customer due diligence which covers also identification of the beneficial owner, should the customer be a legal person.
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*- to ensure the application of R. 5 also in respect of DNFBP.*
Measures taken to implement the Recommendation of the Report	Section 2 of the AML/CFT Act No 253/2008 Coll. details the type of persons and entities that, for the purposes of the Act, are considered as "obliged entities". The list includes both the financial sector entities and persons / professionals carrying out activities as defined under DNFBPs for the purposes of the FATF 40 and the EU Third Directive. Throughout its provisions the AML/CFT Act No 253/2008 Coll thereafter refers to " obliged entities" and hence the obligations imposed by the Act, including the CDD requirements, become applicable to both the financial sector entities and the persons / professions as listed. In brief, therefore, the mentioned "DNFBP" professions are obliged to provide

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

	identification (see Section 7 and 8 of the AML Act), shall properly verify the identity of the acting natural person, provide customer due diligence which covers collection of information on the purpose and intended nature of the business relationship, identification of the beneficial owner, should the customer be a legal person, collection of information necessary for ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, the business and risk profile, monitoring of sources of funds. The obliged entity shall perform customer due diligence in the extent necessary to determine the potential risk of legitimization of proceeds of crime and financing of terrorism depending on the type of customer, business relationship, product, or transaction. The new AML Act contains also special provisions relating to Auditors, Chartered Accountants, Licensed Executors and Tax Advisors (see Section 26 of AML Act), Lawyers and Public Notaries (see Section 27 of AML Act). All other obligations in respect of the AML Act remain compulsory to these types of obliged entities.
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*- CNB regulations are less specific – which could create confusions in the sector under the responsibility of the CNB, and therefore, these regulations should be made consistent with the AML Act.*
Measures taken to implement the Recommendation of the Report	The rules for implementation of anti-money laundering policy and know your customer policy for banks are specified further by the Decree No. 281/2008 Coll., on Certain Requirements for the System of Internal Principles, Procedures and Control Measures against the Legitimisation of the Proceeds of Crime and Financing of Terrorism in terms of the new AML/CFT Act No 253/2008 Coll. This decree regulates the requirements for the introduction and application of: a) procedures for checking clients and defining the scope of client checking corresponding to the risk of legitimisation of the proceeds of crime and financing of terrorism in accordance with the type of client, business relation, product or transaction, and b) methods and procedures for risk assessment, risk management, internal control and the ensuring of control over compliance with the legally defined obligations, as applied within the framework of the system of internal principles, procedures and control measures by the persons mentioned in Article 2, over which the Czech National Bank exercises supervision. The requirements laid down by this Decree shall apply to a credit or financial institution (hereinafter "institution") that is considered as an "obliged entity" under the AML/CFT Act No 253/2008 Coll.- see reply to Recommendation 5 above.

	The requirements laid down by this Decree shall also apply to a foreign legal or natural person mentioned before, which person operates in the Czech Republic through a branch, organisational component or place of business, and shall apply to such person to the extent of the activity carried on by such branch, organisational component or place of business. In the context of the system for managing risks related to the legitimisation of the proceeds of crime or financing of terrorism, the Decree further requires that institutions shall introduce and apply client acceptability rules, according to which and with regard to the client's risk profile
Recommendation of the MONEYVAL Report	*- besides identification data, the regulations should also cover explicitly account files, and business correspondence, and any other relevant information (written findings on complex and unusual large transactions etc.).*
Measures taken to implement the Recommendation of the Report	Concerning record keeping obligation, Section 16 of the AML/CFT Act No 253/2008 Coll. requires that the obliged entity shall, for the period of 10 years after having terminated its business relationship with the customer, keep record of all identification data or in keeping with the directly applicable European Communities Regulation stipulating the obligation to accompany transfers of funds with information on the payer *(Regulation (EC) No 1781/2006 of the European Parliament and the Council)*, copies of documents submitted for identification (should there be any), records of the first identification (name and date), documents justifying potential exception from identification and due diligence, and, in case of representation, the original or a certified copy of the power of attorney. The obliged entity shall, for the period of 10 years after the transaction or after having terminated its business relationship with the customer, keep record of all both data and documents on transfers requiring identification. The statutory period shall commence on the first day of the calendar year following the calendar year in which the obliged entity performed the last transaction. The obliged entity stipulated in Section 2(1j) and 2(1k) of the AML Act *(see below)* shall keep record of all data and documents for the period of at least 10 years after the transaction or after having terminated its business relationship with the customer should such transaction or relationship reach or exceed EUR 10,000; in other cases it shall keep its records for a period of 5 years. <u>Section 2, paragraph 1, letters j) and k):</u> j) a person licensed to trade in items of cultural heritage10), items of cultural value11), or to act as intermediary in such services, k) a person licensed to trade in used goods, act as intermediary in such trading, or receive used goods in pawn.
Recommendation of the MONEYVAL Report	*- to maintain the pressure on financial and other institutions to store data and documents in a computerized way that would allow to retrieve information in a timely manner.*
Measures taken to implement the Recommendation of the Report	The way of storage of data and documents is up to the obliged persons. Our FIU basically recommend to them to store data and documents in a computerized way, simply also because of big amount of papers and documents.
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*- to ensure the application of R. 10 also in respect of DNFBP.*
Measures taken to implement the Recommendation of the Report	Record keeping obligation applies also on DNFBP, since this law obligation (AML Act No. 253/2008 Coll.) applies to all obliged entities as detailed under Section 2 of the Act. There is an obligation to inform in the AML ACT. The obliged entity shall, upon request and within a given period of time, report to the Ministry all information on transactions requiring identification or transactions investigated by the Ministry together with documentation and information on persons taking part in such transactions. Should the Ministry request so, the obliged entity shall provide access to documentation on site. The DNFBP entity shall, for the period of 10 years after the transaction or after having terminated its business relationship with the customer, keep record of all data and documents on transfers requiring identification. The DNFBP entity shall, for the period of 10 years after having terminated its business relationship with the customer, keep record of all identification data, copies of documents submitted for identification (should there be any), records of the first identification (name and date), documents justifying potential exception from identification and due diligence, and, in case of representation, the original or a certified copy of the power of attorney.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*- to introduce an explicit requirement to report attempted and completed transactions.*
Measures taken to implement the Recommendation of the Report	The Section 18 of AML Act No. 253/2008 Coll. include provisions about suspicious transaction report. Should the obliged entity, in the course of its activities, disclose a suspicious transaction as defined in the Act, it shall, without undue delay and no later than 5 days after the disclosure, report such suspicious transaction to the Ministry of Finance (Financial Analytical Unit = FIU). Should circumstances require so, in particular should there be a danger of delay; the obliged entity shall submit a suspicious transaction report to the Ministry of Finance immediately after having disclosed such suspicious transaction. Section 6 of the AML/CFT Act No 253/2008 Coll. defines what constitutes a suspicious transaction. With regards to *attempted* transactions it may be pertinent to mention that under paragraph (2) of Section 6, a transaction shall always be perceived as suspicious, and hence reportable, should the customer refuse to reveal identification data of the person he is representing or to undergo the complete customer due diligence process.
(Other) changes	

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

since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[5]	
Recommendation of the MONEYVAL Report	*- to develop awareness raising measures and guidance for DNFBP and their supervisors on both their AML and CFT obligations under the AML Act and other relevant pieces of legislation.*
Measures taken to implement the Recommendation of the Report	Financial Analytical Unit (FIU) is in close cooperation with the professional chambers and associations and other bodies relevant to DNFBPs to try to raise awareness and educate them to the provisions of the AML/CFT Act No. 253/2008 Coll.
Changes since the last evaluation	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to introduce FT as a stand-alone offence that would be broad and detailed enough to better cover, besides the financing of terrorist acts, also the financing of terrorist organisations and individual terrorists. These provisions should:* *a) clearly cover the various elements required by SR.II, in particular the collection of funds by any means, directly or indirectly, and their use in full or in part for FT purposes;* *b) spell out clearly that in order to be criminally liable it is not necessary that funds were actually used to carry out terrorist acts or be linked to a specific terrorist act* *c) subject to the final introduction of corporate liability, provide for the liability of legal persons for FT.*
Measures taken to implement the Recommendation of the Report	The wording of the merit of the act as defined in Section 309 paragraph 2 of the draft of the new Criminal Code has been amended to make sure that not only financing of a concrete terrorist act is punishable, but in it current wording it makes also criminalisation of financing of terrorism punishable (see Annex 2). Section 309 of the draft states that any one who provides financial or material support to a terrorist act, terrorist or a terrorist organisation shall be punished. Section 163 of the current Criminal Code on "participation in a criminal conspiracy" offers possibility to prosecute the financing of a terrorist organisation since paragraph 3 explicitly provides for a linkage with Section 95 of the Criminal Code. Wording of the merit of the act "*whoever supports such conduct financially or otherwise*" is satisfactory. Authoritative legal literature (Šámal and others, Criminal Code – Commentary, 6th issue, C.H.Beck, 2004, page 734) explains that "*other support is similar to help under Section 10 para 1.c. It may consist of e.g. propaganda, help to establish necessary contacts or to obtain and transmit necessary information etc*." This means any support that is relevant. It includes without doubt support in form of organizing collection of funds. Explicit reference to Section 10 paragraph 1.c of the Criminal Code points out that the concept of

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

	assistance (including "*procuring of means*") applies to support under Section 95 paragraph 2 of the criminal Code as well. It should be pointed out that even basic provision of Section 10 para 1.c of the Criminal Code does not expressly cover "procuring of means by any means", as the "means" cover "funds" and "by any means" goes without saying. It is not customary in Czech law to use the wording "directly or indirectly" even if it is used in the convention to be implemented. The absence of the expression "directly or indirectly" in the relevant provision has not caused any problem. Intentions are inseparable from the subjective part of any offence and are described generally in Section 4. The two available forms of intent (Section 4) cover all required cases, whereas it is sufficient that the perpetrator is aware of the fact that his financial resources may be used for financing of terrorism. It is also not customary in Czech law to use the wording "in full or in part" even if it is used in the convention to be implemented. If the legislator wanted to limit the scope of the provision, it would be said explicitly. Since the intent may be indirect (offender provides a sum of money while not planning it usage in terrorist attack, but accepting such potential usage), it goes without saying that the intent may cover partial usage. Due to rejection of the introduction of criminal liability of legal persons into Czech legal order by the Chamber of Deputies of the Parliament of the Czech Republic, there is an overall consent that effective form of administrative liability of legal persons for terrorist financing will be introduced. In administrative level there is also a definition of financing of terrorism in Section 3 paragraph 2 of AML Act No. 253/2008 Coll. Financing of terrorism shall mean: a) gathering or providing financial or other assets with the knowledge that such assets will be, in full or in part, used to commit a crime of terror, terrorist attack, or a criminal activity intending to facilitate or support such crime, or to support an individual or a group of individuals planning such crime, or b) acting with the intention to pay an award or compensation to a person who had committed an act of terror, terrorist attack, or a crime intended to facilitate or support such crime, or to an individual close to such person as stipulated by the Criminal Code; or collecting assets to pay such award or compensation. Penalties for violation of the provision related to financing of terrorism at the administrative level extend to CZK 50 000 000 (which equals approximately to EUR 1 800 000).
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL	*- to widen the scope of the CFT reporting obligation to include "those who finance*

Report	*terrorism".*
Measures taken to implement the Recommendation of the Report	In the definition of suspicious transaction in Section 6 of Act No. 253/2008 Coll. there is that the suspicious transaction shall mean a transaction where the circumstances lead to a suspicion of financing of terrorism or any other unlawful activity. Reporting obligation is done always when there is a suspicious transaction. This means that the CFT reporting obligation include also activities of those who finances terrorism.
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
(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 2 (ML offence – mental element and corporate liability)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to increase the level of punishment for ML offences.*
Measures taken to implement the Recommendation of the Report	Through amendment no. 122/2008 Coll. the upper limit for a prison sentence for basic facts of the criminal offences of Intentional Participation (Section 251 of the Criminal Code) and Legalisation of the Proceeds of Crime (Section 252a of the criminal Code) has been increased from two years to four years. In the most serious cases of money laundering it is possible to impose a prison sentence with an upper limit of ten years instead of the previous maximum sentence length of eight years. The scope of sentences that can be imposed separately for money laundering criminal offences has also been extended from pecuniary punishment to forfeiture of a thing or other property value or to a ban on activity. For the purpose of introducing consistency in applying penal sanctions, penalties for participation by negligence have therefore been increased and extended accordingly - for the basic fact the upper limit of a prison sentence was increased from 6 months to one year, in very serious cases from three years to five years. The circumstances conditioning use of a greater length of sentence were also extended (see Annex 1/Justice). At the administrative level, penalties for violation of the provision related to legitimization of proceeds of crime or financing of terrorism extend to CZK 50 000 000 (which equals approximately to EUR 1 800 000).
Recommendation of the MONEYVAL	*- to continue the efforts aimed at introducing the liability of legal persons, including for ML.*

Report	
Measures taken to implement the Recommendation of the Report	The Czech Republic belongs to a few of European countries that have no legal regulation of the criminal liability of legal person. This situation cause that Czech Republic has some problems with international cooperation in this area and with access to some legal instruments intended for combat organized crime and terrorisms. Legal amendment to criminal liability of legal persons making possible adequate and effective sanction is a discussed problem for a long time. But there is no political will to pass a legal framework introducing criminal liability of legal persons into the Czech legal order. Draft law introducing criminal liability of legal persons cause fear of misuse of the legislation for criminal malversion and for criminal penalty of business enterprising. The bill of criminal liability of legal persons was rejected for this reasons by the Chamber of Deputies of the Parliament of the Czech Republic in the past. Resolution should be the introduction of administrative liability of legal persons for proceeding sanctioned on the basis of International Treaties or the legislation of European Community. By Resolution of the Government of the Czech Republic from January 23., 2008 No. 64., draft law should be prepared by the Ministry of Interior in cooperation with Ministry of Justice by the end of the year 2008. Due to rejection of the introduction of criminal liability of legal persons into Czech legal order by the Chamber of Deputies of the Parliament of the Czech Republic, there is an overall consent that effective form of administrative liability of legal persons for money laundering will be introduced. Draft law introducing administrative liability of legal persons will be considered by Government in a short time. We hope the bill enter into the force within the next year. At the administrative level, penalties for violation of the provision related to legitimization of proceeds of crime or financing of terrorism by the obliged entity (covers also legal persons) extend to CZK 50 000 000 (which equals approximately to EUR 1 800 000).
(Other) changes since the last evaluation	

Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- the legal framework on confiscation needs to be reviewed to ensure consistency and fill the gaps, so that confiscation applies in respect of all kind of property that has been laundered, and:* *a) of property of all kind which constitutes proceeds from, instrumentalities used in; and instrumentalities intended for use in the commission of any ML, FT or other predicate offences* *b) all kind of Property of corresponding value* *c) all kind of Property that is derived directly or indirectly from proceeds of crime; including income, profits or other benefits from the proceeds of crime, and all property referred to above, regardless of whether it is held or owned by a criminal*

	defendant or by a third part.
Measures taken to implement the Recommendation of the Report	The amendment No. 253/2006 Coll. which came into force on 1 July 2006 has eliminated gaps in the area of confiscation. To this end it has to pointed out, that for the purposes of confiscation of proceeds from, instrumentalities used in; and instrumentalities intended for use in the commission of any money laundering or terrorist financing offences, the punishment forfeiture of a thing or other property value as specified in Section 55 of the Criminal Code or a protective measure such as seizure of a thing or other property value as specified in Section 73 of the Criminal Code are used. The punishment of confiscation (forfeiture) of property as specified in Section 51 of the Criminal Code is used to confiscate the property of the offender, i.e. his legal possession. (see Annex 3) The above mentioned amendment has amended provisions of the Criminal Code and Code of Criminal Procedure on inter alia mandatory forfeiture of proceeds of crime, forfeiture of assets of equivalent value and third party forfeiture. Following changes have been introduced: 1) Punishment of forfeiture of a thing or other property value (Section 55 of the Criminal Code) The scope of the punishment has been broadened as to cover explicitly even different property value than thing (business shares, claims), that is tools, instrumentality, means for commission of criminal offence or proceeds from it (and which is susceptible to securing under Section 79e of the Code of Criminal Procedure). This provision allows forfeiting all types of proceeds from and instrumentalities used in criminal activity. This punishment is applicable in relation to thing or property value that belongs to the offender. New definition of a "thing or other property value belonging to offender" under Section 89 paragraph 13 of the Criminal Code covers not only things or other property values owned by the offender, but also things he has about himself in fact. This permits the confiscation of things and other property values that are proceeds and that have not been acquired into perpetrator's ownership. Newly, there has been introduced the obligation to impose a punishment of forfeiture of a thing or other property value in cases where the perpetrator is holding a thing or other property value, in relation to which such punishment may be imposed, without right or contrary to legal regulation, i.e. all proceeds of crimes are confiscated on obligatory basis. New paragraph 4 supplements present regulation with prohibition of transfer of ownership of forfeited thing or other property value before a judgment has entered into force, which is important for the option of the court to impose seizure of substitute value according to Section 73a of the Criminal Code when the execution of this punishment (Section 55) is frustrated. 2) Forfeiture of a substitute value (Section 56a of the Criminal Code) In relation to requirement of the Strasbourg Convention to secure and then confiscate the equivalent of proceeds of criminal activity when such proceeds themselves cannot be secured and confiscated for various reasons a new rule has been introduced in this Section. Substitute value is not limited to amount of money, but it may cover any value owned by the offender. This permits confiscation of a different thing or value than money in the belongings of the offender. According to this amendment a court is able to impose the forfeiture of substitute value up to the amount of value of frustrated (marred, wasted) thing or other property value in cases

	when the offender destroys, damages, renders unusable, consumes, transfers ownership of, or otherwise frustrates forfeiture of such a thing/value which is susceptible to be forfeited pursuant to court judgment under Section 55 of the Criminal Code. Since such thing, even if degraded or rendered without value, may be dangerous to significant extent, while still kept by the offender (such as radioactive materiel, parts of weapon or explosives), paragraph 2 of this Section permits court to impose forfeiture of substitute value besides forfeiture of such damaged, degraded or destroyed thing. According to paragraph 3 such forfeited substitute value accrues to state, and competing claims of third persons related to such property shall be processed pursuant to Section 16 of the law no. 219/2000 Coll., on the Czech Republic's property and representation in legal relations. 3) Protective measure of seizure of a thing or other property value (Section 73 of the Criminal Code) In the same way as with regard to forfeiture of a thing, the provision on seizure of a thing was to cover the option of seizure of other property value, according to requirements of international instruments, that concern the deprivation of proceeds both in form of things and other property values, irrespective whether those belong to offender or not. Current wording of paragraph 1 is supplemented by the option of seizure due to danger to society and in cases where thing or value to be seized would otherwise serve for commission of especially serious criminal offences. This expansion of its scope is drafted with regard to terrorist, drug and other especially serious criminal offences (such as child pornography), where seizure is required even if things (or other property value) do not endanger security of people or property or society, but are or may be determined to be used to commit especially serious criminal offences. The wording in paragraph 1, letter (d) has been supplemented and permits seizure of a thing or other property value, which was lawfully transferred by the offender to third person, even if obtained by criminal activity or for the proceeds of such activity. Paragraph 2 introduces an obligation for the court to seize proceeds of crime that were acquired by 3rd parties unlawfully or in contrary to special laws. Paragraph 3 limits the seizure of a thing (or other property value, if applicable due to its nature) by option of the court to order modification of a thing so as to render it unusable with regard to its purpose harmful for society, or to order removal of device or marker from such thing, or another modification or to order limitation of disposal with such thing. If relevant person complies with this order in set deadline, the court will not seize a thing (Paragraph 4). 4) Seizure of substitute value (Section 73a of the Criminal Code) New provision has been introduced under Section 73a which permits seizure of substitute value (i.e. any value belonging to relevant person, not only of monetary amount). According to this provision, the court is able to impose on person, to whom a thing or other property value subject to seizure under Section 73 belongs, a seizure of substitute value up to the amount of value of the degraded thing or other property value, if such person, before seizure under Section 73 imposes, destroys, damages, renders unusable, consumes such thing/value, transfers ownership thereto, or otherwise prevents frustrates the seizure of such thing/value. Because the offender

	would usually try to prevent the assessment of value to be seized under Section 73, it is supposed that the court would set its value on the basis of professional statement or expert opinion. As shown above, the newly imposed amendments enable confiscation, forfeiture or seizure of all property that is derived directly or indirectly from proceeds of crime; including income, profits or other benefits from the proceeds of crime, and all property referred to above, regardless of whether it is held or owned by a criminal defendant or by a third party.
Recommendation of the MONEYVAL Report	*- confiscation should be provided for as an <u>additional</u> measure to the main punishment in all ML, FT and major proceeds generating crimes and the discretionary power of the courts should be limited; ideally, confiscation in such cases should be mandatory.*
Measures taken to implement the Recommendation of the Report	Confiscation of a thing or other property value (Section 55 of the Criminal Code), same as confiscation (forfeiture) of property as specified in Section 51 of the Criminal Code, can be imposed as punishments in cases of money laundering and terrorist financing next to other imposed punishments, in accordance with Section 28 of the Criminal Code. As stated above, after the amendment no. 253/2006 Coll. entered into force, forfeiture of proceeds of crime that are in the possession of the perpetrator as well as third party, are to be compulsory forfeited (Section 55 paragraph 3 and Section 73 paragraph 2 of the Criminal Code).
Recommendation of the MONEYVAL Report	*- the provisions on confiscation of property should not be based solely on the logic of the profit-seeking offender.*
Measures taken to implement the Recommendation of the Report	As stated above, the system of seizure and confiscation of property is comprehensive and following amendment no. 253/2006 Coll. Property can be confiscated even from third parties and indirect proceeds of crime are covered as well. The confiscation provisions are no more governed by the "profit-seeking" criterion, because according to the above cited provisions of the Criminal Code it is possible to impose punishment of confiscation of a thing or other property value and the protective measure of seizure of a thing or other property value in relation to all kinds of criminal activity (see Sections 28, 55 and 73 of the Criminal Code).
Recommendation of the MONEYVAL Report	*- amendments are needed to ensure consistency between confiscation and temporary measures along the lines mentioned above, and to make sure the latter apply to all possible forms of assets including direct or indirect proceeds, real estate, financial participations and interests whatever their form etc.; (at the time of the evaluation, , there was a succession of specific Sections dealing with specific types of assets - things, bank accounts, other financial accounts, securities etc.).*
Measures taken to implement the Recommendation of the Report	The amendment no 253/2006 Coll. eliminated the alleged inconsistencies between confiscation and temporary measures. As far as seizure is concerned the changes to Criminal Code were as follows: 1) Amendment to Section 79a aims at broadening of securing of funds to cover also additions (accruals) to funds in account in case that such accruals are covered by the purpose of securing – i.e. suspicion exists that these are proceeds or are used or determined to be used in commission of criminal activity. Before this amendment legislation posed problems as only the amount actually existing in the account could be secured. If addition occurs in the account, it was necessary to repeat securing in

	order to cover these newly accrued funds. Apart from that, it is practical to cover, similarly to civil law regulation, the interest from secured amount. Therefore after amendment it is possible to order the limit of securing higher than actual amount, and that possible additions, not exceeding said limit, fall automatically into the secured amount. 2) New provisions of Section 79d (seizure of immovable thing) and 79e (secure of other property value) react to deficiency of prior legislation. Apart from some exceptions it was not possible to secure immovable(s) and other property values (business shares, claims) obtained in relation to criminal activity that could not be secured under Section 78 to Section 79c. Other property value means property right or other value appreciable (assessable) by money, that is not a thing, such as claim or business share. In addition, new special mechanism of securing substitute value has been introduced. Such value might be secured if securing concrete tool or proceeds from criminal activity is not possible. Substitute value may be secured only in relation to person that would be obliged to tolerate securing the original value. Such person may be, under some circumstances, different from the perpetrator. The essence of securing immovable(s) or other property value is the prohibition of disposition with such thing or property value for the duration of securing; during this period a legal act (step) infringing such prohibition is not effective. To prevent transfer of ownership of secured immovable(s) or property value on the basis of simulated claims allegedly concluded and mature before the time of decision to secure property, preceding consent of court (or of public prosecutor in preparatory proceedings) is required for any disposition with secured immovable property or property value, with the exception of claims on behalf of state, as there is no such danger. The above mentioned amendment of the Criminal Code ensures, that all types of property which might be instrumentalities used in the commission of any predicate offences, things derived from criminal activity, remuneration for criminal activity or anything acquired as proceeds of the criminal activity can be secured and confiscated, regardless of whether it is held or owned by a criminal defendant or by a third party.
Recommendation of the MONEYVAL Report	*- Sections 347 and 348 on temporary measures may need to be amended so as to enable the application of temporary measures without prior notification of the suspect.*
Measures taken to implement the Recommendation of the Report	Movables are in principle seized during search according to Sections 78 and 79 of the Code of Criminal Procedure prior to decision on seizure according to Section 347 of the Code of Criminal Procedure. The decision on seizure according to Section 347 of the Code of Criminal Procedure in principle concerns mainly other types of property, such as real estates, shares etc., where the perpetrator would need more time to be able to transfer these values to third parties or otherwise to frustrate seizure. Even if he would have done so, such behaviour would violate the prohibition of disposition with ones property as stated in the seizure order issued by the court and therefore any such disposition would be void. Law enforcement bodies would then successfully claim nullity of any such transfer. Interference as firm as seizure of all property obviously is, cannot be decided on any other basis than court order/resolution. Besides that, Section 2 of Law no. 279/2003 Coll., on execution of seizure in

	criminal matters, states that the court renders all necessary actions to ensure execution of such decision even before such a decision becomes effective.
Recommendation of the MONEYVAL Report	*- the broad applicability of temporary and final measures should be introduced also in respect of assets held by legal persons.*
Measures taken to implement the Recommendation of the Report	After the amendment no. 253/2006 Coll. came into force, it is possible to confiscate or seize all types of property also from legal persons which might constitute proceeds of crime or that is derived directly or indirectly from proceeds of crime. Such a procedure would follow the wording of Section 73 paragraph 1 letter c) and d), and Section 73a of the Criminal Code.
Recommendation of the MONEYVAL Report	*- the Czech authorities should consider enhancing the protection of rights of bona fide third parties, and introducing the reversal of the burden of proof post-conviction for confiscation purposes.*
Measures taken to implement the Recommendation of the Report	In cases where it is obvious, that the confiscated or seized thing or other property value is in possession of third party, it might be exempted from confiscation or seizure on the basis of successful protest against the seizure order/confiscation resolution. In complicated cases claimant has to prove his claim at civil proceeding, because criminal courts have no jurisdiction over ownership rights. As far as the reversal of the burden of proof is concerned, it was considered during the preparation of the draft of the new Criminal Code. However it has been assessed as ineffective since under Czech circumstances and practical experience the perpetrators are nulla bona and if they have any property, they transfer it to third parties and do show no possession. The new Criminal Code therefore addresses the effectiveness of siphoning off proceeds of crimes from third parties and increasing the pecuniary punishment.
(Other) changes since the last evaluation	

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to recognize PEPs under the AML Act with specific enhanced customer due diligence requirements; obliged entities also need guidance – and possibly sector specific criteria – in this field.*
Measures taken to implement the Recommendation of the Report	The definition of Politically Exposed Persons (PEPs)is in Section 4 paragraph 5 of AML Act. PEPs are defined in accordance with the provisions of the EU Third Directive as regards a natural person in occupying a prominent public position and with nation-wide responsibilities, including close relations as defined. Concerning customer due diligence and the measures taken by obliged entity to monitor sources of funds of PEPs and the potential risk, Section 9 of Act No. 253/2008 Coll. contains relevant provisions. The obliged entity shall, prior to a transaction with a politically exposed person, and as part of the business relationship, perform customer due diligence. The customer shall submit to the obliged entity any information and documents necessary for the due diligence. The obliged entity may, for the purpose of the AML Act, take copies or make excerpts from any of the above and process such information to enforce this Act.

	The new AML/CFT Act No 253/2008 Coll recognizes specific enhanced measures in the case of transactions, including identification, concerning PEPs. Moreover, although the new AML Act (253/2008 Coll.) put also some possibilities to use some strictly defined exceptions of the obligation of identification and customer due diligence. But no exception shall be applied with a customer, who is a politically exposed person (see Section 13, paragraph 4). The obliged entity shall refuse a transaction for a politically exposed person when the origin of assets used in the transaction are unknown. And there is also an obligation that no employee of the obliged entity shall make a transaction for a politically exposed person without consent of his direct supervisor or the statutory body of such obliged entity (see Section 15, paragraph 2 and 3 of Act No. 253/2008 Coll.)
(Other) changes since the last evaluation	

Recommendation 8 (New technologies & non face-to-face business)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- threats from developing technologies and non-face-to-face business relationships is addressed to some extent in the banking sector only. Therefore, the implementation of the requirements of FATF Recommendation 8 needs to be reconsidered so as to apply to a larger number of obliged entities.*
Measures taken to implement the Recommendation of the Report	When opening new account, each new client must be identified face to face way according to Section 7 paragraph 2 letter c) in connection with Section 8 paragraph 1. The obliged entity shall always identify the customer should it concern an agreement to enter into a business relationship. AML/CFT Act No. 253/2008 Coll, in recognizing remote agreements on financial services under the Civil Code, provides for additional measures to be taken to further consolidate the identification process in non-face-to-face business relationships – see for example Section 11, paragraph 4.
(Other) changes since the last evaluation	

Recommendation 11 (Unusual transactions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to expand the obligation of R.11, beyond the banking sector, to all financial institutions and other obliged entities.*
Measures taken to implement the Recommendation of the Report	Although the AML/CFT Act No 253/2008 Coll. does not specifically and directly address Recommendation 11 in its entirety, yet the requirements thereof are inferred through other provisions of the Act. In defining what constitutes a suspicious transaction, Section 6 item (d) of the AML/CFT Law refers to transactions that obviously make no economic sense. Relevance to the requirements of Recommendations 11 can also be inferred from Section 6 paragraph (2) which establishes three instances where a transaction is perceived as suspicious, and in

	particular the first two instances, namely (i) transaction comes from a country against which the Czech Republic had imposed sanctions, (ii) the goods or services covered in the transaction fall within a category that has been sanctioned by the Czech Republic. In practice, therefore, in order to determine whether or not a transaction is suspicious, and hence reportable, an obliged entity must examine the circumstances of the transaction, including as defined above. Thereafter, Section 16 of the AML/CFT Act No 253/2008 Coll provides for the retention of the relevant records.
(Other) changes since the last evaluation	

Recommendation 12 (DNFBP)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to ensure the application of R. 5 to R.11 and R17 also in respect of DNFBP.*
Measures taken to implement the Recommendation of the Report	As already indicated in the reply to Recommendation 5, Section 2 of the AMC/CFT Act No 253/2008 Coll. details the type of persons and entities that, for the purposes of the Act, are considered as "obliged entities". The list includes both the financial sector entities and persons / professionals carrying out activities as defined under DNFBPs for the purposes of the FATF 40 and the EU Third Directive. Throughout its provisions the AML/CFT Act No 253/2008 Coll thereafter refers to " obliged entities" and hence the obligations imposed by the Act, including requirements under FATF Recommendations 5 – 11 and Recommendation 17, become applicable to both the financial sector entities and the persons / professions as listed. Indeed Section 2 paragraph 1 letter c) – k) of AML Act give a definition of the DNFBPs. The key principles of identification of customers and customer due diligence and for record keeping apply also for all DNFBP. Some of them (Auditors, Chartered Accountants, Licensed Executors and Tax Advisors, Lawyers and Public Notaries) have special position – they have their own professional chambers or associations. In brief therefore the mentioned professions (DNFBPs) have almost the same obligation as credit or financial institutions. The AML Act contains a special part for Auditors, Chartered Accountants, Licensed Executors and Tax Advisors, and for Lawyers and Public Notaries, but these do not detract from the general applicability of the obligations under the law.
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance & audit)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to include in the AML Act a requirement to develop appropriate compliance management arrangements; the reporting officer should become a compliance officer with broader responsibilities, appointed at managerial level (the CNB Provision N°1 will need to be amended accordingly).*

Measures taken to implement the Recommendation of the Report	In the new AML Act No. 253/2008 Coll. there is a part about other obligations of obliged entities among them there is covered internal procedures, contact person, staff training. Each of bank in the Czech Republic has its compliance department separate from trade department. Under the Section 22 the obliged entity shall appoint one of its employees to report under Section 18 *(STR)* and to maintain regular contacts with the Ministry of Finance (Financial Analytical Unit = FIU), unless decided to entrust such responsibilities on its statutory body. This person is called Contact person. The Ministry shall be, with no undue delay, notified of such appointment and informed of the name, surname, position, and telephone number and email address of the appointee. No credit or financial institution shall appoint a member of its statutory body as a contact person unless it was necessary with regards to its size, management structure, or number of employees. No credit or financial institution shall appoint as a contact person a member of staff responsible for performing or settlement of its transactions or an employee participating in the performance of internal audit. The obliged entities which decide not to entrust the contact responsibilities on its statutory bodies shall provide for a direct contact in between the appointed contact person on one side and its statutory and supervisory bodies on the other. The obliged entity shall establish and enforce adequate and appropriate procedures of internal control and communication (*internal procedure,* see Section 21 of AML Act). The internal procedure shall include among others logistical and HR measures to defer the customer order and to comply, in a statutory period, with all obligations under Section 24 *(obligation to inform),* a description of additional measures to help efficient management of risk of legitimization of proceeds and financing of terrorism and also rules and procedures regulating the performance of persons offering services or products on behalf of or on the account of the obliged entity, etc. The Czech authorities have issued an implementing regulation determining requirements for implementing and enforcing internal procedures by selected obliged entities regulated by the Czech National Bank - Decree No. 281/2008 Coll. on certain requirements for the system of internal principles, procedures and control measures against the legitimisation of the proceeds of crime and financing of terrorism. The obliged entity shall organize, at least once in 12 calendar months, training of all members of its staff who may, in the course of their professional obligations, come in contact with suspicious transactions. All appointees to such positions shall be trained prior to taking their appointment. The obliged entity shall provide the training to all its contractors who may, in the course of their activities, come in contact with suspicious transactions. The training shall concentrate on types and features of suspicious transactions and steps taken in detecting such transactions. The obliged entity shall regularly update such training. The obliged entity shall keep record of participants and training agenda for a period of at least 5 years.
Recommendation of the MONEYVAL Report	*- to include in the AML Act an audit requirement for AML/CFT arrangements and the screening of employees.*
Measures taken to implement the Recommendation of the Report	Screening of employees is contained in the system of internal rules of that private entity. Obliged entity has to arrange in its internal procedure also adequate and relevant methods and procedures to assess and manage risks and perform internal

	controls and supervision of compliance with the AML Act. As regards an audit function, further to the general internal audit function requirements, particularly as required for the financial sector, Section 21 paragraph (2) of the AML/CFT Act No 253/2008 Coll requires obliged entities to have in place written internal procedures, policies and compliance checks to ensure the effective fulfillment of their obligations under the law. Moreover, Decree No. 281/2008 Coll.on certain requirements for the system of internal principles, procedures and control measures against the legitimisation of the proceeds of crime and financing of terrorism, issued pursuant to Article 56 of Act No. 253/2008 Coll., the Czech National Bank stipulates the following: (1) As part of their internal control activities institutions shall, at least once a year, draw up a report assessing the institution's activity in the field of preventing the legitimisation of the proceeds of crime and financing of terrorism (hereinafter "assessment report"), in which they shall assess whether a) the procedures and measures applied by the institution in the field of prevention of the legitimisation of the proceeds of crime and financing of terrorism are sufficiently effective; b) the institution's system of internal principles, procedures and control measures was found to contain shortcomings in the previous period, and what risks this might create for the institution. (2) The branch, organisational component or place of business of an institution shall also draw up assessment reports. (3) In the assessment report institutions shall give statistical data regarding notifications of suspicious transactions for the previous period. Institutions shall break down such data according to their organisational structure or business activities. (4) If shortcomings are identified in the field of the prevention of legitimisation of the proceeds of crime and financing of terrorism, institutions shall include in the assessment report proposals for the elimination of such shortcomings. (5) If the institution has a statutory body, the institution's statutory body shall discuss the assessment report; if the institution has a supervisory board or control commission (hereinafter ("supervisory body"), the supervisory body shall also discuss the assessment report. In the case of the branch, organisational component or place of business of an institution pursuant to Article 2 (2), the assessment report shall be submitted to the head of such branch, organisational component or place of business. (6) Institutions shall store assessment reports for a period of 5 years.
Recommendation of the MONEYVAL Report	*- AML and CFT need to be addressed more specifically in the various requirements of internal AML/CFT arrangements.*
Measures taken to implement the Recommendation of the Report	In terms of Section 21 of the AML/CFT Act No 253/2008 Coll, certain obliged entities have to establish and enforce adequate and appropriate procedures of internal control and communication and some of them have to deliver this procedures in writing to Financial Analytical Unit of Ministry of Finance. Since the

	Act governs both AML and CFT issues and obligations, hence the requirements on internal procedures, policies and control now specifically address both AML and CFT. The Czech authorities have issued an implementing regulation determining, in keeping with Article (5c) and (5d), requirements for implementing and enforcing internal procedures by selected obliged entities regulated by the Czech National Bank (Decree No. 281/2008 Coll. on certain requirements for the system of internal principles, procedures and control measures against the legitimisation of the proceeds of crime and financing of terrorism). The statutory body of system of the credit or financial institution shall approve the system of internal rules of the institution. Ministry of Finance, Financial Analytical Unit, controls written internal procedures from credit and financial institutions; these institutions have to send internal procedures to the FIU.
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to develop awareness raising measures and guidance for DNFBP and their supervisors on both their AML and CFT obligations under the AML Act and other relevant pieces of legislation.*
Measures taken to implement the Recommendation of the Report	FAU regularly informs chambers and associations on AML/CFT act amendments, responds to their questions and provides interpretation of relevant legislation and organises trainings for DNFBP. DNFBP have, as other reporting entities, the possibility to get some knowledge on new trends on the websites of the Ministry of Finance. FAU also provides regular trainings for the large scale of obliged persons, including DNFBP.
(Other) changes since the last evaluation	

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to provide for sanctions imposable on obliged entities' managers and employees.*
Measures taken to implement the Recommendation of the Report	There is a part about administrative offences in Act No. 253/2008 Coll. Extent of fines is between CZK 200 000,- up to CZK 50 000 000,- (which equals to approximately EUR 7,000 up to EUR 1,800.000) or forfeiture of property. Administrative offences are provided in Sections 43 to 51 of AML Act No. 253/2008 Coll.
Recommendation of the MONEYVAL	*- to consider again introducing a criminal offence for non reporting.*

Report	
Measures taken to implement the Recommendation of the Report	Prosecution for failure to notify a suspicious transaction is possible, following the Euro-amendment no. 134/2002 Coll., as part of the criminal offence of legalisation of the proceeds of crime under Section 252a which refers to *"or who enables another to commit such criminal offence"*. According to commentary on this criminal offence (for example Commentary on the Criminal Code, Šámal, Púry, Rizman, 5th edition, BECK 2003) "*enabling*" consists in practice particularly in intentional failure to fulfil some obligation imposed on the person by AML Act, for example the identification obligation, the obligation to maintain the same data or the notification obligation, and also other obligations under this Act. The amendment no. 122/2008 Coll. filled in punishment of the failure to prevent the offence of participation, Section 251 paragraph 3 and 4, and legalisation of the proceeds of crime, Section 252a paragraph 4 and 5 of the Criminal Code. (see Annex 1/Justice)
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- the implementation of R.21 should be re-examined.*
Measures taken to implement the Recommendation of the Report	The Czech Republic accepts recommendations and suggestions of one of the working group of European Commission on the prevention of money laundering and terrorist financing. This information we put on web site of our Unit. Section 6 paragraph 1, letter h) of AML Act No. 253/2008 Coll. provides as one of a type of suspicious transaction if the customer or the beneficial owner who are nationals of a country which does not enforce, or fails to fully enforce, measures to combat legitimization of proceeds from crime and financing of terrorism. In paragraph 2 of this section there is that a transaction shall always be perceived as suspicious, should a) the customer or the beneficial owner be a person against whom the Czech Republic had imposed international sanctions under the Act on international sanctions, b) the goods or services dealt in the transaction fall in the category against which the Czech Republic had imposed international sanctions under the Act on international sanctions. Also the exemptions may be used only in business with foreign credit or financial institutions operating in the territory of a country imposing and enforcing anti money laundering and financing of terrorism measures comparable to those imposed by the European Communities acquis and supervised to that respect. Section 25 of AML Act No. 253/2008 Coll. provide also a special provision relating to credit and financial institutions. A credit institution shall not enter a corresponding bank relationship with a foreign credit or similar institution (hereinafter a "Correspondent Institution") a) which is incorporated in the commercial or similar register in a country where it does not have a

	physical presence and its management is not physically located in that country, and which is not affiliated to any regulated financial group; b) which is known for allowing the use of its account by an institution referred to in point a) above, or c) which does not apply measures against legitimization of proceeds of crime and financing of terrorism of the standard that is at the least required by the laws of the European Communities, and if it had already entered such a relationship, it must terminate it in the shortest practicable period. Prior to entering into a corresponding bank relationship with a Correspondent Institution, the credit institution shall a) accumulate sufficient information about the Correspondent Institution and about the nature of its operations; b) use the public sources of information to establish the quality of supervision overseeing the Correspondent Institution; c) evaluate measures applied by the Correspondent Institution against legitimization of proceeds of crime and financing of terrorism. A statutory body of the credit institution or the director of the branch of the foreign credit institution with operations on the territory of the Czech Republic shall consent to the establishment of the corresponding bank relationship. A credit and financial institution shall, in its branches and subsidiaries which it has a controlling interest in, located in countries that are not members of the European Union or the European Economic Area, apply the practice of customer due diligence and data retention in the scope that is at the least required by the laws of the European Communities[1)]. To this end, it shall provide them with relevant information of the practice and procedures to be applied. If the laws of the country do not allow for the application of the same practice as in the other countries, the institution shall inform the Ministry; in such a case, the obliged entity shall adopt appropriate supplementary measures to effectively mitigate the risk of exploitation for the legitimization of proceeds of crime or financing of terrorism, and to prevent the transfer of these risks to the territory of the Czech Republic and other member states of the European Union or the European Economic Area. Rights and obligations which are laid down herein and are binding on the institution are also binding on the Czech National Bank in its process of maintaining accounts and providing other banking services.
(Other) changes since the last evaluation	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to consider implementing the requirements of Rec. 22 to make sure all branches of Czech financial institutions operating abroad are subject to AML/CFT requirements.*
Measures taken to implement the	Section 25, paragraph 4 of Act No. 253/2008 Coll. contains following:

Recommendation of the Report	A credit and financial institution shall, in its branches and subsidiaries which it has a controlling interest in, located in countries that are not members of the European Union or the European Economic Area, apply the practice of customer due diligence and data retention in the scope that is at the least required by the laws of the European Communities. To this end, it shall provide them with relevant information of the practice and procedures to be applied. If the laws of the country do not allow for the application of the same practice as in the other countries, the institution shall inform the Ministry; in such a case, the obliged entity shall adopt appropriate supplementary measures to effectively mitigate the risk of exploitation for the legitimization of proceeds of crime or financing of terrorism, and to prevent the transfer of these risks to the territory of the Czech Republic and other member states of the European Union or the European Economic Area.
(Other) changes since the last evaluation	

Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to enlarge the scope of supervision for the entire financial sector beyond the mere existence of internal rules and their content, and to check whether the rules are applied in practice and how reporting officers – who need to become compliance officers – comply with their own duties. Supervisors should be stricter as regards information/file storage systems.*
Measures taken to implement the Recommendation of the Report	The Ministry of Finance (Financial Analytical Unit) shall be the supervisory authority performing the administrative supervision of the compliance with obligations set out in the AML Act on the part of the obliged entities; the FAU at the same time controls whether obliged entities do not legitimize the proceeds of crime and finance terrorism. The following institutions also supervise the compliance with obligations set out in this Act: - the Czech National Bank in respect of persons subject to its supervision, - administrative authorities with powers to supervise the compliance with the legislation regulating lotteries and other similar games, and in respect of holders of licenses to operate betting games - the Czech Trade Inspection in respect of persons subject to its supervision. The FAU shall provide information about its own activities, in the scope necessary for the performance of state control or supervision to the other supervisory authorities. At its request, the other supervisory authorities shall provide to the FAU their opinions or any other co-operation as per the request. Based on a written motion from the FAU, the relevant professional chamber and association shall be obliged to inspect the compliance with the obligations imposed by the AML Act on a lawyer, public notary, auditor, licensed executor or a tax advisor, and notify the FAU of the result within the deadline specified by it. Ministry of Finance, Financial Analytical Unit, controls written internal procedures from credit and financial institutions; these institutions have to send internal procedures to the FIU. After this control pass the result to the Czech

	National Bank.
Recommendation of the MONEYVAL Report	*- to ensure targeted AML and also CFT controls take place in future for all financial sectors (including awareness of and training on CFT issues, efforts to detect FT-related assets, awareness of international lists etc.), and also apply to the agents (not just the licence holder) where the business is exposed to higher risks.*
Measures taken to implement the Recommendation of the Report	FAU has signed agreements on cooperation with the supervision on banks, on the securities market, on the insurance companies, on pension and investment funds (that are currently under the umbrella of the Czech National Bank) to intensify and improve their supervisory and control activities in the field of combating money laundering and financing of terrorism. The right to inspect reporting entities from the point of view of AML/CFT act was delegated by FAU to the relevant supervisors.
Recommendation of the MONEYVAL Report	*- to ensure the staff responsible for the supervision of the securities markets are more involved and trained in AML/CFT issues and aware of their responsibilities and duties.*
Measures taken to implement the Recommendation of the Report	The staff of the supervision of the securities markets is being regularly trained as in the framework internal trainings of the supervision so in the framework of trainings organised by FAU.
Recommendation of the MONEYVAL Report	*- to review urgently the legal and supervisory framework applicable to foreign exchange activities and to take remedial actions to stop the illegal foreign exchange business. Licensing and supervision should be under the responsibility of a single authority.*
Measures taken to implement the Recommendation of the Report	There is the only authority in the Czech Republic (the Czech National Bank) that is authorized for licensing and supervision of all foreign exchange businesses. The legislation on licensing and supervising foreign exchange activities is newly stipulated by the Act No. 254/2008 Coll. This law has changed also some other relevant acts in connection with new AML Act No. 253/2008 Coll.
Recommendation of the MONEYVAL Report	*- to ensure a consistent approach in the field of market entry conditions (checking the origin of funds including in case of increase in capital, checking the background of licence applicants and holders on the basis of fit and proper criteria) and ensure a clear policy that licenses cannot be/are not delivered until the supervisor has satisfied himself that all conditions are met.*
Measures taken to implement the Recommendation of the Report	According to official information of the Czech National Bank regarding the assessment of the competence, trustworthiness and experience of persons nominated for executive managerial positions in banks and foreign bank branches. The Czech National Bank (hereinafter referred to as the "CNB") assesses, with regard to Article 4(3)(d) of Act No. 21/1992 Coll., on Banks, as amended (hereinafter referred to as the "Act on Banks"), the competence, trustworthiness and experience of persons who, on basis of a contract of employment or other contract, are nominated for executive managerial positions in a bank with which are associated the powers and responsibilities laid down in the Articles of Association (hereinafter referred to as "bank officers"), or who, with regard to Article 5(4)(c) of the Act on Banks, are nominated for executive managerial positions in a branch of a foreign bank. The CNB also assesses the competence, trustworthiness and experience of persons newly nominated as officers of an existing bank or as executive managers of an existing branch of a foreign bank (hereinafter referred to as the "branch"), with regard to Article 16(2)(b) of the Act on Banks, which requires banks to notify the CNB of proposed personnel changes in a statutory body of the bank and in the

	positions of the bank's officers, including the submission of documents necessary for evaluating their competence, trustworthiness and experience. For the purposes of this Official Information, persons nominated as bank officers and as executive managers of a branch (hereinafter referred to as "proposed officers") mean, in the case of a bank, the members of its board of directors, or, in the case of a branch, its manager. In all circumstances the Act on Banks and other financial services legislation provides instances where the CNB would deem or otherwise nominated persons as being competent, trustworthy or experienced. In order to give this matter its due importance the CNB applies consistently robust assessment principles, with established criteria for assessing competency, trustworthiness and experience. A committee has been established at the CNB for assessing proposed officers. This committee is an advisory body to the Executive Director of the Banking Supervision Department. It consists of five members, all of whom are members of staff of the CNB. On the basis of its assessment of the relevant documents submitted by applicants, the Committee may decide to interview or otherwise the nominated officer. Having come to a decision, the Committee follows the laid procedures to notify the submitter and the proposed person accordingly.
Recommendation of the MONEYVAL Report	*- to examine the allegations of the existence of a developed under-ground banking activity (possibly "loan-sharks") and informal money transfer business and to take the necessary remedial measures.*
Measures taken to implement the Recommendation of the Report	The Czech National Bank (hereinafter „CNB"), acting in the capacity of supervisory authority in the field of banking sector - if the legal entities use the term "bank" without any license to act as a bank under Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions. - According to the Article 26 paragraph 9 of the Act on Banks, the CNB may impose a fine up to CZK 50.000.000 (EUR 1.800.000) on persons who fail to comply with the provisions of Article 3 of the Act on Banks. Given the above mentioned fact, regardless of the character of business activities, the CNB hereby requires to cease immediately to use the term "bank" in its business name when performing its business activities within the territory of the Czech Republic. - The information on this Notice and the information on the suspicious of performance of unlicensed activities in the territory of the Czech Republic is simultaneously communicated to the Financial Services Authority as the supervisory authority in the country where the institution carrying out such activity has its registered office. Unlicensed entities are not under the supervision of the Czech National Bank. Those illicit entities are investigated according to the criminal law by the law enforcement agencies.
(Other) changes since the last evaluation	**Note: There are concentrated these supervisors under the umbrella of the Czech National Bank: Supervision on Banks, Supervision on Capital Market, Supervision on Investment and Pension Funds, Supervision on Insurance Companies.**

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to strengthen the regulatory framework and supervision over DNFBP exposed to risks of being used for ML/FT purposes (e.g. casinos, gambling in general, accountants).*
Measures taken to implement the Recommendation of the Report	All of DNFBP are supervising either by their professional chambers or by official authority. Section 35 of Act No. 253/2008 Coll. contains provisions on performance of administrative supervision. The FAU shall be the supervisory authority performing the administrative supervision of the compliance with obligations set out in this Act on the part of the obliged entities; the FAU at the same time controls whether obliged entities do not legitimize the proceeds of crime and finance terrorism. The following institutions also supervise the compliance with obligations set out in this Act: a) the Czech National Bank in respect of persons subject to its supervision, b) administrative authorities with powers to supervise the compliance with the legislation regulating lotteries and other similar games, and in respect of holders of licenses to operate betting games listed in Section 2(1c), c) the Czech Trade Inspection in respect of persons subject to its supervision. The FAU also exercises control of the compliance with obligations according to the directly applicable instrument of the European Communities, which stipulates the obligation to attach the payer's details to any money transfer transaction; the Czech National Bank shall exercise control of the compliance with obligations under the same instrument in respect of persons subject to its supervision. The FAU shall provide information about its own activities, in the scope necessary for the performance of state control or supervision to the other supervisory authorities. At its request, the other supervisory authorities shall provide to the FAU their opinions or any other co-operation as per the request. If the supervisory authority as above mentioned a) to c) finds facts that may be related to the legitimization of proceeds of crime and financing of terrorism, it shall immediately inform the FAU of these findings and provide it with all information in the scope as per Section 18(2) *(STR)*.
Recommendation of the MONEYVAL Report	*- to review the legal framework applicable to the gambling sector to avoid loopholes that could be used by criminals, and to consider extending the scope of the AML Act – beyond casinos – to a broader range of gambling entities to ensure consistent coverage of the sector of games.*
Measures taken to implement the Recommendation of the Report	Concerning casinos – there is a special arrangement (in Act No. 202/1990 Coll. about lottery and other similar games) of identification of customers; all visitors of casino have to show their identity card by the entrance to casino. All casinos have register of their customers. Range of data and their keeping is in accord with AML/CFT Act. The supervisor body for gambling sector which also supervise the compliance with obligations set out in AML/CFT Act is administrative authority with powers to supervise the compliance with the legislation regulating lotteries and other similar games, and in respect of holders of licenses to operate betting games listed in

	Section 2, paragraph 1, letter c) - a holder of a license to operate betting games in casinos in keeping with the Act on lotteries and other similar games.
(Other) changes since the last evaluation	

Recommendation 25 (Guidelines and Feedback)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to ensure targeted AML and also CFT controls take place in future for all financial sectors (including awareness of and training on CFT issues, efforts to detect FT-related assets, awareness of international lists etc.), and also apply to the agents (not just the licence holder) where the business is exposed to higher risks.*
Measures taken to implement the Recommendation of the Report	FAU has signed agreements on cooperation with all relevant supervisors to intensify and improve their supervisory and control activities in the field of combating money laundering and financing of terrorism. The right to inspect reporting entities from the point of view of AML/CFT act – which now covers both AML and CFT issues - was delegated by FAU to all relevant supervisors. Reporting entities have the possibility to get some knowledge on their obligations and new trends on the websites of the Ministry of Finance. FAU also provides regular trainings for the large scale of obliged persons. According to the AML/CFT Act the suspicion of terrorist financing is also the reason for submitting STR : ***"For the purposes of this Act, suspicious transaction shall mean a transaction the circumstances of which lead to a suspicion of legitimisation of proceeds of crime or financing of terrorism or any other unlawful activity."*** This created a framework for the use of existing structures concerned with combat against money laundering for detection and seizure of assets intended for financing of terrorism. The Financial Analytical Unit distributes lists of individuals suspected of financing terrorist activities issued by the UN Security Council Sanctions Committee and closely cooperates with the Embassy of the United States of America. It is also taking part in the Anti-Terrorism National Action Plan coordinated by the Ministry of Interior. Combat against financing of terrorism should result in a system of international sanctions. The Financial Analytical Unit is the coordinator of these activities for the Czech Republic.

As a signatory to the UN Charter[6] and its Article 25, the Czech Republic is obliged to comply with international sanctions prescribed by a resolution or a decision of the Security Council of the UN, in which the Security Council, in keeping with the provisions of Article 41 of the UN Charter, calls on the member states to implement non-military measures for the purpose of sustaining or renewing international peace and security.

Upon joining the EU, the Czech Republic bound itself to implement and enforce EU legislation, including provisions guiding the application of international sanctions adopted to maintain or restore international peace and security, protect human rights and combat terrorism. Most sanctions are adopted, as part of the common EU foreign and security policy, as immediately binding EU legislation (regulations or decisions) which supersedes the domestic law of the member states. The EU uses such instruments either individually or in combination with UN resolutions guiding sanctions against Iraq, Sudan, Liberia, Burma/Myanmar, Ivory Coast, etc., or against particular persons or organisations, such as Usama bin Laden, Al-Qaeda, the Taliban or, lately, representatives of Belarus. Each and every person present in the territory of the EU shall comply with the rules and prohibitions set out by the above sanctions. Violations by member states may be sanctioned and the fines can be high.

In the course of pre-accession negotiations, the FAU was named the "responsible authority" in charge of the application of financial sanctions for violations of EU sanctions in the Czech Republic. Other types of sanctions are imposed by the Ministry of Trade and Industry (e.g. those involving military materials and special technologies) or the Ministry of Interior (visa-related sanctions).

The FAU accepted the above responsibilities at a time when the domestic rules guiding the implementation of international sanctions were formal and useless (Acts No. 48 and 98 of 2000). The authorities therefore first made a political decision to make the FAU, on top of its original powers, a central public authority responsible for the domestic coordination of sanctions. The FAU subsequently composed a draft bill to become Act No. 69/2006 Coll., on Implementation of International Sanctions (in force as of 1 April 2006).

The above Act guides the following:

- immediate measures to identify, detect and seize any financial and other resources at the disposal of the sanctioned subject or used or intended to be used to commit acts of terrorism ("sanctioned assets");
- power to issue a government decision to impose UN Security Council sanctions should the EU bodies not adopt a separate binding EU regulation to impose such sanctions;
- management and handling of sanctioned assets should the sanctioned subject not be able to provide sufficient guarantees that the assets remain intact or should it fail, for any reason, to manage such assets;

[6] See Regulation No. 30/1947 Coll., of 16 January 1947, on the UN Charter and the status of the International Court of Justice agreed on 26 July 1945 at the UN Conference on establishing an international institution (San Francisco).

	• decisions concerning the seized assets, termination of seizure, handling of complaints originating thereof and applications for potential compensation for damages; • power to supervise the implementation of sanctions (other public administrative bodies also perform supervision of sanctions in line with their particular responsibilities); • power to make decisions concerning exceptions in the use of assets under sanction; • cooperation with other public administrative bodies, including the power to delegate tasks and responsibilities in relation to sanctions; • means and measures of coercion and related implementation procedures, also vis-à-vis the immediately binding EU legal acts. The implementing regulations, Nos. 281 and 282/2006 Coll., guide the elements of reporting duty and service IDs for the FAU staff (common for activities in the field of the legitimisation of proceeds of crime , terrorist financing and international sanctions). Together with the above regulations, the authorities adopted Act No. 70/2006 Coll., which amends certain laws in response to adoption of the Act on Implementation of International Sanctions. It is primarily devoted to the coordination of FAU activities in the fields of the legitimisation of proceeds of crime, terrorist financing and international sanctions. It also guides the criminal liability of persons for serious intentional violations of international sanctions and introduces a new crime, *violation of international sanctions* (Para. 171d of the Criminal Code). It clearly shows that the Czech Republic recognises the importance of and upholds its responsibilities regarding international sanctions. The FAU has handled several cases of sanctioned assets. In two cases — based, respectively, on EU Council Resolution No. 1210/2003, on selected restrictions of economic and cultural relations with Iraq, and UN Security Council Resolution No. 1483 (2003), it was decided to transfer seized assets to the Iraq Development Fund account.
Recommendation of the MONEYVAL Report	*- to ensure the staff responsible for the supervision of the securities markets are more involved and trained in AML/CFT issues and aware of their responsibilities and duties.*
Measures taken to implement the Recommendation of the Report	Following transition, supervision of the Czech Republic's financial market was undertaken by four separate regulatory bodies. The Czech National Bank (CNB) performed banking supervision, while three other authorities (referred to as the non-bank supervisors) oversaw the securities market and non-bank financial institutions. The first of these non-bank supervisors was the Czech Securities Commission, acting as a securities regulator. The second was the Office of State Supervision of Insurance Companies and Private Pension Schemes, a department of the Ministry of Finance responsible for supervising the insurance and pension fund industry. The third was the Office for Supervision of Credit Unions, which supervised the credit union sector. On 1 April 2006 the responsibilities of the three non-bank supervisors were transferred to the CNB as financial supervision in the country moved from a traditional approach to an integrated model. The CNB became the unified supervisor

and regulator of the Czech financial market.

Act No. 57/2006 Coll., on the amendment of acts in connection with the integration of financial market supervision (hereinafter the "Act on the integration of financial market supervision" or the "Act"), creates the legal basis for transferring supervision to the CNB. This law, which entered into force on 1 April 2006, is a large and complex piece of legislation. The Act contains 20 parts and 52 articles. Its complexity can be demonstrated by the fact that it amends 33 other laws, among them:

- Act No. 6/1993 Coll., on the Czech National Bank
- Act No. 21/1992 Coll., on banks
- Act No. 363/1999 Coll., on insurance and on the amendment of some related acts (Insurance Act)
- Act No. 37/2004 Coll., on insurance contracts and on the amendment of related acts (Insurance Contract Act)
- Act No. 38/2004 Coll., on insurance intermediaries and independent loss adjusters and on the amendment of the Trade Licensing Act (Act on Insurance Intermediaries and Loss Adjusters)
- Act No. 190/2004 Coll., on bonds
- Act No. 591/1992 Coll., on securities (Securities Act)
- Act No. 15/1998 Coll., on the Securities Commission
- Act No. 256/2004 Coll., on business activities on the capital
- market (Capital Market Undertakings Act)
- Act No. 87/1995 Coll., on credit unions
- Act No. 377/2005 Coll., on supplementary supervision of banks, credit unions, electronic money institutions, insurance corporations and investment firms in financial conglomerates and on the amendment of certain other acts (Financial Conglomerates Act)
- Act No. 513/1991 Coll., on the Commercial Code
- Act No. 61/1996 Coll., on some measures against money laundering and on the amendment of related acts.

The Act assigns the supervisory powers of the former nonbank supervisors to the CNB. It explicitly provides that on the effective date, the non-bank supervisors will be dissolved and their statutory competences passed to the CNB. At the same time, the Act ensures continuity of financial supervision, stating that from the effective date the CNB shall substitute for any other supervisor in any proceedings to which it was a party and which commenced prior to the effective date. To meet the requirements of the ESCB, the Act expressly provides that the state will meet any financial obligations incurred by the CNB as a result of the CNB substituting for any of the other supervisors in any proceedings to which the latter was a party on the effective date. The state will also meet any financial obligations incurred by the CNB in any proceedings which commenced after the effective date but which relate to the activities of the other supervisor under the then existing legal regulations. The Act deals with the assets of the non-bank supervisors. It sets forth that on the effective date any right to manage state-owned property which is necessary to carry out supervisory functions (apart from real estate) and was previously held by the non-bank supervisors shall cease to exist and this property (and obligations relating to that property) shall pass to the CNB. The details of these property transfers are set in an agreement between the CNB and the Ministry of Finance.

The Act creates preconditions for transferring human resources and know-how to the CNB. It stipulates that the employees of the Czech Securities Commission and

	the employees of the Office of State Supervision of Insurance Companies and Private Pension Schemes shall, on the effective date, become employees of the CNB. However, there is no specific reference to employees being transferred from the Office for Supervision of Credit Unions. As credit unions are regulated in a similar fashion as other credit institutions, the supervisory and regulation activity in this case is very similar to banking supervision and so only four of the former 20+ employees of this Office transferred to the CNB. In line with internationally acknowledged principles for financial supervision, the Act gives the CNB the power to create and amend regulatory rules in the field of the securities market and in the field of collective investment, the insurance and pension fund industries and the credit unions sector. The CNB has had regulatory powers in the area of banking supervision since its establishment in 1993. In addition, the Act on the Czech National Bank specifically entrusts the CNB with powers in the area of financial stability, in addition to its supervisory responsibilities. With the Ministry of Finance, the CNB has concluded an agreement on the preparation of legislation in the financial market and other areas of common interest. The agreement determines the division of labor and cooperation in the area of financial regulation. Responsibility for preparing primary legislation in the financial market is delegated to the Ministry of Finance, while the CNB is authorised to issue secondary legislation. This is a significant change from the previous situation, where banking legislation was drafted by the CNB. The CNB will continue to participate in the preparation of primary legislation by providing expert assistance to the Ministry of Finance. Conversely, drafts of secondary legislation for all sectors of the financial market will be prepared by the CNB with the expert assistance of the Ministry of Finance. This new arrangement is in line with most other European countries and will create a reasonable balance of power. It will also preserve the authority of the CNB to issue regulatory rules, an important prerequisite for the effective conduct of supervision. The Act significantly enhances the accountability of the CNB in its capacity as unified regulator, without challenging the CNB's independence. The Act amends the Act on the Czech National Bank in such a way that it requests the CNB to submit a financial stability report to the Chamber of Deputies (the lower house of parliament) at least once a year. At the same time, the amendment ensures feedback from the government and market participants through a newly established "Committee for the Financial Market" (CFM). The role of the CFM is to act as an expert consultative body to the CNB Board on the financial market and on the strategy and longer-term outlook for financial market supervision. The CFM comprises seven expert members: three members (including the Chairman and Vice-Chairman) are elected by the budget committee of the Chamber of Deputies; suitable candidates are proposed to the committee by professional associations and self-regulatory Bodies two members are drawn from the Ministry of Finance and appointed and dismissed by the Minister of Finance the two remaining members comprise one member of the CNB Board and one of the Financial Arbiter. CFM members are required to exercise their functions independently and they are not remunerated. The CFM will be a purely consultative body whose main tasks will be to issue opinions and recommendations to the CNB Board. In no circumstances will the CFM be able to directly or indirectly determine the Board's decision making. Legislative work revealed that a more precise definition of the CNB's statutory

	goals in the area of financial supervision was desirable. The statutory goals of banking supervision on the one hand and of non-bank supervisors on the other hand differed considerably with respect to consumer protection issues. The transfer of the powers of non-bank supervision to the CNB internalised these differences by converting them into statutory goals of the CNB. Hence, new arrangements concerning consumer protection on the financial market are to be put in place in 2008, together with an appropriate re-definition of the above-mentioned goals.
Recommendation of the MONEYVAL Report	*- to issue further guidance documents on both AML and CFT, including for financial supervisory staff.*
Measures taken to implement the Recommendation of the Report	The FAU has developed a fruitful cooperation with supervisory bodies which are, in keeping with Act No. 61, empowered to supervise compliance of subjects under their jurisdiction with the money-laundering legislation. With some of them, the FAU has signed agreements on cooperation to intensify and improve their supervisory and control activities in the field of combating money laundering and financing of terrorism. The main partners are the Czech National Bank supervisory body, supervising Czech banks and branches of foreign banks operating in the Czech Republic; the Securities Commission (until 1 April 2006), which supervised the capital market; the Office for Supervision of Cooperative Savings Banks (until 1 April 2006); the Ministry of Finance Office of Public Supervision of Insurance Companies and Pension Insurance (until 1 April 2006); the Ministry of Finance Office of Public Supervision of Betting Games and Lotteries and the Ministry of Finance Office of the Financial Market and Banking (until 1 April 2006). On 1 April 2006, the Securities Commission, the Office for Supervision of Cooperative Savings Banks and the Ministry of Finance Office of Public Supervision of Insurance Companies and Pension Insurance fell under the central financial supervision of the Czech National Bank and the Ministry of Finance Office of the Financial Market and Banking. The FAU has also cooperated with professional associations and chambers stipulated by Act No. 61, primarily the Security Commission of the Banking Association. The FAU has provided professional associations and chambers with support, guidance, seminars and consultations. FAU has established an informal working group called the Clearing House, organising ad hoc meetings of representatives of relevant bodies and institutions. The primary reason for establishing this group was to streamline anti-money-laundering activities and their output for foreign counterparts (especially the EC and the Moneyval Committee of the Council of Europe) and to provide for an information-exchange platform to cater to all government agencies and other public bodies. Clearing House members are the ministries of Finance, Interior, Justice and Foreign Affairs, the Supreme Office of Prosecution, the Czech National Bank, the Securities Commission (until 1 April 2006) and the Banking Association.
Recommendation of the MONEYVAL Report	*- to provide appropriate feedback to financial institutions and other obliged entities besides general information and statistics on cases to be published in future in the*

	FAU's annual report.
Measures taken to implement the Recommendation of the Report	Financial Analytical Unit: FAU provides reporting entities with feedback: - in everyday contact with MLRO of reporting entities - by requests for additional information - in the annual reports that are published on the Ministry of Finance websites The Financial Analytical Unit is currently electronically connected with almost all banks and with the police service. The consequence is that almost 90% of STRs are received in electronic form and the communication between FAU and banks and between FAU and police is carried out via encrypted electronic system. Feedback from the Police to FAU: Under section 158 (2) of the Penal Procedural Code, the state attorney and police agency are obliged to receive the complaints of the circumstances suggesting that a criminal offence has been committed. They are obliged to inform at the same time the person lodging the complaint of his/her responsibility for any knowingly alleged untrue information and if required, to let the subject lodging the complaint know of the measures taken up within one month following the complaint. According to this provision, in case that FAU lodges a criminal complaint based on STR with the police, competent police body is obliged to inform FAU within one month, which measures have been taken and if a criminal investigation has been opened. The Czech National Bank In the framework for public and for the relevant financial institutions the Czech National Bank: publishes on its websites information on relevant legislation, information on adopted measures, the information on illicit financial activities in the Czech capital market, etc. According to the Agreement between the Czech National bank and the Financial Analytical Unit the Supervision of the Czech National Bank regularly provides appropriate feedback to the Analytical Division of the Financial Analytical Unit. (The relevant/sensitive information on the actual situation in the capital market are being provided directly to the Minister of Finance and to the Czech Government.)
(Other) changes since the last evaluation	

Recommendation 31 National cooperation	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to introduce a regular coordination body involving all the relevant parties, that would be able to set common objectives, to address the various critical AML/CFT situations and to trigger both policy-level and operational initiatives. One of the first tasks should be to elaborate a picture of the ML phenomena and sectors*

	affected and to propose rapid measures to address the causes.
Measures taken to implement the Recommendation of the Report	FAU has established an informal working group called the Clearing House, organising ad hoc meetings of representatives of relevant bodies and institutions. The primary reason for establishing this group was to streamline anti-money-laundering activities and their output for foreign counterparts (especially the EC and Moneyval Committee of the Council of Europe) and to provide for an information-exchange platform to cater to all government agencies and other public bodies. Clearing House members are the ministries of Finance, Interior, Justice and Foreign Affairs, the Supreme Office of Prosecution, the Czech National Bank, the Securities Commission (until 1 April 2006) and the Banking Association. In the framework of international sanctions FAU has established another informal interagency body, where the relevant legislation and operational issues are being discussed.
Recommendation of the MONEYVAL Report	*- it is recommended to carry out periodic assessments of AML measures similar to those used on terrorism and terrorist financing purposes.*
Measures taken to implement the Recommendation of the Report	The Czech FAU participates in the framework of the National Action Plan on Combating Terrorism that is conducted by the Ministry of Interior.
(Other) changes since the last evaluation	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to review the procedures applicable to the registry of commercial entities and the registration procedure, to increase the reliability and updating of information entered. This should include incentives to keep the registry up-to-date and measures to ensure a higher level of professional integrity of the courts' staff in charge of the registers.*
Measures taken to implement the Recommendation of the Report	The Czech Republic has adopted the EU Directives into the national legislation and has established the electronic Commercial Register. All this was made possible by the amendment of the Commercial Code, Laws No. 216/2005 Coll. and No. 79/2006 Coll. and the Regulation No. 562/2006 Coll., which have significantly changed the procedure at the Commercial Register. These amendments of the Commercial Code and the Code of Civil Procedure brought about significant changes. In the course of time it is possible to say that the changes are definitely positive and make for both, accelerating the register procedure and for transparency of the data entered into the register. The Czech legislators pay more and more attention to the subject of Anti Money laundering and want to create a stable legal environment in this field. First of all, the above mentioned amendments brought about the changes in computerization of the Commercial Register (in effect since 1 January 2007). It is possible to submit an electronic version of application to a court with the certified electronic signature, the Commercial register court issues a copy of an entry into the register as a printed hardcopy or in an electronic version. It is compulsory to use a

	form to submit a petition for entering some new facts or their changes. The amendments have removed the obstacles which occurred during the procedure and changed the structure of participants of the procedure. What is also significant is the introduction of 5-workday period within which a court has to issue a decision about a petition – it means, if the application is incomplete, to ask petitioner for providing some supplementary facts within a given period, or to decide about the petition. This period is 15 days for special cases, e.g. company conversion. If a court fails to decide within the given period then the legal fiction comes in force which means that all the facts contained in a petition will be entered into the register even though they do not meet the requirements of law. The reviewing role of courts is also quite clearly stipulated by the amendments. This role is limited when the facts in a petition are based on a notarial deed or on a declaratory facts record. Such facts can be directly entered into the register without a court decision. This legal regulation caused some difficulties in legal practice because there were entered some facts which did not have the required legal elements but were based on notarial deeds. The situation has cleared up and nowadays the established practice of the courts infers that it is necessary to review a notarial deed if it is in accordance with the law, and if it is not the court has to dismiss the petition. Although the amendments have introduced partly registering principle into the procedure at the Commercial Register, the reviewing role of courts has been preserved at a considerable level. In the past courts worked without fixed periods given by the law and the procedure took long time. This situation created an environment for corruption as entrepreneurs could make an attempt to shorten the procedure. The introduction of statutory period is a very positive and anti-corruption measure. The Commercial Register Court keeps a Collection of documents for every legal person. The entrepreneurs who do not submit required documents may pay a fine up to CZK 20,000. Based on the Regulation of Ministry of Justice No. 562/2006 Coll. since 1 January 2007 collection of documents has been kept in electronic form, and the documents submitted to this collection are available on the Internet on www.justice.cz. This legal regulation is a part of harmonization of the Czech commercial law with European legislation and it is an important contribution to anti money-laundering programme. The protection of third person is significantly improved by easily accessible information on the Internet and by the powers of court to sanction entrepreneurs who fail to observe statutory duties. The Section 38i of the amended Commercial Code stipulates which documents have to be enclosed into collection of documents. The full versions of these documents are accessible on the Internet. This amendment is an important and quite extra-ordinary measure to make business companies and their property transparent. The entrepreneurs shall take an action before the Commercial Registry Court with any changes in company status, structure of ownership, otherwise they should be punished. The law mandatory stipulates which information is entered into the commercial register – Section 35 of the Commercial Code and provisions for particular type of a business company. Further documents are: - Dissolution of a legal person including the reason - Entry of the legal person into the liquidation - Completion of the liquidation

	- Liquidator's entry - Adjudication of bankruptcy - Order to execute a judgement - Contract for the sale of business - Compulsory administration of property Hence to the number of facts that can be easily found out from the register, business activities are more transparent and the protection of thirds persons is more efficient. The big advantage of the Czech commercial register in comparison with some other countries is the extensiveness and its easy accessibility for public. Each action taken before the Commercial Register Court shall be supplied with certified signature, including power of attorney. Therefore, unlike in the past, it is impossible for other person but the entrepreneur to submit a petition to the Commercial Register and have false facts entered into the register. The power of a court to open the procedure without a petition, it means to start proceedings ex officio has strengthened significantly when it is necessary to harmonize the entry in the Commercial Register with the reality. This process can be applied in a case of dissolution of a company, too. It is also very important that the Czech Penal Code considers the breaching of entrepreneurs duty to the Commercial registry to be a criminal offence (section 125 of the Criminal Code - distortion of information about property management). It is definitely possible to say that during the last two years the quality of procedure at the Commercial Register has been significantly improved and accelerated, the reviewing power of a court has been preserved at a necessary level and has been given legal rules. We can rule out the possibility of forming a business company without proper documents. Professional staffs with specialized judicial education or judicial officers are commissioned to deal with the cases at the Commercial register, judges decide in complicated cases or in appeals against decisions of judicial officers. The position of a judicial officer with specialized judicial education has improved the personnel situation, the procedure of the court staff education has been changed a lot, since September 2008 has been opened a special legal education for judicial staff at a Law faculty. The conditions for public announcement of a call of general meeting have also changed. A joint stock company with bearer stock has to mandatory publish a call of general meeting in Commercial Journal, an accounts balance has to be published as well.
Recommendation of the MONEYVAL Report	*- to take appropriate measures to ensure that bearer transferable shares are not misused for AML/CFT purposes.*
Measures taken to implement the Recommendation of the Report	This is a question concerning regulation of stock market. However share dealing is a part of the capital market and investment services can be provided only by registered brokers as specified in Law no. 256/2004 Coll., on entrepreneurship on capital market. This regulation is quite strict and respects corresponding EU directives. Strict rules on who can become a broker and how to conduct businesses on capital markets prevents misusing of bearer transferable shares for money laundering and

	terrorist financing.
(Other) changes since the last evaluation	

Recommendation 35 (Conventions) and Special Recommendation I (ratification and Implementation of UN instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to ratify and implement the Palermo Convention and the UN terrorist financing[7] Convention as soon as possible.*
Measures taken to implement the Recommendation of the Report	The UN terrorist financing convention is currently being implemented. It came into force for the Czech Republic in 2006. CoE convention from 1990 entered into force for the Czech Republic in 1997. The Warsaw convention from 2005 hasn't been signed yet.
(Other) changes since the last evaluation	

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to proceed with the improvements needed and already identified in the NAP and the Analysis of the Legal Powers of the Intelligence Services and the Police of the Czech Republic, that are needful to complete their tasks in the fight against International Terrorism.*
Measures taken to implement the Recommendation of the Report	The Czech Republic continues to reinforce its security cooperation with states which successfully counter terrorism in an attempt to learn from their experience. Representatives of the Czech Republic are actively participating in the formulation of anti-terrorism measures which are being created at several EU levels: within the EU Council working groups and the Council of Ministers and the European Council. The updated version of **The National Action Plan to Combat Terrorism** for the years 2007-2008 was approved by a government decree on 11th February, 2008. In connection with this, an evaluation of the fulfilment of the former National Action Plan was carried out. Most of the tasks have been completed in accordance with their formulation and within their set deadlines, some tasks are of the nature to be performed on a continuous basis (long-term, according to need). In some cases, the implementation of the National Action Plan has resulted in the emergence of subsequent duties in connection with the relevant national or international developments. Some other tasks, even of a key strategic nature, have not been completed, however. This specifically concerns tasks in the area of amelioration of communication and cooperation between those subjects that are invested in the fight against terrorism, and amelioration of the working conditions of these subjects (chapters 4 and 5 of the document). This entire complicated issue necessitated not only inter-ministerial concurrence, but also a wide political accord, which had not been reached in sufficient measure within the assigned time scheme. Other complications with

[7] The Czech Republic ratified the Convention on 27 December 2005; it entered into force on 26 January 2006

	completing specific tasks were caused by insufficient financial resources, or rather, the limits imposed on the number of new workers hired, although these workers were necessary for the completion of the presumed steps. These problems were partially managed with the help of a compromise solution, in accordance with the material possibilities of the respective responsible entities. Therefore, the only possible way forward was to upgrade and reintegrate these tasks into the forthcoming update of The National Action Plan to Combat Terrorism. The most important decision consisted in not treating key aspects of the anti-terrorism agenda only in the case of an imminent threat or the eruption of a specific incident. Measures for the fight against terrorism are considered as an interconnected complex of steps, dedicated to key aspects of the issue. The updated National Action Plan to Combat Terrorism thus focuses on the following areas: - ameliorating communication and cooperation between subjects invested in the fight against terrorism and ameliorating the working conditions of these subjects, - protecting citizens, critical infrastructure and the environment, - preventing the rise of closed immigrant enclaves and the radicalisation of their members - a relevant foreign policy of the Czech Republic in the domain of fighting terrorism Likewise, the action plan focuses on those measures that really concern the fight against terrorism. Although a number of steps, aimed at dissuading terrorism, have a positive effect on other areas (the fight against organised crime, including trafficking in drugs, weapons and human beings, the fight against corruption and serious economic crimes...) it has been decided to exclude from the text of the National Action Plan those areas that only marginally adhere to the fight against terrorism. Emphasis is put on the balance between the specific areas with which the National Action Plan to Combat Terrorism deals (especially where the balance between "preventive" and "repressive" aspects of the issue are concerned). The Czech security institutions have to realise their responsibility not only for protecting the public from terrorism, but also for the importance of protecting the privacy of all the inhabitants of the state. The totality of the anti-terrorism measures have to be carefully studies from the point of view of their effect on the area of fundamental human rights and freedoms. For this reason also, the National Action Plan to Combat Terrorism was the subject of public discussion as part of its comment proceedings. The conclusions highlighted in the document "Analysis of the Legal Powers of the Intelligence Services and the Police of the Czech Republic, that are Needful to Complete Their Tasks in the Fight against International Terrorism", which was taken into account by the governmental decree of 15th June 2005, have become a major basis for the preparation of the proposal for a new law on the Police of the Czech Republic and other concerned laws.
Recommendation of the MONEYVAL Report	*- to address together with the European partners the gaps in the EU regulations.*
Measures taken to implement the Recommendation of	Financial Analytical Unit is also responsible in the Czech Republic for national coordination of international sanctions. Officials from this Unit participate on meetings of one of the working group of Council of European Union – Sanctions

the Report	RELEX. Its mandate is to provide a methodology and best practices for apply international sanctions.
Recommendation of the MONEYVAL Report	*- to complete the work for the adoption of a general domestic law on the implementation of international sanctions that would address all those gaps, or at least those that cannot be filled at EU level.*
Measures taken to implement the Recommendation of the Report	From 1st April 2006 the Czech Republic has Act No. 69/2006 Coll. on carrying out of international sanctions. In May 2008 was published Government regulation No. 210/2008 Coll. on carrying out of special measures against terrorism – it forbid financial support to European terrorists and their groups.
Recommendation of the MONEYVAL Report	*- to adopt guidance and information initiatives for the industry and the public on CFT issues and the reporting/freezing duty.*
Measures taken to implement the Recommendation of the Report	Financial Analytical Unit is in close cooperation with professional chambers of industry and other relevant sector. Also it announces some basic and important information on its web site or through public relations of Ministry of Finance.
Recommendation of the MONEYVAL Report	*- to carry out an analysis of the effectiveness of the reporting/freezing duty.*
Measures taken to implement the Recommendation of the Report	Czech Republic has till this day only few cases on the problematic of carrying out of international sanctions.
Recommendation of the MONEYVAL Report	*- to amend the AML Law to broaden the reporting duty to all assets held by persons listed, and not just funds involved in transactions, and to ensure the applicability of dissuasive sanctions also in case of non-reporting of such assets.*
Measures taken to implement the Recommendation of the Report	One of the type of suspicious transaction in the new AML/CFT Act (see Section 6, paragraph 2, letters a) and b)) is_that transaction shall always be perceived as suspicious, should a) the customer or the beneficial owner be a person against whom the Czech Republic had imposed international sanctions under the Act on international sanctions b) the goods or services dealt in the transaction fall in the category against which the Czech Republic had imposed international sanctions under the Act on international sanctions. Should the suspicious transaction report also concern assets which are subject to international sanctions declared with the purpose of maintaining or restoring international peace and security, the obliged entity shall notify the authorities of such facts in the suspicious transaction report. The suspicious transaction report shall include a short description of the given assets, information on its location and owner, should he be known to the disclosing entity, together with information on whether there is an immediate risk of damage (see Section 18 paragraph 5 of AML Act).
(Other) changes since the last evaluation	

Recommendation SR VI (AML requirements for money/value transfer services)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to review the situation of MVT agents and the Czech post to make sure there is no over-reliance on the supervision over and information provided by the licence holder.*
Measures taken to implement the Recommendation of the Report	The Czech post and MVT agents are obliged entities (see Section 2, paragraph 1, letter b), point 11): - a person licensed to provide or broker payment services, including money services, or postal services intended to transfer money. Act No. 254/2008 Coll. which was done for change in other Acts in connection with new AML/CFT Act amended among others also an Act No. 124/2002 Coll. on system of payment. There is a new license for MVT agents. (Currently it is prepared in the Czech Republic a new Act on system of payment due to the implementation of directive 2007/64/EC in Czech Republic.)
Recommendation of the MONEYVAL Report	*- the Czech Authorities may wish to consider placing the licensing and supervision of the financial services offered by the Czech Post under the competence of the Czech National Bank for the sake of consistency.*
Measures taken to implement the Recommendation of the Report	There is a special provision relating to the operation of money remittance services in Section 29 of AML Act. Activities whose purpose is to deliver a remittance of money based on a postal contract and under conditions laid down in the Postal Services Law, shall be performed only by a person authorized by the Ministry (FAU). The authorization shall be issued on request of the person who is seeking to perform this activity. The Ministry (FAU) shall issue the authorization on the condition that the applicant, the person who is the partner, statutory body, member of the statutory body of the applicant, the person who will managed the business of the applicant and the actual business owner are persons with integrity. A person with integrity (for the purpose of AML Act) shall be a person who has not been lawfully convicted of a crime committed a) with intent, or b) due to negligence, and the fact of the crime relate to the nature of the business, unless the person shall be deemed as not having been lawfully convicted. For a natural person with permanently or otherwise domiciled a) on the territory of the Czech Republic, the integrity is verified on the basis of an extract from the Criminal Register, which shall not be older than 1 month; this provision shall not apply if the Ministry is able to procure the extract under some other legal regulation; b) outside the territory of the Czech Republic and for a person who, in the period of the last 5 years stayed without an interruption outside the territory of the Czech Republic for a minimum of 6 months, on the basis of a document approximate to an extract from the Criminal Register issued by the competent authority of the country of permanent or other domicile of this person, or by countries where the person had stayed for a minimum of 6 months during the last 5 years; unless the

	country of permanent or other domicile of the person is not the same as the country where the person is a citizen, a document issued by the country where the person is a citizen shall also be required. Interim provision in section 57, paragraph 2 says: A person who, on the day of this Act coming into effect, performs activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money, may continue to perform these activities without an authorization as per Section 29 *(Special Provision Relating to the Operation of Money Remittance Services)* for a maximum period of 6 months after this Act becomes effective.
Recommendation of the MONEYVAL Report	*- the alleged presence of informal remittance activities in the Czech Republic needs to be better assessed.*
Measures taken to implement the Recommendation of the Report	We have no concrete cases of these activities. If we would have some indications about it we will start immediately cooperation with Czech National Bank and Police.
(Other) changes since the last evaluation	

Recommendation SR VIII (Non-profit organisations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to carry out a review of the possible misuses of NPOs for criminal/ML/FT purposes, and as a result to examine the needs for a more consistent legal framework and centralized information, currently available through 3 or 4 different databases.*
Measures taken to implement the Recommendation of the Report	The first analyse of misuses of NPOs for criminal purposes was carry out in the 2006 (available in Czech language on: http://nfvv.vitaova.cz/uploads/media/Material_MV_01.rtf). The results of this analyse should prepare the base for the next discuss and cooperation with NPOs members about the need for certification and advance the transparency of NPOs activities. But it turns out to be a very sensitive problem, because the members of NPOs were suspicious of the effort of Ministry of Interior. They were afraid, that measures, prepared by the Ministry of Interior, means inadequate intervention into their activities and excessive control over NPOs. As both-sided acceptable resolution was chosen the decision that the analyse and other related processes will be solved thenceforward in cooperation with "neutral" subject (Faculty of International Relations, University of Economics, Prague). These subjects participate together in the project called "Transparent functioning of NPOs in the Czech Republic, focused on prevention against misuses of NPOs for financing of terrorism." Next development is closely associated with initiative of European Commission. European Commission has proposed tighten up the control over the NPOs activities and the need for increased their transparency. Non-profit organizations include mainly Beneficiary associations, governed by Law No. 248/1995 Coll., on Beneficiary associations and Foundations, also

	Foundations funds are governed by Law No. 227/1997 Coll. on Foundations and Foundations funds. The law regulates the use of assets, book keeping and annual balance sheet reporting requirements. According to Section 3, a Foundation or Foundation Fund originates by written contract enclosed between founders or by a charter of foundation, if the founder is a single person, or by a testament. The foundation deed has to contain apart from other information, the amount of assets transferred to the Foundation of Fund. Such assets can take the form of monetary means, securities, immovable and movable property as well as rights and benefits attached to assets and values as long as they fulfil the presumption of a constant income and there are no liens on them. The presumption of a constant income of a foundation means that the assets of a foundation can consist of the values which provide a constant income, e.g. immovable property or copyrights. A Court dealing with the Commercial Register is entrusted with the administration of the Registry of Foundations and the Registry of Beneficiary Associations, there have to be taken the same procedural rules as for the Commercial Register, the Court also keeps a Collection of documents for Foundations and Beneficiary Associations in electronic form and all the documents are available on the internet website, www.justice.cz.
(Other) changes since the last evaluation	

4. Specific Questions

1. Has a special <u>strategy</u> on combating money laundering been adopted ?

There is no special strategy on combating money laundering adopted. The Financial Analytical Unit elaborates twice a year the information on its activities for the Minister of Finance. This information contains also the **strategic plan** on combating legalization of proceeds from criminal activities and terrorist financing for the next period of time.

2. At the time of the on-site visit evaluators were informed that the economy was still heavily cash-based. Has modern payment techniques developed further in the Czech Republic?

The situation has been changed dramatically. In the Czech Republic are being used all new payments methods and techniques. Only small expenses are being paid by cash.

3. Have there been changes at the Financial Analytical Unit (FAU) regarding competencies, resources, staffing, annual reports being published etc.?

The Financial Analytical Unit is newly responsible for carrying out the act on the international sanctions and the relevant legislation since 2006.
The number of staff of the unit is the same; unfortunately it has not increased since the last evaluation. There was carried out the personal audit in the Ministry of Finance. Unfortunately the FAU demand for increasing of the staff had not been accepted.
The annual reports are regularly published the Ministry of Finance websites. The "Report on 10 years activities of FAU" had been published also in the paper form and distributed to the relevant subjects.

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[8]

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.	The Third Directive and the Implementation Directive were fully implemented and applied since 1st September 2008.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[9] (please also provide the legal text with your reply)	<u>The definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive.</u> For the purposes of the AML Act (see Section 4 paragraph 4), the beneficial owner shall mean either: a) an entrepreneur as: 1. a natural person, having real or legal direct or indirect control over the management or operations of such entrepreneur, indirect control shall mean control via other person or persons, 2. a natural person, holding in person or in contract with a business partner or partners more than 25 per cent of the voting rights of such entrepreneur; disposing of voting rights shall mean having an opportunity to vote based on one's own will regardless of the legal background of such right or an opportunity to influence voting by other person, 3. natural persons acting in concert and holding over 25 per cent of the voting rights of such entrepreneur, or 4. a natural person, which is, for other reasons, a real recipient of such entrepreneur's revenue, b) a foundation or a foundation fund as: 1. a natural person, which is to receive at least 25 per cent of the distributed funds, or 2. a natural person or a group of persons in whose interest a foundation or a foundation fund had been established or whose interests they promote, should it yet to be determined who is the beneficiary of such foundation or a foundation fund, c) a natural person, in case of an association under lex specialis16), public service organization, or any other person and a trusteeship or any other similar legal arrangement under a foreign law, who: 1. holds over 25 per cent of its voting rights or assets, 2. is a recipient of at least 25 per cent of the distributed assets, or 3. in whose interest they had been established or whose interests they promote, should it yet to be determined who is their future beneficiary.

[8] For relevant legal texts from the EU standards see Appendix II

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

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 AML/CFT Act No 253/20089 Coll provides for instances where obliged entities are allowed to use a risk based approach in particular in the application of the customer due diligence (CDD) procedures. Such provisions are particularly found in Section 11 and Section 13 of the AML/CFT Act No 2523/2008 Coll. It is important to mention that in cases as stipulated under the aforementioned Sections, the obliged entity shall verify that all conditions required had been met and that none of the customers, products, or transactions represents a risk of legitimization of proceeds of crime or financing of terrorism. In case of doubt, no exceptions shall be applied. In brief therefore obliged entities are allowed to establish risk based policies to apply simplified or enhanced customer due diligence procedures for those instances where the risk of money laundering or the financing of terrorism is either lower or higher than the normal risk.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[10] are provided for in your domestic legislation (please also provide the legal text with your reply).	Criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive are provided in our Act No. 253/2008 Coll. The definition of PEPs (section 4, paragraph 5): (5) For the purposes of this Act, a politically exposed person shall mean: a) a natural person in a prominent public position and with nation-wide responsibilities, such as a head of state, a head of government, a minister and deputy or assistant minister, a member of the parliament, a member of a supreme court, a constitutional court or another high-level judicial body decisions of which are not subject to further appeal, except in exceptional circumstances, a member of a court of auditors or a central bank board, a high-ranking military officer, a member of an administrative, supervisory, or management board of a state-owned business, an ambassador or chargé d'affaires, or a natural person, having similar responsibilities on a Community or international level; all the above for the entire period of the position and for one year after the termination of such position, and provided the person: 1. has a residence outside the territory of the Czech Republic, or 2. holds such important public position outside the Czech Republic, b) a natural person, who 1. is the spouse, partner equivalent to the spouse or a parent of the person under a), 2. is a son or a daughter of the person under letter a) or a spouse or a partner of such son or daughter (a son or daughter in law), 3. is a business partner or a beneficial owner of the same legal person, a trust, or any other business entity under a foreign law, as the person under letter a) or is known to the obliged entity as a person in a close business relationship with a person under letter a), or 4. is a business partner or a beneficial owner of the same legal person, a trust, or

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

	any other business entity under a foreign law known to have been established in benefit of a person under letter a). Section 9 provide part about client due diligence: (1) The obliged entity stall, prior to a … transaction with a politically exposed person, and as part of the business relationship, perform customer due diligence. The customer shall submit to the obliged entity any information and documents necessary for the due diligence. The obliged entity may, for the purpose of this Act, take copies or make excerpts from any of the above and process such information to enforce this Act. (2) Client due diligence entails the following: a) collection of information on the purpose and intended nature of the business relationship, b) identification of the beneficial owner, should the customer be a legal person, c) collection of information necessary for ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, the business and risk profile, d) monitoring of sources of funds. (3) The obliged entity stall perform customer due diligence under Article 2 in the extent necessary to determine the potential risk of legitimization of proceeds of crime and financing of terrorism depending on the type of customer, business relationship, product, or transaction. The obliged entity shall, to the persons empowered to supervise compliance of obligations under this Act (Section 35), justify the scope of customer due diligence or exception from the customer identification and due diligence requirement under Section 13, all the above with respect to the above risks. Exceptions from obligation of identification and customer due diligence shall be not applied with a customer, who is a politically exposed person. Concerning Section 15 of AML Act No. 253/2008 Coll. – rejection of transaction: The obliged entity shall refuse a transaction for a politically exposed person should the origin of assets used in the transaction be unknown. No employee of the obliged entity shall make a transaction for a politically exposed person without consent of his direct supervisor or the statutory body of such obliged entity.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	In Section 38 of Act No. 253/2008 Coll. there is an obligation of secrecy. Unless provided otherwise in this Act, the obliged entities and their employees, employees of the Ministry, employees of other supervisory authorities and natural persons, who, based on other than an employment contract with an obliged entity, the Ministry or another supervisory authority, shall be obliged to keep secret the facts relating to suspicious transaction reports and investigation, steps taken by the Ministry or the obligation to inform (see Section 24).

	A transfer of the persons to another job, termination of their employment or other contractual relationship to the obliged entity, the Ministry (FAU) or other supervisory authority, or the fact that the obliged entity had ceased to perform activities shall not cause the obligation of secrecy to expire. Any person who learns the facts shall be obliged to keep secret.
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.	There is a fine up to CZK 1,000,000 (which equals approximately to EUR 36,000), it may be imposed for committing the offence according to violation of obligation of secrecy, if the violation had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible.

"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.	As already explained above in reply to the comments regarding Recommendation 2, the Czech Republic belongs to a few of European countries that have no legal regulation of the criminal liability of legal person. This situation cause that Czech Republic has some problems with international cooperation in this area and with access to some legal instruments intended for combat organized crime and terrorisms. Legal amendment to criminal liability of legal persons making possible adequate and effective sanction is a discussed problem for a long time. But there is no political will to pass a legal framework introducing criminal liability of legal persons into the Czech legal order. Draft law introducing criminal liability of legal persons cause fear of misuse of the legislation for criminal malversion and for criminal penalty of business enterprising. For these reasons, the bill for criminal liability of legal persons was rejected by the Chamber of Deputies of the Parliament of the Czech Republic in the past. Resolution should be the introduction of administrative liability of legal persons for proceeding sanctioned on the basis of International Treaties or the legislation of European Community. By Resolution of the Government of the Czech Republic from January 23., 2008 No. 64., draft law should be prepared by the Ministry of Interior in cooperation with Ministry of Justice by the end of the year 2008. Due to rejection of the introduction of criminal liability of legal persons into Czech legal order by the Chamber of Deputies of the Parliament of the Czech Republic, there is an overall consent that effective form of administrative liability of legal persons for money laundering will be introduced. Draft law introducing administrative liability of legal persons will be considered by Government in a short time. We hope the bill will enter into the force within the next year.
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	(Please refer to comment above)

leading position within that legal person.	

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.	Obliged entities according to section 2, paragraph 2, letters d) and e) of Act No. 253/2008 Coll. are: d) an entrepreneur not listed in Article 1, should he receive payments in cash in an amount of EUR 15,000 or more, or e) a legal person which is not a business should it be licensed to provide, in a form of a service, any of the activities stipulated in Article 1, or should it receive payments in cash in an amount of EUR 15,000 or more. They have its own part in section 28 – special provision relating to persons accepting cash in the value of EUR 15 000 or over: A business and a legal person as per Section 2(2e) becomes an obliged entity only if it accepts a cash payment in the value of EUR 15,000 or higher and in such instance of a transaction, the person is obliged to a) identify the customer according to Section 8; it may substitute this identification with identification according to Section 10 or 11, provided the transaction or customer in question is not exempt under Section 13, b) refuse to make the transaction if it suspects the veracity of the identification details supplied by the customer about himself, or if the customer refuses to subject to the identification or fails to produce a power of attorney according to Section 8(3); the obliged entity shall at the same time inform the Ministry, c) perform customer due diligence according to Section 9(2), d) retain data according to Section 16(1) and 16(2), e) make a suspicious transaction report of the suspicious transaction according to Section 18, f) disclose under Section 24, g) maintain professional secrecy according to Section 38.

6. *Statistics*

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

b.

2005												
	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	44	NA	13	22	6	7	NAp	NAp	NA	NA	NA	NA
FT	1	2	0	0	0	0	NAp	NAp	0	0	0	0

2006												
	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	32	NA	16	35	10	10	NAp	NAp	3	2148120	NA	NA
FT	1	1	0	0	0	0	NAp	NAp	0	0	0	0

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	32	NA	10	12	6	7	NAp	NAp	5	330600	NA	NA
FT	1	1	0	0	0	0	NAp	NAp	0	0	0	0

2008 (1st half)												
	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	23	NA	5	10	2	2	NAp	NAp	1	345560	NA	NA
FT	1	1	0	0	0	0	NAp	NAp	0	0	0	0

Remarks

a. "**Investigation" –number of persons is not available (NA), because the total may vary as the investigation progresses.**
b. **"Proceeds frozen" is not applicable (Nap), because in the Czech language and in the Czech law there is no difference between frozen and seized.**
c. **"Proceeds confiscated" is not subject of the statistics.**

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.

"*Cases 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).

2005															
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**
Credit institutions		3163	1												
Insurance companies		26													
Currency exchange offices		21													
Money transfer operators		49													
Asset management companies		105		3404	1	208	1	2	NA	0	0	0	0	0	0
Auditors, accountants, legal professions		13													
Real estate agencies		1													
Others		26													
Total		**3404**	**1**												

2006															
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**
Credit institutions		3243	1	3480	1	137	1	2	2	1	1	0	0	0	0
Investment firms		132													
Insurance companies		23													
Money transfer/foreign exchange offices		38													
Other financial institutions		5													
Notaries		0													

Independent legal professionals		2													
Casinos		2													
Jewelleries and dealers in high-value goods		1													
Real estate entities		0													
Other obliged entities		34													
Total		**3480**	**1**												

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**
Credit institutions		1887	1												
Investment firms		71													
Insurance companies		33													
Money transfer/foreign exchange offices		28													
Other financial institutions		5													
Notaries		0													
Independent legal professionals		2		2048	1	102	1	0	0	1	1	0	0	0	0
Casinos		1													
Jewelleries and dealers in high-value goods		0													
Real estate entities		0													
Other obliged entities		21													
Total		**2048**	**1**												

2008 (until 15.11.2008)											
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
Credit institutions		1514	1	1722	1	67	1	0	0	1	1	0	0	0	0
Non banking RE		208													
Total		**1722**	**1**												

Important remark

Low number of indictments and convictions for ML does not indicate low effectiveness of the FIU reports, because cases that had been handed over to Police by the FIU were investigated and prosecuted mostly as frauds, credit frauds, investment frauds, tax evasion, misuse of information in business relation and other economic and financial crimes.

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1, 2 & 32)	- to amend Section 252a (Section 160 in the new Criminal Code) so as to cover explicitly the various elements of the international requirements (notably the conversion and transfer of property, and the acquisition and possession of property) and to use a simpler, less proof-demanding definition of ML; - to provide clearly for the possibility to prosecute ML where the predicate offence was committed abroad (as planned in the new Section 192), and for self-laundering - to make sure the ancillary offence of conspiracy covered under Section 7 on preparation apply in relation with the various elements of ML - to increase the level of punishment for ML offences; - to continue the efforts aimed at introducing the liability of legal persons, including for ML - to provide in the relevant provisions for the mandatory confiscation of the proceeds of crime involved in ML in addition to the other sanctions - to analyse the reasons for the apparent discrepancy between the ML phenomenon in the Czech Republic, and the type of cases concluded successfully in court for ML until now, and take further appropriate initiatives to counter this phenomenon.
Criminalisation of Terrorist Financing (SR.II, R.32)	- to introduce FT as a stand-alone offence that would be broad and detailed enough to better cover, besides the financing of terrorist acts, also the financing of terrorist organisations and individual terrorists. These provisions should: a) clearly cover the various elements required by SR.II, in particular the collection of funds by any means, directly or indirectly, and their use in full or in part for FT purposes; b) spell out clearly that in order to be criminally liable it is not necessary that funds were actually used to carry out terrorist acts or be linked to a specific terrorist act c) subject to the final introduction of corporate liability, provide for the liability of legal persons for FT

Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)	- the legal framework on confiscation needs to be reviewed to ensure consistency and fill the gaps, so that confiscation applies in respect of all kind of property that has been laundered, and: a) of property of all kind which constitutes proceeds from, instrumentalities used in; and instrumentalities intended for use in the commission of any ML, FT or other predicate offences b) all kind of Property of corresponding value c) all kind of Property that is derived directly or indirectly from proceeds of crime; including income, profits or other benefits from the proceeds of crime, and all property referred to above, regardless of whether it is held or owned by a criminal defendant or by a third part; - confiscation should be provided for as an additional measure to the main punishment in all ML, FT and major proceeds generating crimes and the discretionary power of the courts should be limited; ideally, confiscation in such cases should be mandatory; - the provisions on confiscation of property should not be based solely on the logic of the profit-seeking offender - amendments are needed to ensure consistency between confiscation and temporary measures along the lines mentioned above, and to make sure the latter apply to all possible forms of assets including direct or indirect proceeds, real estate, financial participations and interests whatever their form etc.; (at the time of the evaluation, , there was a succession of specific Sections dealing with specific types of assets - things, bank accounts, other financial accounts, securities etc.). - Sections 347 and 348 on temporary measures may need to be amended so as to enable the application of temporary measures without prior notification of the suspect; - the broad applicability of temporary and final measures should be introduced also in respect of assets held by legal persons; - the Czech authorities should consider enhancing the protection of rights of bona fide third parties, and introducing the reversal of the burden of proof post-conviction for confiscation purposes.
Freezing of funds used for terrorist financing (SR.III, R.32)	- to proceed with the improvements needed and already identified in the NAP and the *Analysis of the Legal Powers of the Intelligence Services and the Police of the Czech Republic, that are Needful to Complete Their Tasks in the Fight against International Terrorism* - to address together with the European partners the gaps in the EU regulations - to complete the work for the adoption of a general domestic law on the implementation of international sanctions that would address all those gaps, or at least those that cannot be filled at EU level

	- to adopt guidance and information initiatives for the industry and the public on CFT issues and the reporting/freezing duty - to carry out an analysis of the effectiveness of the reporting/freezing duty - to amend the AML Law to broaden the reporting duty to all assets held by persons listed, and not just funds involved in transactions, and to ensure the applicability of dissuasive sanctions also in case of non-reporting of such assets.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	- to refer explicitly to the FAU in the AML Act[11] - to consider the need for better guaranteeing, in statutory rules, the autonomy and independence of the FIU (including its Head) - to provide more guidance on AML/CFT issues, with particular focus on the non-banking sector - to publish a periodic report on the FAU's activities and AML/CFT issues, including statistics, typologies and trends; this report would explain the importance, difficulties, and the commitment entrusted to the FAU. This would help the Government and the public understand and appreciate the importance of such a unit and thus there would be a justification to allocate further funds for equipment and staffing to the Unit. - to increase the staffing of the FAU to enable it to cope effectively with the multiplicity of tasks - to analyse the possible reasons for the perceived insufficient quality of the analytical work done on cases forwarded for further investigation and to take remedial measures as appropriate - to consider amending Article 7 of the AML Act, which covers various issues including the sharing of information held by the FAU domestically and internationally, to make it more accurate and enable the FAU to exert some discretionary power when sharing information.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	- to review on a regular basis ML trends and techniques - to initiate consultations on the opportunity of simplifying the competence of the various levels of courts/prosecutorial services, and by the same way to ensure that specialist judges and prosecutors handle complex criminal cases and can focus on those cases - to consider reviewing the legal framework for the use of special investigative techniques – whilst providing for an adequate checks and balance system – so as to ensure the effective investigation of offences

1. [11]The FAU is explicitly mentioned in the revised AML Act of 2007; the Czech authorities expect it to enter into force on 15 December 2007

	related to ML and FT - to increase the staffing of the prosecution services, and those institutions which are involved in legal cooperation, in particular the Legal Assistance Department of the Ministry of Justice and the Foreign Relations department of the Supreme Prosecution Office) - to include the topic of terrorism and FT in the relevant training programmes, in particular those of law enforcement and prosecution services.
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	- full CDD requirements should be introduced in the AML Act (including on-going due diligence and know-your customer, risk-based approach, consequences of incomplete CDD measures and application of CCD requirements to existing customer etc.), with appropriate guidance, beyond the measures currently applicable to identification only. The Czech authorities should also consider redrafting Art. 2 para. 10 and the exceptions contained therein as they leave room for misunderstanding and misuse for ML and FT purposes. Reference should be made to reduced CDD measures in case the country of origin applies and implements the FATF Recommendations. - inconsistencies between the banking regulations and the AML Act on the issue of CDD measures on the occasion of operations with bearer passbooks need to be solved and the identification/CDD process guaranteed no matter what the threshold is; - the legislation should be amended in order to require from financial institutions to identify the originator and the beneficiary of funds transfers with at least the following three data: name, address, account number[12] and require also the renewal of customer identification and verification when doubts arise about the identity of the customer or about veracity or adequacy of previously obtained customer identification data; - to require by law the identification of beneficial owners and to obtain information about the owners of all types of legal entities.

[12] The Czech authorities indicated after the visit that this recommendation is in principle fulfilled as in accordance with Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (valid since 1 January 2007), complete information on the payer is necessary only in cases of transfers of funds from the Community to outside the Community (Article 7). However, in case of transfers of funds within the Community such transfers shall be required to be accompanied only by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer (Article 6).

	- to recognise PEPs under the AML Act with specific enhanced customer due diligence requirements; obliged entities also need guidance – and possibly sector specific criteria – in this field. - the issue of correspondent banking relationships, threats from developing technologies and non-face-to-face business relationships is addressed to some extent in the banking sector only. Therefore, the implementation of the requirements of FATF Recommendation 7 and 8 needs to be reconsidered so as to apply to a larger number of obliged entities. - texts similar to the CNB Provision N°1 be adopted also for the insurance, securities, foreign exchange and other relevant sectors.
Third parties and introduced business (R.9)	With the entering into force of the proposed amendments allowing for the system of introduced business, increased attention will be needed to ensuring the applicability of Recommendation 9 in the context of the new provisions.
Financial institution secrecy or confidentiality (R.4)	- to review the consistency of provisions on financial confidentiality to avoid contradictions between sector-specific regulations and the AML Act, and to remove in particular unnecessary preliminary authorisations in sector-specific regulations; - to consider clarifying in the AML Act the exceptions to confidentiality in the context of CFT enquiries and investigation so as to clearly enable law enforcement authorities to accede to information in that context.
Record keeping and wire transfer rules (R.10 & SR.VII)	- CNB regulations are less specific – which could create confusions in the sector under the responsibility of the CNB, and therefore, these regulations should be made consistent with the AML Act. - besides identification data, the regulations should also cover explicitly account files, and business correspondence, and any other relevant information (written findings on complex and unusual large transactions etc.) - to maintain the pressure on financial and other institutions to store data and documents in a computerised way that would allow to retrieve information in a timely manner. - to require financial institutions performing wire transfers to keep originator information through the payment chain, - to introduce effective risk-based regulations and procedures for identifying and handling wire transfers that are not accompanied by complete originator information, including on the possible refusal of executing transactions if the payment instructions are not complete and comprehensive. - competencies and supervisory power of the competent authorities should be strengthened, especially in the case of the holder of postal licence as a provider of wire-transfer services.

Monitoring of transactions and relationships (R.11 & 21)	- to expand the obligation of R.11, beyond the banking sector, to all financial institutions and other obliged entities. - the implementation of R.21 should be re-examined
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	- to widen the scope of the CFT reporting obligation to include "those who finance terrorism" - to introduce an explicit requirement to report attempted and completed transactions. - to extend explicitly the benefit of protection measures to the disclosure of information and the obliged entities' management and staff - to provide appropriate feedback to financial institutions and other obliged entities besides general information and statistics on cases to be published in future in the FAU's annual report - to re-consider the merits and opportunity of introducing a system for the reporting of cash transactions.
Cross Border declaration or disclosure (SR.IX)	- to clarify in the AML Law the legal basis for the Customs to report suspicions of ML and TF and - to review the adequacy of the number of STRs reported by the customs in the context of the Czech Republic and in this connection, take measures to make sure the Customs are adequately informed and involved in the AML/CFT efforts, - to review, ideally in consultation with other EU countries, the EU exception to SR. IX
Internal controls, compliance, audit and foreign branches (R.15 & 22)	- to include in the AML Act a requirement to develop appropriate compliance management arrangements; the reporting officer should become a compliance officer with broader responsibilities, appointed at managerial level (the CNB Provision N°1 will need to be amended accordingly). - to include in the AML Act an audit requirement for AML/CFT arrangements and the screening of employees - AML and CFT need to be addressed more specifically in the various requirements of internal AML/CFT arrangements. - to consider implementing the requirements of Rec. 22 to make sure all branches of Czech financial institutions operating abroad are subject to AML/CFT requirements.
Shell banks (R.18)	- to address the issue of correspondent banking relationship in the AML Act and to cover the requirements of criterion 18.3 (on the use of respondent financial institutions' accounts by shell banks).
The supervisory and oversight system - competent authorities and SROs	- to enlarge the scope of supervision for the entire financial sector beyond the mere existence of internal rules and their content, and to check whether the rules are applied in practice and how reporting officers – who need to become compliance officers – comply with their own duties. Supervisors should be stricter as regards information/file

Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)	storage systems. - to ensure targeted AML and also CFT controls take place in future for all financial sectors (including awareness of and training on CFT issues, efforts to detect FT-related assets, awareness of international lists etc.), and also apply to the agents (not just the licence holder) where the business is exposed to higher risks - to ensure the staff responsible for the supervision of the securities markets are more involved and trained in AML/CFT issues and aware of their responsibilities and duties - to include for the financial supervisor(s) a duty to report suspicions of ML/FT activities - to ensure a consistent approach in the field of market entry conditions (checking the origin of funds including in case of increase in capital, checking the background of licence applicants and holders on the basis of fit and proper criteria) and ensure a clear policy that licences cannot be/are not delivered until the supervisor has satisfied himself that all conditions are met - to review urgently the legal and supervisory framework applicable to foreign exchange activities and to take remedial actions to stop the illegal foreign exchange business. Licensing and supervision should be under the responsibility of a single authority - to examine the allegations of the existence of a developed under-ground banking activity (possibly "loan-sharks") and informal money transfer business and to take the necessary remedial measures - to issue further guidance documents on both AML and CFT, including for financial supervisory staff - to provide for sanctions imposable on obliged entities' managers and employees - to consider again introducing a criminal offence for non reporting
Money value transfer services (SR.VI)	- to review the situation of MVT agents and the Czech post to make sure there is no over-reliance on the supervision over and information provided by the licence holder. - the Czech Authorities may wish to consider placing the licensing and supervision of the financial services offered by the Czech Post under the competence of the Czech National Bank for the sake of consistency. - the alleged presence of informal remittance activities in the Czech Republic needs to be better assessed.
4. Preventive Measures – Non-Financial Businesses and	

Professions	
Customer due diligence and record-keeping (R.12)	- to ensure the application of R. 5 to R.11 and R17 also in respect of DNFBP.
Suspicious transaction reporting (R.16)	- to develop awareness raising measures and guidance for DNFBP and their supervisors on both their AML and CFT obligations under the AML Act and other relevant pieces of legislation.
Regulation, supervision and monitoring (R.24-25)	- to strengthen the regulatory framework and supervision over DNFBPs exposed to risks of being used for ML/FT purposes (e.g. casinos, gambling in general, accountants) - to review the legal framework applicable to the gambling sector to avoid loopholes that could be used by criminals, and to consider extending the scope of the AML Act – beyond casinos – to a broader range of gambling entities to ensure consistent coverage of the sector of games
Other designated non-financial businesses and professions (R.20)	- to examine whether it would not be better to put "legal persons or natural persons authorised to broker savings, monetary credits or loans or brokering activities that lead to the signing of insurance or reinsurance contract" under the control of the financial supervisors. - continue taking measures to encourage the development and use of modern and secure techniques for conducting transactions, that are less vulnerable to money laundering.
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	- to review the procedures applicable to the registry of commercial entities and the registration procedure, to increase the reliability and updating of information entered. This should include incentives to keep the registry up-to-date and measures to ensure a higher level of professional integrity of the courts' staff in charge of the registers. - to take appropriate measures to ensure that bearer transferable shares are not misused for AML/CFT purposes.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	- to take measures to ensure a level of identification of silent partners which would be compatible with the requirements of the fight against ML and TF.
Non-profit organisations (SR.VIII)	- to carry out a review of the possible misuses of NPOs for criminal/ML/FT purposes, and as a result to examine the needs for a more consistent legal framework and centralised information, currently available through 3 or 4 different databases.
6. National and International Co-operation	

National co-operation and coordination (R.31 & 32)	- to introduce a regular coordination body involving all the relevant parties, that would be able to set common objectives, to address the various critical AML/CFT situations and to trigger both policy-level and operational initiatives. One of the first tasks should be to elaborate a picture of the ML phenomena and sectors affected and to propose rapid measures to address the causes. - it is recommended to carry out periodic assessments of AML measures similar to those used on terrorism and terrorist financing purposes.
The Conventions and UN Special Resolutions (R.35 & SR.I)	- to ratify and implement the Palermo Convention and the UN terrorist financing[13] Convention as soon as possible (in addition to the recommendations made in relation to SRIII).
Mutual Legal Assistance (R.36-38, SR.V, and R.32)	- to take care that the services dealing with legal assistance are adequately staffed. - more detailed statistics should be kept.
Extradition (R.39, 37, SR.V & R.32)	- to consider relaxing further (outside the context of the European Arrest Warrant) the dual criminality requirement
Other Forms of Co-operation (R.40, SR.V & R.32)	- to carry out an assessment to make sure the country does not offer a safe heaven for terrorism, and keep better statistics showing this and their level of cooperation on CFT issues.
7. Other Issues	
Other relevant AML/CFT measures or issues	- to have a consistent risk-based approach, based on proper assesments and an empirical approach.
General framework – structural issues	- to carry out a general review of the information accessible (to law enforcement, supervisors, obliged entities and other relevant bodies) for AML/CFT prevention and investigation purposes, beginning with the issue of secrecy of tax information, and to relax where appropriate the conditions of access.

[13] The Czech Republic ratified the Convention on 27 December 2005; it entered into force on 26 January 2006

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.

Annexes

1. Annex 1 / Justice – Criminal Code: Wording of the relevant provisions concerning ML as changed through the amendment No. 122/2008 Coll., in force from 1 July 2008

The Criminal Code, Law No. 140/1961 Coll., as amended

Section 62

(1) A person convicted of high treason (Section 91), subversion (Section 92), terror (Section 93), terrorist attack (Section 95), diversionist activity (Section 96), sabotage (Section 97), espionage (Section 105), war treason (Section 114), unlawful crossing of the state border under Section 171b paragraph 3, endangering the safety of the public under Section 179 paragraph 2 and 3, endangering the safety of an aircraft and ship under Section 180a, air piracy under Section 180c paragraph 2, unauthorised production and possession of narcotic and psychotropic substances and poisons under Section 187 paragraph 4, murder (Section 219), robbery under Section 234 paragraph 2 and 3, hostage-taking under Section 234a paragraph 3, rape under Section 241 paragraph 2 and 3, sexual abuse under Section 242 paragraph 3 and 4, theft (larceny) under Section 247 paragraph 4, embezzlement under Section 248 paragraph 4, fraud under Section 250 paragraph 4, insurance fraud under Section 250a paragraph 5, credit fraud under Section 250b paragraph 5, **complicity (participation) under Section 251 paragraph 4, legalization of proceeds of crime under Section 252a paragraph 5**, genocide (Section 259) or persecution of a population under Section 263a paragraph 3 or crime against peace under Section 1 of the Peace Protection Act, No. 165/1950 Coll., as well as an especially dangerous recidivist or a person sentenced to an exceptional term of imprisonment (Section 29 paragraph 2) may be released on parole only after having served two-thirds of the imposed term of imprisonment.

(2) A person sentenced to an exceptional sentence of life imprisonment may be conditionally released on parole after having served at least twenty years in prison.

Section 166
Aiding and Abetting

(1) Whoever aids an offender with intent to enable him to escape from criminal prosecution, punishment or a protective measure or its performance shall be sentenced to imprisonment for up to four years or to a pecuniary punishment or to a ban on activity; however, if he aids an offender who has committed a crime which under this Code is liable to a lighter sentence, such lighter sentence shall be applied.

(2) Whoever commits an act given in paragraph 1 for the benefit of a next of kin shall not be liable to punishment, unless he/she does so with the intent:
a) to assist a person who has committed an act of high treason (Section 91), subversion (Section 92), terror (Section 93), terrorist attack (Section 95), diversionist activities (Section 96), sabotage (Section 97), espionage (Section 105 paragraph 3 and 4), participation in a criminal conspiracy under to Section 163a paragraph 2 and 3 or genocide (Section 259); or
b) to provide a property benefit for himself/herself or for another.

Provision 167
Failure to Act to Prevent a Crime

(1) Whoever reliably learns that another person is preparing or committing (an act of) high treason (Section 91), subversion (Section 92), terror (Section 93), terrorist attack (Section 95), diversionist activity (Section 96), sabotage (Section 97), espionage (Section 105), endangering an official secret under Section 106, wartime treason (provision 114), violation of the provisions on disposal of goods and technologies liable to control procedures (Sections 124a, 124b and 124c), violation of the provisions on foreign trade in military materiel (Sections 124d, 124e and 124f), counterfeiting or altering money (Section 140), unlawful crossing of the state border under Section 171b paragraph 2 and 3, unauthorised disposal (handling) of personal data under Section 178 paragraph 3, endangering the safety of the public under Section 179 paragraph 2 and 3, endangering the safety of an aircraft and ship under Section 180a, air piracy under Section 180c paragraph 2, unauthorised production and possession of narcotic and psychotropic substances and poisons under Section 187 and 188, cruelty to a charge (Section 215), murder (Section 219), robbery under Section 234, hostage-taking under Section 234a, rape under Section 241, sexual abuse under Section 242, theft (larceny) under Section 247 paragraph 4, embezzlement under Section 248 paragraph 4, fraud under Section 250 paragraph 4, insurance fraud under Section 250a paragraph 5, credit fraud under Section 250b paragraph 5, **complicity (participation) under Section 251 paragraph 3 and 4, legalization of proceeds of crime under Section 252a paragraph 5**, genocide (Section 259), using prohibited weapons or impermissible methods of fighting (Section 262), wartime cruelty (Section 263), plunder in the war area (Section 264), disobedience under Section 273 paragraph 2 letter a, resistance and breach of a military duty under duress under Section 275 paragraph 2 letter a, violation of soldiers´ rights and protected interests under Section 279a paragraph 3 and Section 279b paragraph 3, desertion under Section 282 or endangering the morale of a military unit under Section 288 paragraph 2, or whoever does not get to thwart the commission or completion of any such crime shall be sentenced to imprisonment for a term of up to three years; however, if this Code provides for a lesser punishment, he/she shall be sentenced to such lesser punishment.

(2) Whoever commits an act under paragraph 1 shall not be liable to sentence (punishment) if he could not thwart the crime without considerable difficulties or without exposing himself or a close person to the danger of death, injury to health, some other serious detriment or criminal prosecution. However, exposure of a close person to criminal prosecution shall not relieve an offender of his liability to punishment if he/she fails to act to prevent any of the following crimes: high treason (Section 91), subversion (Section 92), terror (Section 93), terrorist attack (Section 95), diversionist activities (Section

96), sabotage (Section 97), espionage (Section 105), endangering an official secret under Section 106, participation in criminal conspiracy (Section 163a paragraph 2 and 3, or genocide (Section 259).

(3) A crime can also be thwarted by being timely reported to the state prosecutor's office or police; a soldier may report the crime to his commander or superior officer instead.

Participation
Section 251

(1) Whoever conceals, transfers to him/herself or to another or uses
a) a thing or other property value which was acquired through a criminal offence committed in the Czech Republic or abroad by another person or as a reward for it or
b) a thing or other property value which was procured for a thing or other property value specified in letter a
shall be sentenced to imprisonment for up to four years or to a pecuniary punishment or to forfeiture of a thing or other property value or to a ban on activity; if, however, he/she commits an offence in relation to a thing or other property value originating from a criminal offence for which this Code provides for a lesser sentence, he/she shall be sentenced to such lesser punishment.

(2) The offender shall be sentenced to imprisonment for six months up to five years or to a pecuniary punishment
a) if he/she commits an offence specified in paragraph 1 as a member of an organised group,
b) if he/she commits such offence in relation to a thing or other property of significant value, or
c) if he/she acquires through such offence a significant benefit for him/herself or for another.

(3) The offender shall be sentenced to imprisonment for two years up to eight years or to forfeiture of property,
a) if he/she commits an offence specified in paragraph 1 in relation to a thing or other property value originating from an especially serious criminal offence
b) if he/she commits such offence in relation to a thing or other property of considerable value, or
c) if he/she acquires through such offence a considerable benefit for him/herself or for another.

(4) The offender shall be sentenced to imprisonment for three years up to ten years or to forfeiture of property
a) if he/she commits an offence specified in paragraph 1 in relation to a thing or other property of very large value, or
b) if he/she acquires through such offence a benefit of very large value for him/herself or for another .

Section 252

(1) Whoever conceals or transfers to him/herself or to another by negligence a thing or other property of significant value which was acquired through a criminal offence committed in the Czech Republic or abroad or as a reward for it, shall be sentenced to imprisonment for up to one year or to a pecuniary punishment or to forfeiture of a thing or other property value or to a ban on activity.

(2) Same punishment shall be imposed on whosoever enables another person by negligence to conceal the origin of a thing or ascertaining the origin of a thing or other property value acquired through a criminal offence committed in the Czech Republic or abroad or as a reward for it.

(3) The offender shall be sentenced to imprisonment for up to three years

a) if he/she commits an offence specified in paragraphs 1 or 2 because he/she has breached an important obligation arising from his/her employment, occupation, position or function or has been imposed upon him/her by law, or
b) if he/she acquires through such offence a significant benefit for him/herself or for another .

(4) The offender shall be sentenced to imprisonment for one year up to five years
a) if he/she commits an offence specified in paragraphs 1 or 2 in relation to a thing or other property value originating from an especially serious criminal offence, or
b) if he/she acquires through such offence a very large benefit for him/herself or for another.

Section 252a
Legalisation of the Proceeds of Crime

(1) Whoever conceals the origin or strives otherwise to seriously hamper or render impossible identification of the origin
a) of a thing or other property value acquired through a criminal offence committed in the Czech Republic or abroad or as a reward for it, or
b) a thing or other property value which was procured for a thing or other property value specified in letter a) with the aim of giving the impression that this thing or other property value was acquired in accordance with the law, shall be sentenced to imprisonment for up to four years or to a pecuniary punishment or to forfeiture of a thing or other property value or to a ban on activity.

2) Whoever enables another to commit an offence specified in paragraph 1 shall receive the same punishment.

3) The offender shall be sentenced to imprisonment for six months up to five years or to a pecuniary punishment or to a ban on activity
a) if he/she commits an offence specified in paragraphs 1 or 2 as a member of an organised group
b) if he/she commits such offence in relation to a thing or other property of significant value, or
c) if he/she acquires through such offence a significant benefit for him/herself or for another.

(4) The offender shall be sentenced to imprisonment for two years up to eight years or to forfeiture of property
a) if he/she commits an offence specified in paragraphs 1 or 2 in relation to a thing or other property value originating from an especially serious criminal offence
b) if he/she commits such offence in relation to a thing or other property of considerable value,
c) if he/she acquires a considerable benefit through such offence for him/herself or for another, or
d) if in the commission of such offence he/she abuses his/her position in employment or his/her function.

(5) The offender shall be sentenced to imprisonment for three years up to ten years or to forfeiture of property
a) if he/she commits an offence specified in paragraphs 1 or 2 in connection with an organised group operating in a number of states,
b) if he/she commits such offence in relation to a thing or other property of very large value, or
c) if he/she acquires through such offence a very large benefit for him/herself or for another.

2. Annex 2 / Justice – Draft of the new Criminal Code, anticipated to enter into force on 1 January 2010 - Relevant provisions on Terrorist Financing

§ 309 Terrorist act

(1) A person who, with the intention to damage the Czech Republic's constitutional system or defence capability, to undermine or destroy fundamental political, economic or social structures of the Czech Republic or of an international organization, to seriously intimidate the population or to unlawfully compel the government or other body or an international organization to perform, to abstain from performing or to tolerate a certain action,
a) commits an attack against the life or health of a person with the intention to cause death or serious bodily harm;
b) takes hostages or commit an abduction;
c) destroys or seriously damages public utilities, transport or telecommunication systems, including information systems, fixed platforms on continental shelf, electric energy and water supply, health service or other important facilities, public sites or public property with the intention to endanger human lives, safety of the facilities, systems or sites or to expose property to the risk of major damage;
d) disrupts or stops the supply of water, electric energy or other basic natural resources with the intention to endanger human lives or to expose property to the risk of major damage;
e) seizes or controls an aircraft, vessel or other means of passenger or freight transport, and/or destroys, seriously damages or extensively interferes in the operation of navigation systems or facilities; or provides false information on important facts, thus endangering human lives and health, safety of the means of transport or exposing property to the risk of major damage;
f) without due authorization, manufactures or otherwise acquires, stores, imports, transports, exports or otherwise delivers or uses explosives, nuclear, biological, chemical or other weapons with mass destructive effects; and/or engages in unauthorized research and development of nuclear, biological, chemical or other weapons or combat means or explosives prohibited by law or by an international treaty; or
g) exposes human beings to danger of death or serious bodily harm, or exposes property of other persons to the risk of major damage by causing a fire or flood or the harmful effects of explosives, gas, electricity or similarly dangerous substances or forces; or commits a similarly dangerous act; or aggravates the imminent danger or obstructs the efforts to counter or alleviate it,
shall be sentenced to a term of imprisonment of five to fifteen years and/or forfeiture of property.

(2) The same sentence shall be imposed on a person
who threatens to commit a terrorist act under the paragraph 1,
or who such an act, terrorist or member of terrorist group financially, materially or otherwise supports.

(3) An offender shall be sentenced to imprisonment for a term of twelve to twenty years, and/or forfeiture of property or exceptional punishment,
a) if he commits the act a member of an organized group,
b) if he causes serious bodily harm or death,
c) if as a result of his act a considerable number of people have become homeless,
d) if he stops the transport in a greater extent,
e) if he causes substantial damage by this act,
f) if he commits such crime with the intention of acquiring a substantial benefit,
g) if he endangers the international position of the Czech Republic or of an international organization of which the Czech Republic is a member by this act,
h) if he commits the act during the state of emergency or state of war.

(3) The preparation is punishable.

3. Annex 3 / Justice – Relevant provisions of the Criminal Code and Code of Criminal Procedure concerning forfeiture and confiscation as changed through the amendment No. 253/2006 Coll., in force from 1 July 2008

Excerpts of the Criminal Code (Act no. 140/1961 Coll.)

Forfeiture of a Thing or Other Property Value
Section 55

(1) The court may impose forfeiture of a thing or other property value which:
a) was used to commit a crime;
b) was determined to be used to commit a crime;
c) the offender acquired by his crime, or as a reward for such a crime; or
d) the offender at least partly acquired for another thing stipulated under letter c), unless the value of the thing under letter c) is negligible in relation to the thing acquired.

(2) The court may order forfeiture of a thing or other property value only if such thing or property value belongs to the offender.

(3) If the offender unlawfully or in violation of a special law possesses a thing or other property value stipulated under paragraph 1 and 2 in relation to which a forfeiture of a thing or other property value may be imposed, the court shall always impose such a punishment as well.

(4) Prohibition of alienation of forfeited thing or other property value shall be applied before the legal force of such decision; such prohibition covers other dispositions destined to thwarting the punishment of forfeiture of a thing or other property value.

(5) The forfeited thing or other property value shall become the property of the state.

(6) An offender who is punished by forfeiture of a thing or of other property value shall be regarded as not having been sentenced, once the decision under which such punishment was imposed becomes final.

Section 56

A court may only impose forfeiture of a thing or other property value as the sole punishment where the Special Part of this Code permits imposition of this punishment and if, in view of the nature of the committed crime and the possibility of correction the offender, no other punishment is considered necessary for achieving the purpose of punishment.

Section 56a
Forfeiture of an equivalent value

(1) If the offender destroys, damages, alienates, makes inapplicable or exploits, especially utilizes the thing or other property value, which could be forfeited by the court under Section 55, before imposition of a sentence of forfeiture of a thing or other property value, the court shall impose forfeiture of an equivalent value to the amount which corresponds the value of such thing or other property value; value of a thing or other property value which could by forfeited by the court shall be determined by the court based on an expert report or professional expertise.

(2) The court shall impose the sentence of forfeiture of an equivalent value together with the forfeiture of a thing under Section 55 if the thing was destroyed or damaged or made inapplicable.

(3) The forfeited equivalent value shall become the property of state.

Section 73
Confiscation of a Thing or Other Property Value

(1) Unless the sentence of forfeiture of a thing or other property value under Section 55 paragraph 1 is imposed, the court may order, that such thing or other property value is confiscated,
a) if it belongs to an offender who cannot be prosecuted or sentenced;
b) if it belongs to an offender whom the court discharged;
c) if it endangers safety of persons or property, eventually society, or there is danger that it shall be used to commit especially serious offences, or
d) it was obtained by criminal offence or as a reward for an offence and it does not belong to perpetrator; or if it was, at least partly, obtained by other person than perpetrator for other thing or property value gained by perpetrator for an offence or as a reward for such offence; or which the perpetrator, though partly, obtained for such thing or property value, if the value of confiscated thing or other property value is not insignificant in relation to value of a thing or property value obtained by perpetrator.

(2) If the perpetrator or other person unlawfully or in contrary to special law possesses a thing or other property value given in paragraph 1, in relation to which it is possible to impose confiscation of a thing or other property value, the court shall always impose such protective measure.

(3) Instead of imposing confiscation of a thing or other property value, the court may impose obligation
a) to change it in such a way to disable the use for a purpose dangerous to society;
b) to remove certain devise;
c) to remove a mark or make alteration to it; or
d) to restrict disposition with such thing or other property value;
and determine a reasonable time.

(4) If the obligation given in paragraph 3 is not realized in determined time, the court shall decide on confiscation of the thing or other property value.

Section 73a
Confiscation of substitution value

If a person, to whom belongs the thing or other property value that should be confiscated according to Section 73, utilizes it before the decision of confiscation, especially alienates or consumes it, or he otherwise obstructs confiscation of a thing or other property value, frustrates the execution of punishment of forfeiture of a thing or other property value by act violating restriction given in Section 55 paragraph 4, or frustrates confiscation of a thing by act violating restriction given in Section 73b paragraph 2, the court may order confiscation of substitution value up to a value not exceeding the value of such thing or other property value; the value of a thing or other property value, whose confiscation may be ordered by a court, shall be determined upon a specialist knowledge or expertise.

Excerpts of the Code of Criminal Procedure (Act no. 141/1961 Coll.)

Section 78

Liability to deliver a thing

(1) Whoever possesses a thing important for the criminal proceedings is obliged to submit the thing to the court, public prosecutor or police body based on call; if it is necessary to secure the thing for the purpose of criminal proceedings, the person is obliged to deliver the thing to the bodies on call. Upon the call it is necessary to notify the person that if he/she fails to meet the call the thing can be taken away from him/her as well as other consequences of the failure to meet the obligation (Section 66).

(2) The obligation under paragraph 1 does not apply to written instrument the content of which relates to a circumstance for which prohibition of examination applies unless the release from the obligation to keep the matter confidential or release from the duty of non-disclosure has taken place (Section 99).

(3) The presiding judge is authorised to call for delivering a thing; the public prosecutor or police body are authorised to do so in pre-trial proceedings.

Section 79
Seizure of a thing

(1) If the thing necessary for criminal proceedings is not issued on call by the person possessing the thing, it can be taken away based on order of the presiding judge and in pre-trial proceedings based on order of the public prosecutor or police body. The police body needs a prior consent of the public prosecutor for the issue of such order.

(2) If the body that issued the order to take away the thing does not execute the taking away itself, it shall be executed by the police body based on the order.

(3) The police body may issue the order without prior consent specified in paragraph 1 provided only that the prior consent cannot be achieved and the act must be performed immediately.

(4) A person not participating in the matter shall be eventually engaged in taking away of the thing.

(5) The report on delivery and taking away of a thing must also include a sufficiently accurate description of the thing delivered or taken away to allow for identification thereof.

(6) The person that delivered the thing or from which the thing was taken away shall be immediately given a written acknowledgement of acceptance of the thing or copy of the report by the body that carried out the act.

Section 79a
Judicial seizure of a bank account

(1) If the facts ascertained indicate that the financial means on a bank account are intended for commission of a criminal offence or have been used to commit a criminal offence or they are proceeds of crime, the presiding judge and in pre-trial proceedings the public prosecutor or police body may decide to secure the bank account. The police body needs a prior consent of the public prosecutor for such decision. No prior consent of the public prosecutor is needed in urgent cases that must be performed immediately. In such event the police body shall be obliged to submit its decision to the public prosecutor within 48 hours; the public prosecutor shall either approve or cancel the decision.

(2) Decision under paragraph 1 must be delivered to the bank keeping the account and to the account holder after the bank has secured the account. The decision shall specify the bank details, which means the

number of bank account and code of the bank, further the amount of money in relevant currency to which the securing applies. Unless the authority responsible for criminal proceedings mentioned in paragraph 1 specifies otherwise, any disposal of the financial means placed on the account up to the amount of securing shall be restricted from the moment of service of the decision, except for execution of the decision. The financial means not affected by the decision on securing shall be used preferentially to pay any claim being the subject of execution of a judicial or administrative decision. Financial means covered by decision on securing may only be disposed of within the execution of decision after prior consent of the judge, and in pre-trial proceedings after prior consent of the public prosecutor; this does not apply when the decision is executed in order to satisfy the claims of the state.

(3) If securing of financial means on the account for the purpose of criminal proceedings is not necessary any longer or it is not necessary in the specified amount, the authority responsible for criminal proceedings specified in paragraph 1 shall cancel or reduce the securing. The police body needs a prior consent of the public prosecutor for such decision. The decision to cancel or reduce securing must be served on the bank and account holder.

(4) The account holder whose financial means have been secured has the right to ask at any time for cancellation or reduction of the securing. Public prosecutor and in trial before court the presiding judge must decide about such application immediately. If the application has been dismissed, the account holder may repeat the application only upon expiry of fourteen days from legal force of the decision unless he/she specifies new reasons in the application.

(5) A complaint is admissible to be lodged against the decision under paragraphs 1, 3 and 4.

Section 79b

For the reasons for which the bank account can be secured it is possible to decide on securing the financial means on the account with a savings and credit co-operative or other entities keeping accounts for third persons, on blockage of financial means of an contributory pension scheme with state benefit, blockage of drawing financial credit, and blockage of financial lease. Provisions of Section 79a shall be used reasonably to carry on the decision-making to secure and cancel or reduce the seizure.

Section 79c
Seizure of booked securities

(1) If the presiding judge or in pre-trial proceedings the public prosecutor decide to secure the booked securities, the person authorised to keep records of investment tools under special Act or the Czech National Bank shall open a special account for the holder of such securities, on which the securities shall be kept.

(2) The police body may also decide to secure the booked securities in exigent cases that must be performed immediately. The police body shall be obliged to submit its decision to the public prosecutor within 48 hours; the public prosecutor shall either approve or cancel the decision.

(3) Disposal of the securities covered by the securing is restricted from the moment of service of the decision on securing. The authority responsible for criminal proceedings mentioned in paragraphs 1 a 2 may specify in the decision, depending on the nature and circumstances of the crime, that no other rights may be executed in consequence of securing the book securities.

(4) Provisions of Section 79a shall be used as appropriate for the reasons for securing the book securities and procedure on making the decision to secure and cancel or reduce the securing.

Section 79d
Seizure of immovable assets

(1) If facts ascertained indicate that immovable asset is intended for the commission of a criminal offence or has been used for the commission of a criminal offence or is the proceeds of criminal activity, the presiding judge and in pre-trial proceedings public prosecutor or the police authority may decide to secure this immovable asset. The police authority needs previous consent of public prosecutor for this decision. The previous consent of public prosecutor is not required in urgent cases which cannot be delayed. In such a case the police authority is obliged to submit its decision within 48 hours to public prosecutor, who will either give his/her consent to it or cancel it. A complaint is permitted against a decision to secure immovable asset.

(2) In a decision on securing of immovable asset the owner of the asset is forbidden to have any dealings with the immovable asset specified in the decision; in addition he/she is forbidden to transfer the asset to any other person after notification of the decision or to encumber it and is ordered to inform the court within 15 days from notification of the decision whether there is and who has a first option on or other title to the asset, and is advised that otherwise the owner of the asset will be liable for loss caused thereby. The body active in criminal proceedings which decided on seizure under paragraph of 1 sends a copy of the decision to the relevant land cadastre office for the purpose of entering the content of the decision in its records kept under a special legal regulation.

(3) The presiding judge and in pre-trial proceedings public prosecutor or, with his/her consent, the police authority carries out an inspection of immovable asset and its facilities if required; the owner of the asset or a person who lives with him/her in a common household and also a person who is known to have a title to the asset are informed of the time and the place of the inspection. The owner of the asset or a person living with him/her in a common household is obliged to enable a search of the asset and its facilities.

(4) A legal decision on securing of immovable asset is delivered by a body active in criminal proceedings specified in paragraph 1 to persons who are known to have a first option on the asset, a tenancy or other title; it is also delivered to the tax office and communal authority in whose district property is located and the owner of the asset is permanently or temporarily resident. If the presiding judge has decided on securing of the asset, the final decision on securing of the asset is posted on the court's official notice-board, and in pre-trial proceedings is published in a suitable manner in the office of public prosecutor concerned. The body active in criminal proceedings which decided on securing under paragraph 1 informs the relevant land cadastre office of this decision coming into legal force.

(5) During the period of securing, all legal acts of the owner of the immovable asset relating to the secured asset are ineffective, with the exception of acts aimed at averting immediate threats of damage. Dealings with secured asset are possible in the context of enforcing the decision only with the previous consent of the judge and in pre-trial proceedings public prosecutor; this does not apply if the decision is enforced to discharge debts to the state.

(6) The rights of third parties to secured immovable asset can be exercised under a special legal regulation.

(7) If securing of immovable asset is no longer required for the purposes of criminal proceedings, or securing is not required to the stipulated extent, a body responsible for criminal proceedings specified in paragraph 1 shall revoke the decision or limit it. The police authority requires the previous consent of the

state prosecutor for such a decision. A complaint is permissible against a decision to revoke or limit securing and has deferral effect.

(8) The owner of immovable asset which has been secured has the right to apply at any time for the decision to be revoked or limited. Public prosecutor and in proceedings before a court the judge must decide without delay on this application. If the application has been rejected, the owner of the asset may not, unless he/she states new reasons for it, re-submit the application until 14 days have passed since the decision came into legal force. A complaint is permissible against this decision.

(9) The procedure for administration of secured immovable asset is stipulated in a special legal regulation.

Section 79e
Securing of other property value

(1) If facts ascertained indicate that property value not specified in Sections 78 to 79d is intended for the commission of a criminal offence or has been used for a criminal offence or is the proceeds of criminal activity, the presiding judge or in pre-trial proceedings public prosecutor or the police authority may decide to secure such property value. The police authority needs previous consent of public prosecutor for this decision. The previous consent of public prosecutor is not required in urgent cases which cannot be delayed. In such a case the police authority is obliged to submit its decision within 48 hours to public prosecutor, who either gives his/her consent to it or cancels it. A complaint is permissible against a decision to secure another property value.

(2) In a decision to secure other property value its owner is forbidden to have dealings with the property value specified in the decision and to transfer other property value to any other person after notification of the decision or to encumber it and is ordered to inform the court within 15 days from notification of the decision whether there is and who has a first option or other right to this other property value, and is advised that otherwise the owner of this other property value will be liable for damage caused thereby. In the decision on securing the owner of this other property value is called upon to deliver all documents the submission of which is required for exercising a certain right to this other property value secured, and is advised of the consequences of failing to comply with this call within the stipulated time limit (Section 66, Section 79). These documents are compiled and deposited in the custody of the court.

(3) The body active in criminal proceedings which decided on securing under paragraph 1 also notifies a debtor of the owner of this other property value of the decision on securing and orders him/her to deposit payment in the custody of the court or to send it to a place designated by a body active in criminal proceedings specified in paragraph 1 instead of to the owner of this other property value. The debtor is notified of the decision on securing before the owner of this other property value secured.

(4) The body active in criminal proceedings which decided on securing under paragraph 1 promptly sends this information to the authority which keeps records under special legal regulations of owners and holders of other property values which have been secured, and to the local office of the Office for State Representation in Property Matters in whose district the owner of this other property value is permanently or temporarily resident; if the owner of this other property value lives abroad, it notifies securing to the local office of the Department for State Representation in Property Matters in whose district this other property value secured is located. The body active in criminal proceedings concerned also calls upon these authorities to notify it promptly if it finds that this other property value secured is dealt with it such a manner that there is a danger that this will obstruct or hamper the purpose of securing.

(5) During the period of securing, all legal acts of the owner of this other property value relating to the other property value secured are ineffective, with the exception of acts aimed at averting immediate threats of damage. Dealings with the other property value secured are possible in the context of enforcing the decision only with the previous consent of the presiding judge and in pre-trial proceedings public prosecutor; this does not apply if the decision is enforced to discharge debts to the state.

(6) The rights of third parties to a secured asset can be exercised under a special legal regulation.

(7) Section 79d paragraphs 7 and 8 are used as appropriate for revoking or limiting securing of other property value.

(8) The procedure for administration of other property value secured is stipulated in a special legal regulation.

Section 79f
Securing of substitute values

If it is not possible to obtain delivery or seizure of a thing (Section 78 and 79) or to secure funds in an account (Section 79a and Section 79b), secure booked securities (Section 79c), immovable asset (Section 79d) or other property value (Section 79e) which are intended for the commission of a criminal offence or have been used for its commission, or are the proceeds of criminal activity, a substitute value corresponding, albeit only partly, to their value can be secured in their place; the procedure is similar to that under the applicable provisions regulating delivery or securing of such value (Sections 78 to 79e).

Return of thing
Section 80

(1) If an thing which has been delivered under Section 78 or seized under Section 79 is no longer required for further proceedings and forfeiture or seizure of it is no longer under consideration, it is returned to the person who delivered it or from whom it was seized. If another person claims a right to it, it is delivered to the person whose right to the thing is not in doubt. In cases of doubt the thing is placed in custody and the person who claims a right to the thing is advised to apply for it in civil proceedings. If the person who has a right to the thing does not claim it despite repeated calls to do so, the thing will be sold and the amount received for it will be placed in the custody of the court. The regulations on judicial sale of seized movable things are used as appropriate for the sale.

(2) If there is a danger that an thing which could not be returned or delivered under paragraph 1 will deteriorate, it is sold and the amount received for it is placed in the custody of the court. The regulations on judicial sale of seized movable things are used as appropriate for the sale.

(3) Decisions under paragraphs 1 and 2 are issued by the presiding judge and in pre-trial proceedings by the state prosecutor or the police authority. A complaint is permitted against a decision to return and deliver an thing, and also to place it in custody, and has deferral effect.

Section 81

(1) If a thing which the accused acquired or probably acquired by means of a criminal act has been delivered by the accused or seized from him/her, and either it is not known to whom the thing belongs or it is not known where the injured party lives, a description of the thing is published. This is published in the manner that is most effective for finding the injured party, and together with a call for the injured party to claim it within six months from the announcement.

(2) If someone other than the accused has claimed a thing within the time limit specified in paragraph 1, the procedure is that under Section 80 paragraph 1. If no other person has claimed the thing, it is delivered or, if it has already been sold because of the danger of deterioration, the amount received for it is delivered to the accused at his/her request, unless it is an thing which he/she acquired by means of a criminal act. If it is an thing which the accused acquired by means of a criminal act, or the accused did not request that the thing be returned and some other person has not claimed a right to the thing within a period of six months from expiry of the time limit specified in sentence two of paragraph 1, the thing becomes state property; this does not affect the right of the owner to request delivery of the thing or delivery of the amount received from its sale.

(3) If the thing is of no value, it can also be destroyed without previous publication of a description.

(4) The measures and decisions specified in paragraphs 1 to 3 are issued by the presiding judge and in pre-trial proceedings by the state prosecutor or the police authority. A complaint is permitted against a ruling to surrender an thing or destroy it, and has deferral effect.

Section 81a

Sections 80 and 81 shall be used as appropriate for return of funds in an account, booked securities, real estate and other property value which have been secured under Sections 79a to 79e, and also for return of substitute value which have been secured under Section 79f.

4. Annex 4 / Justice – Relevant provisions of the Civil Procedure Code and the Commercial Code concerning Proceedings in matters concerning the Companies Register and the Companies Register

The Civil Procedure Code, Law No. 99/1963 Coll., as amended
Wording of relevant provisions concerning Companies Register

Proceedings in matters concerning the Companies Register

Section 200a

(1) The court with jurisdiction for proceedings (hereafter "Registration Court") is the one in the district where the general court is of the natural person or legal entity to whom/which the entry in the Register refers (hereafter "entrepreneur"). If this is a foreign person/entity, the court with jurisdiction for proceedings is the one in the district where his/its business or an organisational unit of it is located.

(2) The court which has jurisdiction for proceedings concerning an entry under paragraph 1 also has jurisdiction for proceedings on another entry, if special regulations stipulate that there must be a joint decision on these entries.

(3) If there is a change in the circumstances under which local jurisdiction is adjudged, the court will make a ruling to transfer its jurisdiction to a new court; if this court does not consent to the transfer of jurisdiction, the court exercising control over it will decide. After the decision to transfer local

jurisdiction comes into legal force, the entries concerned will be transferred to the Companies Register of the court that now has jurisdiction.

Section 200b

(1) Proceedings are commenced upon an application. If conformity of an entry in the Companies Register with the actual situation has to be achieved, proceedings may also be commenced without an application.

(2) Withdrawal of an application for commencement shall not be effective, unless it is entry of a fact the effectiveness or validity of which is in the entry in the Companies Register pursuant to a special legal regulation.

(3) Courts or other legal authorities shall always notify the Registration Court of a discrepancy between the actual legal status and the status of a record in the Companies Register as soon as this fact in their activity becomes clear.

Section 200c

(1) Parties to proceedings are the person/entity who/which submitted the application for which it is entitled pursuant to a special legal regulation and the entrepreneur; the provisions of Section 94 paragraphs 1 and 2 shall not be used.

(2) A special legal regulation specifies which facts shall be entered on the Companies Register, in what manner an application for entry, change or deletion of them shall be submitted and with what documents (appendices) they must be substantiated.

Section 200d

(1) The court will decide to reject an application if
a) it has been submitted by a person/entity who/which is not entitled to submit it pursuant to a special legal regulation
b) the application has not been submitted in the manner prescribed pursuant to a special legal regulation
c) the application does not contain all the particulars stipulated pursuant to a special legal regulation
d) the application is incomprehensible or ambiguous
e) documents by means of which details of facts entered are to be substantiated pursuant to a special legal regulation have not been attached to the application

(2) Paragraph 1 shall not apply if
a) a document has not been attached to the application because this document is not issued under the law governing the foreign person/entity who/which is to be entered
b) a document has been designated incorrectly or does not meet all the formal requirements stipulated by a special legal regulation, on the precondition that decisive facts have been substantiated by means of other documents which have been attached to the application

(3) By means of a ruling issued within 3 working days of receiving the application the court shall call upon the applicant to correct discrepancies in the application or to supply additional documents that are missing; a repeated call is not permissible. The provisions of Section 43 shall be applied mutatis mutandis. The time period under Section 200db para. 1 shall commence on the day following the day when the submission was delivered to the court through which defects have been corrected or additional documents supplied.

(4) In a decision in which the court rejects an application pursuant to paragraph 1, reasons shall be given for the rejection, including information on how the deficiencies can be corrected.

Section 200da

(1) If the application has not been rejected pursuant to Section 200d, the court shall examine whether details of facts to be entered on the Register are derived from documents which have to be submitted for the application pursuant to a special legal regulation, whether the company for which the application is made can be confused with an already existing company, or is false.

(2) If pursuant to a special legal regulation facts are entered on the Register on the basis of a decision by a court or administrative authority, the court shall make the entry without issuing a decision.

(3) The court shall also make an entry without issuing a decision if facts of the application to be entered are documented in an attached notarial deed; in such a case the court, in addition to ascertaining them pursuant to paragraph 1, shall examine only whether the notarial deed meets the requirements laid down for it in a special legal regulation. The procedure under the previous sentence shall be used only if the entrepreneur to whom the entry applies is the applicant and the sole party to the proceedings. A notarial deed shall be a legally valid source document for the entry, even if special legal regulations do not require this form of legal act.

(4) The court shall also make an entry in the Register without issuing a decision where the effectiveness or validity of facts in the application for entry does not become operative pursuant to a special legal regulation until entry of them in the Register. The procedure under the previous sentence shall be used only if the entrepreneur to whom the entry applies is the applicant and the sole party to the proceedings. In other cases the court shall decide on entry by means of a ruling. Proceedings may not be ordered.

(5) In the case of persons/entities who/which do not pursuant to a special legal regulation have to submit applications for entry on printed forms, the court will always decide by means of a ruling.

(6) The court shall make the entry on the date stated in the application, but at the earliest on the date of its execution. If the court has decided on entry by means of a ruling, it shall make the entry in the Register after this ruling comes into legal force. If conformity with the actual situation has to be achieved, the court may decide that the entry will be made just on the basis of an enforceable ruling.

(7) Errors in spelling and numbers, and also other obvious inaccuracies in the entry under paragraphs 2 and 3, shall be corrected by the chairing judge at any time even without an application, without issuing a decision on this, and he/she shall notify the parties to the proceedings of this by sending an extract from the Register containing this correction; the provisions of Section 200db paragraph 4 shall be applied mutatis mutandis.

Section 200db

(1) The court shall be obliged to make an entry in the Register or to decide on an application by means of a ruling within the time period stipulated by a special legal regulation, otherwise at the latest within five working days; in the case of an application for entry of conversion pursuant to a special legal regulation or in a case when a file is not available at the Registry court, because it has been submitted to another court, in particular for a decision on an appeal or on the jurisdiction of a court, the time period under this sentence shall be extended to 15 working days. If an application is not submitted in Czech, or

documents which, pursuant to a special legal regulation substantiate details of facts to be entered, have not been translated into Czech, the time period pursuant to sentence one shall not commence until delivery of the translation.

(2) The time period pursuant to paragraph 1 shall commence on the day the application is submitted. If, however, the court fee for the application has not been paid until during the proceedings or there has been a change in the application, the time period pursuant to paragraph 1 shall not commence until the day the court fee is paid or the day when the court receives the amended application. If the court issues a decision which prevents it from continuing in the proceedings, in particular if it suspends the proceedings or if it decides on local jurisdiction, the time period pursuant to paragraph 1 shall recommence on the day the obstacle to the proceedings ceases to apply.

(3) If the court does not make an entry in the Register and/or decide on an application within the time period stated in paragraph 1, the entry applied for shall be deemed as made on the day following expiry of this time period; this shall not apply if the application has effectively been withdrawn prior to expiry of this time limit. The court shall deposit the entry in the Register within two days of the day when this entry is deemed as made pursuant to sentence one.

(4) An entrepreneur and persons/entities who/which are entered on the Register pursuant to a special legal regulation as part of entry of an entrepreneur may within 1 month of entry demand by means of an application deletion from the Register or a change in an entry made pursuant to paragraph 3; default of this deadline cannot be waived. The provisions of Section § 200b paragraph 1 sentence two shall not be affected by this.

(5) Persons/entities entered on the Register pursuant to a special legal regulation as part of entry of an entrepreneur may in the event of their deletion from the Register also demand change of the entry if it has been made otherwise than pursuant to paragraph 3; paragraph 4 shall be applied mutatis mutandis.

7. Section 200dc

(1) The court shall notify parties to the proceedings of an entry made pursuant to Section 200da paragraph 3 and paragraph 4, sentence 1 and Section 200db paragraph 3 by sending an extract from the Register containing this entry. The court shall also send notification pursuant to this provision to persons/ entities who/which are entered pursuant to a special legal regulation as part of entry of an entrepreneur. This extract must be sent at the latest within 3 days of the entry.

(2) The court shall make an entry in the Register without needless delay once the ruling on the content of the entry has come into legal force.

(3) The court shall always also notify the Czech Bar Association of entry of a foreign person/entity providing legal services pursuant to special legal regulation, entry of an organisational unit of its business or entry of relocation of its registered office in the Czech Republic.

Section 200de

The chairing judge may also impose a procedural fine on an entrepreneur if he/she has not responded to a call of the court to acquaint it of a fact or submit documents to it required for a decision pursuant to Section 200b paragraph 1, sentence 2 or to submit documents to it which belong to the collection of documents pursuant to special legal regulations. The procedure here shall be similar to that pursuant to Section 53 and a procedural fine of up to CZK 20,000 may be imposed.

The Commercial Code, Law No. 513/1991 Coll., as amended
Wording of relevant provisions concerning Companies Register

Section 13a
Commercial Documents

(1) Every entrepreneur shall state his commercial name, or name or designation, seat or place of business and identification number on all orders, invoices and business correspondence and within the framework of making information public via remote access (further in the text "web pages"); entrepreneurs entered on the Commercial Register shall also give details of such entry, including the relevant file number; entrepreneurs not entered on the Commercial Register shall give details of an entry on any other register, they are entered on. Information on the amount of basic capital may be stated in commercial documents only if the basic capital has been fully paid up.

(2) Orders, business correspondence, invoices and web pages concerning an organizational component of an enterprise or a foreign person's enterprise shall bear all the information under paragraph 1, as well as information on the entry of this organizational component or enterprise on the Commercial Register, including the relevant file number. As far as persons specified in Section 21 paragraph 5 are concerned, these shall state the same date as Czech persons that are not entered on the Comercial Register under paragraph 1.

(3) In the case of orders, business correspondence, invoices and internet pages of an organizational component of a foreign person's enterprise or an enterprise of a foreign person, information on the foreign person's registration in foreign register need not be provided if the law governing such person does not require or does not enable to make such entry public.

Section 27

(1) The Companies Register is a public register in which details on entrepreneurs stipulated by law are entered. The Companies Register is maintained in electronic form.

(2) The Companies Register is kept by the court designated for this by a special legal regulation (hereafter "Registration Court").

(3) The Registration Court shall keep a separate file for every entrepreneur, organisational unit of a company, company of a foreign person/entity or organisational unit of it, unless the law stipulates otherwise. The Companies Register shall include a collection of documents.

(4) The Registration Court shall publish an entry, change in it or deletion of it in the Companies Register and also the depositing of a document in the collection without needless delay after entry, unless a legal regulation imposes this obligation on someone else. The Registration Court shall also notify the particular tax authority concerned, the state statistics authority and the authority which issued the trading permit or other business licence of the published data within one week of the day of its entry.

(5) The extent and manner of publication is regulated in a government order.

Section 28

(1) The Companies Register is accessible to everyone. Anyone may inspect it and provide themselves with a copy or extract of it.

(2) Upon request, the Registration Court shall issue a partial or complete officially verified documentary copy of an entry or a document deposited in the collection of documents or confirmation that a certain detail is not in the Companies Register, unless the applicant expressly requests a copy that has not been officially verified.

(3) If a partial or complete documentary copy pursuant to paragraph 2 has not been expressly requested, the Registration Court will always issue a partial or complete copy in electronic form. An applicant may only request an officially verified electronic copy if its request is signed by a recognised electronic signature pursuant to a special legal regulation. The Registration Court will always issue only a documentary copy concerning facts entered on the Companies Register and documents deposited in the collection of documents before 1 January 1997, unless these facts or documents are also already kept in electronic form.

(4) Conformity of the copy with the entry in the Companies Register or with a document deposited in the collection of documents will be confirmed by official verification.

(5) The Registration Court may request reimbursement of costs for issuing a copy; the amount of this may not exceed the actual and associated administrative costs.

Section 29

(1) The person to whom the entry applies may not lodge an objection against one who acts in trust in an entry in the Companies Register that this entry does not correspond to the facts.

(2) The facts entered on the Companies Register shall be operative for anyone from the day of their publication, unless the person/entity entered proves that execution of the entry was known to a third party beforehand.

(3) The person/entity entered may refuse to divulge to third parties details and content of documents, publication of which is imposed by law, to third parties, unless it can be proved that they were already known to the third party. The person/entity entered may not, however, invoke these details and content of documents until the sixteenth day following publication, if the third party proves that it could not have known about them.

(4) Where there is inconsistency between details entered and those published or between documents kept and those published, the published wording may not be invoked against third parties. A third party may, however, invoke the published wording only unless the person/entity entered proves that the details entered or the content of documents deposited were known to this third party.

(5) Third parties may always invoke unpublished details and content of documents, if the fact of non-publication does not disqualify them from being effective.

(6) If the content of an entry in the Companies Register is contrary to a mandatory provision of the law and remedy cannot be achieved otherwise, the Registration Court shall call upon the entrepreneur to ensure remedy. If this is a legal entity and this entity does not ensure remedy within the stipulated time period, the court may, even without an application, if this procedure is in the interests of protecting third parties, decide to close it by putting it into liquidation.

(7) A third party may invoke details contained in documents deposited in the collection of documents in one of the official languages of the European Union (Section 38k paragraph 4, unless the party entered

proves that this person/entity knew of the discrepancy with documents published in Czech. The person/entity entered may invoke only details contained in documents published in Czech.

Section 30

(1) From the moment entry of a person who is a body or member of a body of a legal entity is published, nobody may invoke breach of legal regulations, the Memorandum of Association or Articles of Association regarding third parties in election or appointment of these bodies or members of them, unless the person/entity entered proves that the third party knew of the breach. This shall not affect the provisions of Sections 131, 183 and 242.

(2) If the Registration Court rejects an application to permit the entry of a person who is a body or member of a body of a legal entity, his/her election or appointment shall be regarded as null and void; this shall not affect the rights of third parties acquired in good faith. The Registration Court shall publish negative decisions when they come into legal force. A legal entity may not lodge an objection before publication of the invalidity of an election or appointment concerning third parties, unless it proves that these parties knew of the invalidity.

Section 31

(1) Only a person/entity stated in Section 34, or a person/entity so stipulated by law, may submit an application for entry or change or deletion of an entry in the Companies Register (hereafter "application for entry").

(2) If a person/entity does not fulfil pursuant to paragraph 1 the obligation to submit an application for entry within fifteen days of the day when it incurred this obligation, an application for entry may be submitted by a person/entity who/which proves a legal interest in it and attaches the prescribed documents (appendices) to the application.

(3) An applicant pursuant to paragraph 1 or 2 shall submit with the application the consent in writing of persons who pursuant to this Act or special legal regulation are entered as part of entry of the entrepreneur, unless this consent is inferred from other documents submitted for the application; consent shall not be required for deletion of a person entered as part of the entry of the entrepreneur. The signature for consent pursuant to the previous sentence must be officially verified, unless it is contained in a document executed as a notarial deed.

(4) If this Act stipulates conditions for permission of entry in the Companies Register, this means making an entry or a decision on entry pursuant to special legal regulation.

Section 32

(1) An application for entry may be submitted only on a printed form; the signature must be officially verified.

(2) An application for entry must be substantiated by means of documents concerning facts which are to be entered on the Companies Register and documents which shall be kept in the collection of documents.

(3) An application for entry of details to be entered must be submitted without needless delay upon occurrence of the decisive fact.

(4) The Ministry of Justice stipulates by Decree the obligatory forms for submitting applications for entry and a list of documents (attachments) which are attached to applications. The Ministry of Justice also publishes the forms and list of documents attached in a manner enabling remote access; no charge may be made for this service.

(5) The obligation to submit an application for entry on the form pursuant to paragraph 1 shall not apply for proceedings relating to state companies, legal entities of public law established by a special legal regulation and in cases when entry is made or amended as an official obligation.

Section 33

(1) An application for entry may be submitted in documentary or electronic form; this applies similarly to submission of documents proving facts stated in the application and documents deposited in the collection of documents.

(2) Only a person using a recognised electronic signature pursuant to a special legal regulation may submit an application in electronic form.

(3) The Registration Court will keep applications and documents only in electronic form, unless the nature of the application and document renders this impossible. The Registration Court will convert applications and documents delivered in paper form into electronic form without needless delay.

(4) The Ministry of Justice stipulates by Decree the method of converting documents into electronic form, and also the method of dealing with converted documents. It may also stipulate by Decree which applications and documents can be submitted only in electronic form.

Section 34

(1) Entries will be made in the Companies Register for:
a) companies and cooperatives
b) foreign entities pursuant to Section 21 paragraph 4
c) natural persons who are entrepreneurs and are citizens of the Czech Republic or one of the member states of the European Union or another state in the European Economic Area, if they request entry; this will apply similarly to natural persons who are entrepreneurs and have permanent residence in one of these states, and
d) other persons/entities, if a special legal regulation stipulates the obligation to enter them.

(2) A natural person who is an entrepreneur will always be entered on the Companies Register if
a) the amount of his/her revenues or earnings net of value-added tax, if this forms part of the revenues or earnings, has reached or exceeded during two immediately consecutive accounting periods an average of a hundred and twenty million CZK, or
b) operates a business in an industrial manner.

(3) A natural person who fulfils any of the conditions under paragraph 2 shall submit an application for entry in the Companies Register without needless delay.

(4) A natural person who has ceased to fulfil conditions on the basis of which he/she was obliged to submit an application for entry in the Companies Register pursuant to paragraph 3 may submit an application for erasure from the Companies Register.

Section 35

The Companies Register will record:

a) the business name, for legal entities its registered office, for natural persons their home address and place of business, if this is different from their home address

b) subject of business (activity)

c) legal form of a legal entity

d) for a natural person his/her personal identification code or date of birth, if no personal identification code has been assigned to his/her

e) the identification number which the Registration Court assigned to the entrepreneur; required identification numbers are notified to the Registration Court by the state administrative authority concerned

f) the name and home address or business name and registered office of a person who is a statutory body of a legal entity or a member of it, stating how he/she acts in the name of the legal entity, and the day his/her term of office starts and expires; if a statutory body or a member of it is a legal entity, also the names and home addresses of the persons who are its statutory body or members of it

g) the name and home address of the authorised signatory, and also how he/she acts

h) for legal entities the identification number, if it has been assigned

i) other facts stipulated by a legal regulation

Section 36

The Companies Register will also record the following details relating to legal entities:

a) for a public company the name and home address or business (name) and registered office of its partners

b) for a limited partnership company, the name and home address or business (name) and the registered office of its partners, stating which of the partners is a managing investor and which is a passive investor, the amount contributed by each passive investor and how much has been paid up

c) for a limited liability company, the name and home address or business (name) and the registered office of its partners, the amount of registered capital, the amount contributed by each partner to registered capital and how much has been paid up, the amount of the business share of each partner, security for the business share interest in the business, and also the names and home addresses of the members of the Supervisory Board, if one has been set up, and the day their term of office starts and expires

d) for a joint-stock company, the amount of registered capital, how much has been paid up, the number, type, form and nominal value of the shares, any restriction on transferability of registered shares, the names and home addresses of the members of the Supervisory Board and the day their term of office starts or expires; if the company has a sole shareholder, the name and home address or the business name and registered office of the sole shareholder are entered

e) for a cooperative, the amount of registered capital to be entered and the amount of registered member's contribution or contributions

f) for state companies, the founder, the amount of capital stock, the minimum amount of capital stock the state company is obliged to retain, and the designated assets.

Section 37

(1) The person/entity applying for an entry in the Companies Register shall prove that on the entry date at the latest it will obtain a trading licence or other authorisation for activity which is to be entered on the Companies Register as the subject of business (activity), unless stipulated otherwise by a special legal regulation. Activity which can pursuant to a special legal regulation be performed only by a natural person shall be entered as the subject of business of the company or cooperative only if the applicant

proves that that this activity will be performed by persons who are authorised for it pursuant to a special legal regulation.

(2) When applying for entry in the Companies Register, the applicant shall prove the legal reason for use of the premises in which his/its registered office or place of business is located; this shall also apply for any change of these. For proving the legal reason for use of the premises a declaration in writing by the owner of the property, flat or non-residential premises where the premises are located, or a declaration by a person authorised to deal in other ways with the property, flat or non-residential premises that he/it consents to the location shall suffice.

(3) If the applicant is a foreign person/entity, he/it shall inform the Registration Court of the mailing address in the Czech Republic or the person(s) empowered to receive written materials with the mailing address in the Czech Republic; this shall also apply to each change of these details.

(4) A document proving fulfilment of the obligations under paragraphs 1 to 3 shall be attached to the application for entry.

Section 38

(1) In the case of a merger of legal entities (hereafter "entry of merger") a statement shall be entered on the Companies Register for each legal entity ceasing to exist of the fact that it has ceased to exist as a result of merger or amalgamation, stating the business name, registered office and identification number of the successor legal entity, or of all other legal entities ceasing to exist.

(2) For the successor legal entity an entry is made:
a) in the case of a merger, of the fact that the merger has occurred, that the equity of the legal entity (entities) that has (have) ceased to exist has been transferred to it, the business name, registered office and identification number of the legal entity (entities) that has (have) ceased to exist, and any changes of details previously entered concerning the successor legal entity
b) in the case of amalgamation, in addition to the details entered when the legal entity came into existence, of the fact that the amalgamation has occurred, that the equity of the legal entities that have ceased to exist have been transferred to it, the business name, registered office and identification number of the legal entities that have ceased to exist.

Section 38a

(1) In the case of transfer of equity to a partner (hereafter "entry of transfer of equity"), the fact that the company has ceased to exist and equity is being transferred to a partner, and the business name, registered office or home address and place of business, if this is different from the home address, and the identification number of the partner to whom the equity of the company ceasing to exist has been transferred, are entered on the Companies Register for the company that has ceased to exist.

(2) For the person to whom the equity of the company that has ceased to exist is transferred, details of the transfer, the business name, the registered office and the identification number of the company that has ceased to exist shall be entered.

Section 38b

(1) When a legal entity is split up (hereafter "entry of unbundling"), the fact that it has ceased to exist as a result of unbundling or that part of its equity has been hived off, stating the business name, the

registered office and the identification numbers of all the successor legal entities, shall be entered on the Companies Register for the legal entities that have ceased to exist or been split up.

(2) For the successor entity, the following details are entered:
a) when there is unbundling with the establishment of new legal entities, in addition to the details entered when the legal entity comes into existence, the fact that it has come into existence as a result of unbundling, that equity of the legal entity that has ceased to exist stated in the unbundling project has been transferred to it, the business name, registered office and identification number of the legal entity which has come into existence as a result of unbundling, and the business name, registered office and identification numbers of other legal entities which have also been created by unbundling; this shall apply similarly for hiving off with the establishment of new companies (Section 69c paragraph 2)
b) in the case of unbundling by merging legal entities, the fact that equity of the legal entity that has ceased to exist stated in the unbundling project has been transferred to it, the business name, registered office and identification number of the legal entity which has ceased to exist as a result of unbundling, and the business name, registered office and identification number of other legal entities to which other parts of the equity of the legal entity that has ceased to exist have been transferred, and any change in details entered concerning the successor legal entity; this shall apply similarly for hiving off by merger (Section 69c paragraph 2).

Section 38c

In the case of a change in the legal form of a legal entity (hereafter "entry of change in legal form"), for the legal entity that is changing its legal form the fact that it has changed its legal form, stating the original and new legal forms, and also details entered upon the creation of the legal entity the legal form of which the existing legal entity acquires are entered on the Companies Register.

Section 38d

(1) All the legal entities ceasing to exist or unbundled and the successor legal entities together, or all persons who are statutory bodies of successor entities or members of them, shall jointly submit an application for entry of the merger or entry of unbundling.

(2) The legal entity ceasing to exist and the partner to whom the equity is being transferred shall jointly submit an application for entry of transfer of equity. The legal entity whose legal form is changed shall submit an application for entry of change.

Section 38e

(1) If entities ceasing to exist and unbundled and also the successor entities have registered offices in districts of different Registration Courts, an application shall be submitted for each of them.

(2) The Registration Court shall make an entry of the fact on the same day. If the court has decided upon entry by means of a ruling, then the other Registration Courts in whose districts the legal entities involved have registered offices shall not make the respective entries in the Companies Register until the decision to permit entry has come into legal force.

(3) The Registration Court shall permit entry of a merger, transfer of equity or unbundling for legal entities ceasing to exist and unbundled and also the successor legal entities only on the same day.

Section 38f

(1) For a branch unit or other organisational unit of a company, its designation, registered office (location), subject of activity, and name and home address of its manager shall be entered on the Companies Register.

(2) A branch unit or other organisational unit of a company shall be entered on the Companies Register at the Registration Court in whose district it is located in terms of its registered office or home address or place of business, if this is different from the home address entered by the entrepreneur.

(3) A branch unit or other organisational unit of a company located in the district of another Registration Court shall also be entered on the Companies Register at this court.

Section 38g

(1) Entry shall also be made in the Companies Register of the winding up of a legal entity and the legal reason for this, going into liquidation, the name and home address or the business name and the registered office of the liquidator (liquidators), or the name and home address of the person who will perform the activity of liquidator for the legal entity, declaration of bankruptcy with the name and home address or the business name and registered office of the bankruptcy administrator, or the name and home address of the person who will perform the activity of bankruptcy administrator for the legal entity, rejection of an application for declaration of bankruptcy because the debtor's assets are insufficient to pay for the costs of bankruptcy, commencement of settlement proceedings, a court decision on an order to enforce a decision by taking sanctions against the share of a partner in the company, by sale of the company or part of it, and also a court decision to stay enforcement of this decision, a distrainment order for taking sanctions against the share of a partner in the company, for sale of the company or part of it, and also a court decision to stay distrainment or provide notification that distrainment has terminated for reasons other than by staying it, a court decision on the non-validity of the legal entity, termination of liquidation and the legal reason for deletion of the entrepreneur.

(2) If there is a source document for entry of the decision of a court or an administrative authority, this fact shall be entered on the Companies Register without the Registration Court issuing a decision to permit entry, if this decision is required by a special legal regulation.

Section 38h

(1) For the company of a foreign person/entity and for an organisational unit of his/its company, the following shall be entered on the Companies Register:
a) designation and registered office (location) of the company or its organisational unit and identification number
b) subject of activity of the company or its organisational unit
c) law of the state by which the foreign person/entity is governed, and if this law stipulates an entry, then also the file in which the foreign person/entity is entered, and the entry number
d) business name or name of the foreign person/entity, its legal form and the amount of subscribed registered capital in the currency concerned, if this is required
e) entry details required by law for a statutory body or member of it
f) entry details required by law for the manager of an organisational unit of the company and his/her place of residence
g) winding up of the foreign entity, appointment, identification data and authorisation of the liquidator, termination of liquidation of the foreign entity
h) declaration of bankruptcy, permission of settlement or commencement of other similar proceedings relating to the foreign entity and
i) termination of the activity of the company or its organisational unit in the Czech Republic.

(2) For the company of a foreign person/entity and an organisational unit of the company of the foreign person/entity which has its registered office in one of the member states of the European Union or in another state in the European Economic Area, the following details are entered on the Companies Register:
a) designation and registered office (location) of the company or its organisational unit, if this is different from the name or the business name of the foreign entity, and the identification number
b) subject of activity of the company or its organisational unit
c) the file in which the foreign person/entity is entered, if it is entered, and the entry number
d) the business name or name of the foreign person/entity and its legal form
e) entry data required by law for a statutory body or member of it
f) entry data required by law for the manager of the organisational unit and his/her place of residence
g) winding up of the foreign entity, appointment, identification data and authorisation of the liquidator, termination of liquidation of the foreign entity
h) declaration of bankruptcy, permission of settlement or commencement of other similar proceedings relating to the foreign entity and
i) termination of activity of the company or its organisational unit in the Czech Republic.

Section 38i

(1) The collection of documents shall contain
a) the Memorandum of Association or founder's deed or foundation agreement of the company, a copy of a notarial deed containing the resolution of the constituting General Meeting of the joint-stock company or the constituting Meeting of the cooperative, the Articles of Association of the joint-stock company, the cooperative or the limited liability company, if they are to be issued pursuant to the Memorandum of Association and the founder's deed of a state company (hereafter "foundation documents") and subsequent changes in them; after each change in a foundation document or Articles of Association its full valid wording must be deposited
b) a decision on the election or appointment, dismissal or a document concerning other termination of the holding of office of persons who constitute a statutory body or are members of it, the liquidator, the bankruptcy administrator, the settlement administrator, the compulsory administrator or the manager of the organisational unit of the company (Section 13 para. 3) or who as a body regulated by the Act or as members of it are authorised to commit the company or represent it before a court or participate in this manner in management or control of the company
c) the Annual Reports, ordinary, special and consolidated financial statements if they do not form part of the Annual Report, if this Act or a special legal regulation requires their preparation, the proposal for distribution of profit and its final form or settlement of a loss if these do not form part of the ordinary financial statements, auditors' reports on the auditing of the financial statements, and a report on relations between related parties pursuant to Section 66a para. 9; in the document containing the balance sheet (balance) the identification details of the persons who audit it pursuant to the Act must also be given
d) a decision to wind up a legal entity, a decision by which a decision to wind up a legal entity is annulled and a decision to annul a decision on transfer, and a court decision on the invalidity of the company (Section 68a), report on the progress of liquidation under Section 75 paragraph 1, list of partners under Section 75a paragraph 1 or a report on dealing with assets under Section 75 paragraph 6
e) a decision on change of legal form and a report on change of legal form, agreement on a merger, on transfer of equity or on unbundling and drafts in writing of such agreements, an unbundling project, a report on a merger, on transfer of equity or unbundling, and an expert witness's report on a merger, on transfer of equity or unbundling
f) a court decision on the invalidity of a resolution of the General Meeting on change of legal form, merger, transfer of equity or unbundling and on the invalidity of an agreement on a merger, transfer of equity or unbundling or on the invalidity of an unbundling project

g) opinion of an expert witness or expert witnesses on valuation of a non-pecuniary contribution in the establishment of a limited liability company or joint-stock company or in increase of their registered capital, and the opinion of an expert witness on valuation of equity in conversions of legal entities (Section 69) and on valuation of assets under Section 196a para. 3
h) a court decision issued pursuant to the Bankruptcy and Settlement Act
i) agreement to transfer a company or part of it, and agreement to lease a company or part of it, including notification of its extension pursuant to Section 488f paragraph 1, and drafts of these agreements, or documents proving the termination of the lease, and a court resolution on the acquisition of the company through inheritance
j) a control agreement (Section 190b) and an agreement to transfer profit (Section 190a), including changes in them, and/or documents proving annulment of the agreement
k) evidence of the consent of a marital partner to use of assets when the marital partners have joint tenancy in the business pursuant to a special legal regulation, a copy of a notarial deed on an agreement to change the extent of joint tenancy or on reservations regarding its creation pursuant to a special legal regulation, if such agreement has been concluded, or court decision on reduction of joint tenancy, or an agreement to divide revenues from the business pursuant to a special legal regulation; in the case of a divorce, an agreement to settle joint tenancy pursuant to a special legal regulation or court decision or declaration of the entrepreneur that there has not been an agreement or court decision
l) an agreement to pledge a business share and an agreement to transfer a business share
m) resolution of the General Meeting under Section 210
n) a court decision to order enforcement of a decision imposing a sanction on the holding of any of the partners in the company, by sale of the company or part of it, and also a court decision to halt enforcement of a decision, a court resolution to order distrainment and issue a distrainment order to take sanctions against the business share of any of the partners in the company and to sell the company or part of it, and also a decision to halt distrainment or information that distrainment has finished other than by being halted
o) a decision of the appropriate state authority to grant state consent to operation as a private university pursuant to a special legal regulation
p) other documents stipulated by law

(2) The collection of documents shall also contain specimen signatures of the persons entered as persons authorised to act on behalf of a legal entity.

Section 38j

(1) The collection of documents regarding a foreign person/entity, its company and its organisational unit shall contain:
a) accounting records relating to the foreign person/entity in compliance with obligations for their checking, processing and publication pursuant to the legal code by which the foreign person/entity is governed; if this regulation is not in compliance with the requirements of this Act and special legal regulations, accounting records relating to the activity of the organisational unit stated in Section § 38i para. 1 (c) shall also be deposited in the collection of documents
b) the Memorandum of Association, Articles of Association and similar documents on the basis of which the foreign person/entity was established and changes in them and the full wording
c) verification of the records of the state where the foreign person/entity has its registered office to the effect that it has been entered on the records if the law of the state where it is based stipulates such records
d) details or evidence of a lien on assets of the foreign person/entity in another state, if validity of this security is bound to its publication, and
e) a specimen signature of the manager of the organisational unit

(2) For a foreign person/entity and an organisational unit of a foreign person/entity which has its registered office in one of the member states of the European Union or in another state in the European

Economic Area, only the documents stated in paragraphs 1 (a), (b) and (c) shall be deposited in the collection of documents.

(3) The duty to deposit accounting records pursuant to paragraph 1 (a) and pursuant to paragraph 2 shall not apply for organisational units (branches) of foreign loan and financial institutions.

(4) If several organisational units of the company of one foreign entity operate in the Czech Republic, the documents stated in paragraphs 1 or 2 may be deposited in the section of the collection of documents of only one of these, as selected by the foreign entity. In such a case a reference has to be given in the section of the collection of documents for the other organisational units of the company of the same foreign entity to the Registration Court of the selected organisational unit, including the entry number.

Section 38k

(1) An entrepreneur entered on the Companies Register shall submit two copies of the documents filed in the collection of documents to the Registration Court without needless delay following the occurrence of a decisive fact. One copy of documents not proving the facts to be entered shall be submitted (Section 32 paragraph 2).

(2) Court decisions which are to be deposited in the collection of documents shall be deposited by the Registration Court. If a certain item is entered on the Companies Register but a corresponding document is not deposited in the collection of documents, the Registration Court shall note this fact in the collection of documents and call upon the entrepreneur to submit the document without needless delay.

(3) Documents prepared in a foreign language which are to document entered factcs and which are not to be entered to the collection of documents and further documents which are to be entered to the collection of documents under Section 38i paragraph 1, letters h), i), j), k), l) and p), Section 38i paragraph 2 and Section 38j, shall be submitted in the original wording and also in a Czech translation, unless the Registration Court informs the entrepreneur that this translation is not required; the Registration Court may also provide this information on its official bulletin board for an indefinite number of proceedings in future. If a translation is required and if it is a translation from a language which is not an official language or one of the official languages of a member state of the European Union or another state in the European Economic Area, the translation must be officially verified.

(4) Documents which are deposited to the collection of documents under Section 38i paragraph 1, letters a) to g), m), n) and o) are to be done and submitted in Czech language. In the collection of documents there may also be deposited translations of such documents to any foreign language. Such translations if translated to a different language than one of the official languages of the European Union or European Economic Area must be officially verified.

Section 38l

(1) A statutory body or a member of a statutory or other body of a legal entity which is an entrepreneur may not be one who has held any of the comparable positions in a legal entity against whose assets bankruptcy has been declared. The same shall apply if an application for declaration of bankruptcy submitted against this legal entity has been rejected for insufficient assets.

(2) The impediment pursuant to paragraph 1 shall operate against one who has held the position of a statutory body or member of a statutory or other body in a legal entity at least one year prior to submission

of a petition for declaration of bankruptcy against its assets, or prior to the establishment of an obligation of this legal entity to submit a petition for declaration of bankruptcy against its assets.

(3) The impediment pursuant to paragraph 1 shall last for a period of three years from the date of legal force of
a) a resolution to terminate bankruptcy following fulfilment of the resolution on assets distribution or because the assets of the bankrupt are insufficient to pay the costs of bankruptcy or
b) a resolution to reject the petition for bankruptcy for insufficient assets.

(4) The impediment pursuant to paragraph 1 shall not be taken into account
a) if bankruptcy is terminated for reasons other than those stated in paragraph 3
b) if the person is a liquidator who has fulfilled the obligation pursuant to Section 72 paragraph 2
c) if it is a person who was elected to the office after declaration of bankruptcy against the assets of the legal entity, or
d) if it is a person who has been adjudged in proceedings pursuant to a special legal regulation to have performed his/her office to date with due diligence

(5) The impediment pursuant to paragraph 1 shall lapse
a) if the person on whose part it occurs was elected or appointed to the position with the consent of two thirds of the votes of the partners present at the General Meeting or two thirds of all members of the Supervisory Board or authorised employees of the company, if he/she is a member of the Supervisory Board elected by the employees, and
b) the body in question was advised of the existence of this impediment at the election or appointment of this person to the post.

(6) If a fact stated in paragraph 1 occurs at a time when a person to whom this fact applies is a statutory body or a member of a statutory or other body of the legal entity, the relevant body shall, as soon as it comes to its knowledge, dismiss him/her, or confirm his/her election or appointment. For confirmation of election or appointment the consent of two thirds of the votes of the partners present at the General Meeting or of two thirds of all the members of the Supervisory Board or authorised employees of the company shall be required, if he/she is a member of the Supervisory Board elected by the employees. If there is no confirmation of the election or appointment within three months of the date when the fact stated in paragraph 1 occurred, performance of office shall cease on the last day of this period.

(7) If it is a partner in a public company or a managing partner in a limited partnership, the impediment pursuant to paragraph 1 shall lapse or if the partner is confirmed in the position, the partners shall conclude an agreement in writing to this effect with officially verified signatures.

(8) A decision pursuant to paragraphs 5 and 6 for other legal entities which are entrepreneurs is within the competence of their supreme body.

Decree of the Ministry of Justice No. 562/2006 Coll., On Digitalisation of the Companies Register

The Ministry of Justice stipulates under Section 33 para. 4 of Act No. 513/1991 Coll., the Commercial Code, in the wording of Act No. 216/2005 Coll.:

Section 1
Method of converting documents into electronic form and method of dealing with converted documents

(1) The method of converting documents into electronic form is understood as their digitalisation, which is effected by means of computer technology. Digitalised documents shall be saved in Portable Document Format (pdf) and included in the document database.

(2) Documents will not be kept after 6 months have passed since they were digitalised.

Section 2
Obligatory electronic form of documents

Documents which are deposited in the collection of documents not providing evidence for facts stated in the application for entry or change or deletion of an entry in the Companies Register shall be submitted only in electronic form in Portable Document Format (pdf). These documents can be sent to the Registration Court by e-mail or using a Compact Disc Recordable (CD-R) data carrier. The Registration Court will not return data carriers delivered and shall shred them 6 months after they have been delivered.

Section 3
Effectiveness

This Decree shall come into effect on 1 January 2007.

Minister:
JUDr. Pospíšil in his own hand

5. Annex 5 / Justice – Relevant general provisions of the Criminal Code

Section 3
Crimes

(1) A „crime„ (or „criminal act„) shall be an act which is dangerous to society and the features of which are stipulated in this Code.

(2) An act whose degree of danger to society is negligible shall not be considered a crime, even though it may otherwise have the features of a crime.

(3) In order for an act to be considered a crime, its commission requires intentional culpability, unless this Code expressly provides that an act committed through negligence shall be considered a crime.

(4) The degree of danger (menace) represented by an act to society shall be determined in particular by the significance of the protected interest affected by such act, the manner in which the act is committed and its consequences, the circumstances under which the act is committed, the person of the offender and the degree of his culpability and motives.

Culpability
Section 4

(1) A crime is committed intentionally if the offender:

(a) wished to encroach upon or endanger, in a manner stipulated in this Code, an interest protected by this Code, or

(b) was aware that he/she could cause by his/her act such encroachment or danger and, if he caused it, he agreed with its result.

Section 5

A crime is committed through negligence if an offender:
(a) knew that he could encroach upon or endanger an interest which is protected by this Code, in the manner stipulated in this Code, but without adequate grounds (reasons) he believed he would not cause such an encroachment or danger; or
(b) did not know that his act (conduct) could cause such an encroachment or danger, even though, given the circumstances and his personal situation, he should and could have known it.

Section 6

An aggravating circumstance, or a circumstance which warrants the application of a higher punishment (sentence), shall be taken into consideration,
(a) if a graver consequence is involved, including cases where the offender caused it through his negligence, except when this Code requires intentional culpability;
(b) if another fact is involved, including such facts which the offender did not know, even though, given the circumstances and his personal situation, he should or could have known it, except when this Code requires the offender's knowledge of such fact.

Offender, Accomplice and Participant of a Crime
Section 9

(1) An offender is a person (an individual) who himself commits a crime.

(2) If a crime is committed by the joint conduct of two or more persons, each of them shall be criminally liable as if he alone had committed the crime (accomplices).

Section 10

(1) A participant in a completed crime, or an attempt to commit a crime, is a person who intentionally;
(a) organises or directs the commission of a crime (the organiser);
(b) instigates another person to commit a crime (the instigator);
(c) grants another person assistance in committing a crime, particularly by providing the means for committing such crime, removing obstacles, giving advice, strengthening the person's intent, or promising assistance after the commission of a crime (an assistant);

(2) The criminal liability and liability to punishment of a participant shall be governed by the provisions on the offender's criminal liability and liability to punishment, unless this Code provides otherwise.

Section 28

(1) If the Special Part of this Code provides for two or more punishments for a certain crime, each such punishment may be imposed separately, although two or more of them may be imposed in parallel („concurrently"). In addition to the punishments which this Code stipulates in its Special Part for a particular crime, other punishments as listed in provision 27 may be imposed. Expulsion and prohibition of stay (residence) may be imposed separately, even if the Special Part of this Code does not stipulate such punishment.

(2) A court may not impose a pecuniary penalty concurrently with forfeiture of property.

6. Annex 1 / FAU – AML/CFT Act. (1.7.1996 – 31.8.2008)

http://www.coe.int/t/dghl/monitoring/moneyval/National_legislation/AML(1996)_CZE_en.pdf

7. Annex 2 / FAU – AML/CFT Act (5 June 2008)

Act No. 253/2008 Coll.
June 5, 2008
on selected measures against legitimisation of proceeds of crime and financing of terrorism
The Parliament of the Czech Republic has adopted this Act:
PART ONE
INITIAL PROVISIONS

Section 1
Subject of Law
This Act transposes the relevant European Community legislation

[14] and, relating to the directly applicable European Community legislation[15], shall regulate the following:

a) selected measures against legitimisation of proceeds of crime and financing of terrorism,

b) selected rights and responsibilities of natural and legal persons in enforcing measures against legitimisation of proceeds of crime and financing of terrorism,

in order to prevent use of the financial system for the purposes of legitimisation of proceeds of crime and financing of terrorism and to create appropriate conditions to disclose such activities.

Section 2

Obliged Entities

(1) For the purposes of this act, the obliged entity shall be understood as:

a) a credit institution in a form of:

1. a bank,
2. a cooperative savings or credit union,
3. an electronic money institution,
4. a person authorised to issue electronic money based on a license in keeping with legislation regulating the issue and use of electronic means of payment[16],

b) a financial institution, which is an undertaking other than a credit institution, such as:

1. the Central Depository, the entity keeping a register related to the Central Register of Securities maintained by the Central Depository, the entity keeping an independent register of investment instruments, the entity keeping a register related to the independent register of investment instruments[17]),
2. an administrator of investment tools market,
3. a person licensed to provide investment services[18] with the exception of an investment broker[19],
4. an investment company, an investment fund, or a pension fund,
5. a person entitled to issue or administer non cash means of payment,
6. a person authorized to provide or trade with leasing, guarantees, credit or loans,
7. a person authorized to broker savings, leasing, credit or loans,
8. an insurance or re-insurance company, an insurance agent and an insurance settlement agent when performing activities related to the life insurance[20], with the exception or an insurance agent whose liability for damage is borne by his contracting insurance company,
9. a legal or natural person authorised to buy and trade in debt and receivables,
10. a person licensed to perform exchange of foreign currency or wireless foreign currency transfers pursuant to the Foreign Currency Act,

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[14] 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. 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 person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

[15] Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community. Regulation (EC) No 1781/2006 of the European Parliament and of the Council of November 15, 2006 on information on the payer accompanying transfers of funds.

[16] Section 19, Act No. 124/2002 Coll., on Transfers of money, electronic means of payment and payment systems (Payment Act), as amended by Act No. 62/2006 Coll.

[17] Sections 91 to 115, Act No. 256/2004 Coll., on Enterprising on the capital market, as amended.

[18] Section 4, Act No. 256/2004 Coll., as amended.

[19] Section 29, Act No. 256/2004 Coll., as amended by Act No. 56/2006 Coll.

[20] Section 2, Article (1v), Act No. 363/1999 Coll., on Insurance industry, as amended.

11. a person licensed to provide or broker payment services, including money services, or postal services intended to transfer money,
12. a person licensed to provide consultancy services to private business in matters concerning equity, business strategy, merge, or acquisition,
13. a person providing services of financial brokerage,
14. a person providing services of safekeeping of valuables,

c) a holder of a licence to operate betting games in casinos in keeping with the Act on lotteries and other similar games,

d) a legal or natural person authorised to act as a real estate trader or broker,

e) an auditor, tax advisor, or chartered accountant,

f) a licensed executor when performing other activities of an executor pursuant to the Executor proceedings as well as safekeeping of money, securities, or other valuables,

g) a public notary providing safekeeping notarial services[21] a lawyer or a public notary offering the service of safekeeping money, securities, or other customer's valuables; or a lawyer or a public notary required by the customer to represent him or to act on his behalf in the following:
1. buying or selling real estate, a business entity, or its part[22],
2. managing of customer assets, such as money, securities, business shares, or any other assets, including representation of the customer or acting on his account in relation to opening bank accounts in banks or other financial institutions or establishing and managing securities accounts, or
3. establishing, managing, or controlling a company, business group, or any other similar entrepreneurial entity regardless of its status of a natural/legal person as well as receiving and gathering of money or other valuables for the purpose of establishing, managing, or controlling such entity, or
4. providing services of encashment, payments, transfers, deposits, or withdrawals in wire or cash transactions, or any other conduct aimed at or directly triggering movement of money,

h) a person not regulated by letters a) to g), providing the following professional services to another person:
1. establishing legal persons,
2. acting as a statutory body or its member, or acting as person appointed to act in the name of or on behalf of a legal person, or another person in a similar position, should such service be only temporary and should it be related to establishing and administration of a legal person,
3. providing a business location, address, and possibly other related services to another legal person,
4. acting as an appointed shareholder on behalf of another person in case this person is not acting as a company whose securities have been accepted for trading at a regulated market and which is subject to information disclosure requirements equivalent to those laid down by the European Communities law, or
5. acting in its name of or on its behalf in activities stipulated in letter g),

i) a person providing services under letter h) in a framework of a trust or any other similar contractual relationship under foreign law,

j) a person licensed to trade in items of cultural heritage[23], items of cultural value[24], or to act as intermediary in such services,

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[21] Section 81 an on, Act No. 358/1992 Coll., on Notaries and their activities (Notary Act), as amended.

[22] Section 5, Commercial Code.

[23] Section 2 Act No. 20/1987 Coll., on Public protection of historical heritage.

[24] Section 1, Article 1, Act No. 71/1994 Coll., on Sale and exportation of items of cultural value, as amended by Act No. 80/2004 Coll.

k) a person licensed to trade in used goods, act as intermediary in such trading, or receive used goods in pawn.

(2) An obliged entity acting in the exercise of his/its professional activities, such as:

a) a foreign legal or natural person as stipulated by Article 1, operating in the territory of the Czech Republic via its branch or subsidiary; such person meets the definition of an obliged entity in the extent of activities performed by such branch or subsidiary,
b) a foreign national operating in the territory of the Czech Republic should he perform activities stipulated in Article 1,
c) the Securities Centre,
d) an entrepreneur not listed in Article 1, should he receive payments in cash in an amount of EUR 15,000 or more, or
e) a legal person which is not a business should it be licensed to provide, in a form of a service, any of the activities stipulated in Article 1, or should it receive payments in cash in an amount of EUR 15,000 or more.

(3) A person not performing activities stipulated in Article 1 as a professional business activity, with the exception of a person listed in Article (2d) and (2e), is not considered to be an obliged entity.

Section 3

Basic Definitions

(1) For the purposes of this Act, legitimisation of proceeds of crime shall mean an activity aimed to conceal the illicit origin of proceeds of crime with the intention to present the illicit proceeds as legal income. The above activity may particularly be in the form of:
a) conversion or transfer of assets, knowing that such assets come from criminal proceeds, for the purpose of concealing or disguising the illicit origin of the assets or to assist a person involved in the commission of the predicate offence to avoid the legal consequences of such conduct,
b) concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of assets, knowing that such assets derive from crime,
c) acquisition, possession, and use or handling of assets knowing that they originate from crime,
d) criminal association or any other type of association serving the purpose of conduct in letter a), b) or c) above.

(2) Financing of terrorism shall mean:

a) gathering or providing financial or other assets with the knowledge that such assets will be, in full or in part, used to commit a crime of terror[25], terrorist attack[26], or a criminal activity intending to facilitate or support such crime[27], or to support an individual or a group of individuals planning such crime, or
b) acting with the intention to pay an award or compensation to a person who had committed an act of terror, terrorist attack, or a crime intended to facilitate or support such crime[14], or to an individual close to such person as stipulated by the Criminal Code[28]; or collecting assets to pay such award or compensation.

(3) For the purposes of this Act, activities stipulated in Article 1 or 2 may take place fully or partially in the territory of the Czech Republic or fully or partially outside the territory of the Czech Republic.

Section 4

[25] Section 93, Criminal Code.
[26] Section 95, Criminal Code.

[27] Items 1 to 4, Council Framework Decision of June 13, 2002 on combating terrorism (2002/475/JHA).

[28] Section 89, Article 8, Criminal Code.

Other Definitions

(1) For the purposes of this Act, transaction shall mean any interaction of the obliged entity with another person should such interaction lead to handling of the other person's property or providing services to such other person.

(2) For the purposes of this Act, business relationship shall mean a relationship between the obliged entity and another entity established to handle assets of such other person or to provide services to such other person should it be obvious from the onset of the business relationship that such services will be repeating.

(3) For the purposes of this Act, customer´s order shall mean any step made by the obliged entity to transfer of otherwise handle the customer's assets.

(4) For the purposes of this Act, the beneficial owner shall mean either:

a) an entrepreneur as:
   1. a natural person, having real or legal direct or indirect control over the management or operations of such entrepreneur, indirect control shall mean control via other person or persons,
   2. a natural person, holding in person or in contract with a business partner or partners more than 25 per cent of the voting rights of such entrepreneur; disposing of voting rights shall mean having an opportunity to vote based on one's own will regardless of the legal background of such right or an opportunity to influence voting by other person,
   3. natural persons acting in concert and holding over 25 per cent of the voting rights of such entrepreneur, or
   4. a natural person, which is, for other reasons, a real recipient of such entrepreneur's revenue,

b) a foundation or a foundation fund as:
   1. a natural person, which is to receive at least 25 per cent of the distributed funds, or
   2. a natural person or a group of persons in whose interest a foundation or a foundation fund had been established or whose interests they promote, should it yet to be determined who is the beneficiary of such foundation or a foundation fund,

c) a natural person, in case of an association under lex specialis[29], public service organization, or any other person and a trusteeship or any other similar legal arrangement under a foreign law, who:
   1. holds over 25 per cent of its voting rights or assets,
   2. is a recipient of at least 25 per cent of the distributed assets, or
   3. in whose interest they had been established or whose interests they promote, should it yet to be determined who is their future beneficiary.

(5) For the purposes of this Act, a politically exposed person shall mean:

a) a natural person in a prominent public position and with nation-wide responsibilities, such as a head of state, a head of government, a minister and deputy or assistant minister, a member of the parliament, a member of a supreme court, a constitutional court or another high-level judicial body decisions of which are not subject to further appeal, except in exceptional circumstances, a member of a court of auditors or a central bank board, a high-ranking military officer, a member of an administrative, supervisory, or management board of a state-owned business, an ambassador or chargé d'affaires, or a natural person, having similar responsibilities on a Community or international level; all the above for the entire period of the position and for one year after the termination of such position, and provided the person:
   1. has a residence outside the territory of the Czech Republic, or
   2. holds such important public position outside the Czech Republic,

b) a natural person, who
   1. is the spouse, partner equivalent to the spouse or a parent of the person under a),

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[29] Section 20f and on, Civil Code.
Act No. 83/1990 Coll., on Public association, as amended.

2. is a son or a daughter of the person under letter a) or a spouse or a partner of such son or daughter (a son or daughter in law),
3. is a business partner or a beneficial owner of the same legal person, a trust, or any other business entity under a foreign law, as the person under letter a) or is known to the obliged entity as a person in a close business relationship with a person under letter a), or

4. is a business partner or a beneficial owner of the same legal person, a trust, or any other business entity under a foreign law known to have been established in benefit of a person under letter a).

(6) For the purposes of this Act, an identification document shall mean an identity card issued by the public administration and bearing the holder's name, surname, and date of birth together with an image and potentially other identification features allowing for the identification of the bearer as the true holder.

(7) For the purposes of this Act, correspondent banking shall mean the contractual relationship between a local credit institution or a foreign credit institution having a branch in the Czech Republic, and a credit or similar institution in a foreign country allowing the local credit institution, a foreign credit institution having a branch in the Czech Republic, or a credit or similar institution in a foreign country to make or to receive payments from abroad via the other contractual party.

Section 5

Identification Data

For the purposes of this Act,

a) natural person's identification data shall mean all names and surnames, a birth identification number (for a person with no birth identification number a date of birth), a place of birth, sex, permanent or other residence and citizenship; for a natural person as an entrepreneur it shall also mean the business name, an appendix to the business name or any other identification features, place of business, and business registration number,

b) legal person's identification data shall mean the company name, including its appendices or other identification features, company official address, company registration number or a company identification number given under foreign law; for individuals acting as statutory bodies or their members, the identification data shall mean the data under letter a).

Section 6

Suspicious Transaction

(1) For the purposes of this Act, suspicious transaction shall mean a transaction the circumstances of which lead to a suspicion of legitimisation of proceeds of crime or financing of terrorism or any other unlawful activity. The following activities by a customer shall be perceived as suspicious:

a) cash deposits immediately followed by withdrawals or transfers to other accounts,

b) numerous transactions performed in one day or in a short period of time and not typical of the given customer,

c) a number of various accounts opened by the given customer which are in obvious discrepancy with his business activities and wealth,

d) transactions that obviously make no economic sense,

e) assets handled by the customer which are in obvious discrepancy with his business activities and wealth,

f) an account which is not used for the purposes for which it had been opened,

g) customer performance which seems to aim at concealing his or the beneficial owner's real identity,

h) the customer or the beneficial owner who are nationals of a country which does not enforce, or fails to fully enforce, measures to combat legitimisation of proceeds from crime and financing of terrorism, or

i) customer identification data the correctness of which the obliged entity has reasons to doubt.

(2) A transaction shall always be perceived as suspicious, should

a) the customer or the beneficial owner be a person against whom the Czech Republic had imposed international sanctions under the Act on international sanctions[30],

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b) the goods or services dealt in the transaction fall in the category against which the Czech Republic had imposed international sanctions under the Act on international sanctions[17)], or

c) the customer refuse to reveal identification data of the person he is representing or to undergo the due diligence process.

PART TWO

RESPONSIBILITIES OF THE OBLIGED ENTITIES

CHAPTER I

CUSTOMER IDENTIFICATION AND DUE DILIGENCE

Section 7

Identification Requirement

(1) The obliged entity, should it be a party to a transaction exceeding EUR 1,000, shall always identify the customer prior to the transaction, unless stipulated otherwise by this Act.

(2) The obliged entity shall, without regard to the limit stipulated in Article 1, always identify the customer should it concern the following:

a) a suspicious transaction,

b) an agreement to enter into a business relationship,

c) an agreement to establish an account; an agreement to make a deposit into a deposit passbook or a deposit certificate; or an agreement to make any other type of deposit,

d) an agreement to use a safety deposit box or an agreement on custody,

e) a life insurance contract, should the customer have a right to pay extra premiums above the agreed limit of the one-of or regular premium payments,

f) a purchase or reception of cultural heritage, items of cultural value, used goods or goods without a receipt of origin to further trade in such goods, or reception of such items in pawn, or

g) withdrawal of a cancelled bearer passbook final balance.

(3) The obliged entity shall, at the latest on the day of the payment, identify the individual entitled to receive the life insurance settlement.

Section 8

Identification

(1) The obliged entity shall perform the first identification of a customer who is a natural person as well as any natural person acting on behalf of a customer in personal presence of the identified, unless stipulated otherwise by this act.

(2) When identifying a customer who is:

a) a natural person, the obliged entity shall take identification data of such customer, verify those which are on his identity card, take a record of the type and number of the identity card, country of issue, validity, and, if possible, the issuing body, and make sure that the identity card image matches the holder,

b) a legal person, the obliged entity shall take a record of and verify such customer's identification data from its business registration documents, and, in the extent stipulated in letter a), identify the natural person acting in the transaction on behalf of such legal person; should the statutory body, its member, or the beneficial owner be another person, the obliged entity shall also record this person's data.

(3) Should the customer be represented by a holder of a power of attorney, the holder's identification shall follow the procedure stipulated in Section 2 and the holder shall submit the respective power of attorney; no power of attorney is required should the holder of a power of attorney be solely depositing cash to the customer's account and submitting to the obliged entity deposit forms that had been completed and signed by an authorized person.

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[30] Section 2, Act No. 69/2006 Coll., on International sanctions.

(4) Should the customer be represented by a proxy, such proxy shall be identified in keeping with Article 2. The proxy shall present identification data of the represented entity.

(5) In a transaction with a customer, who had already been identified in line with Section 2, the obliged entity shall properly verify the identity of the acting natural person. The obliged entity may identify such person even if the customer who is a natural person or the natural person acting on behalf of a legal person is not present.

(6) The obliged entity shall, when in business relationship with the customer or in further transactions, check the validity and completeness of the customer's identification data, information gathered in the course of the due diligence process (Section 9), or reasons for exempting the customer from the due diligence process (Section 13), and shall take record of any changes and modifications.

(7) Should the obliged entity detect or suspect that a party to the transaction is not acting on his/its own behalf or is attempting to conceal his/its acting for a third party, it shall require the customer to submit a power of attorney as stipulated in Section 3. Such request shall be honoured at any case, unless stipulated by lex specialis. Lawyers or notaries may fulfil this obligation by submitting to the obliged entity copies of the relevant parts of the documents which they had used to gather the identification data.

(8) The customer shall submit to the obliged entity any information necessary to perform identification and to check respective documents. The obliged entity may, for the purpose of this Act, take copies or make excerpts from any of the above and process such information to enforce this Act.

Section 9

Client Due Diligence

(1) The obliged entity stall, prior to a single transaction amounting to EUR 15,000 or more, a transaction subject to identification under Section 7(2a) to (2d), transaction with a politically exposed person, and as part of the business relationship, perform customer due diligence. The customer shall submit to the obliged entity any information and documents necessary for the due diligence. The obliged entity may, for the purpose of this Act, take copies or make excerpts from any of the above and process such information to enforce this Act.

(2) Client due diligence entails the following:

a) collection of information on the purpose and intended nature of the business relationship,

b) identification of the beneficial owner, should the customer be a legal person,

c) collection of information necessary for ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, the business and risk profile,

d) monitoring of sources of funds.

(3) The obliged entity stall perform customer due diligence under Article 2 in the extent necessary to determine the potential risk of legitimisation of proceeds of crime and financing of terrorism depending on the type of customer, business relationship, product, or transaction. The obliged entity shall, to the persons empowered to supervise compliance of obligations under this Act (Section 35), justify the scope of customer due diligence or exception from the customer identification and due diligence requirement under Section 13, all the above with respect to the above risks.

Section 10

Customer Due Diligence Performed by a Public Notary, or a Regional or Municipal Authority

(1) Should the first customer identification by the obliged entity under Section 8(1) be, for serious reasons, impossible, such identification may be, upon request of either a customer or the obliged entity, performed by a public notary, a regional office, or a local authority in a municipality exercising devolved powers of the state.

(2) A public notary or an office in Article 1 shall take a record of such identification; the record, which becomes an official document, shall bear the following properties:

a) the name of the person performing the identification, name of the requesting person, and purpose of such identification,
b) customer identification data,
c) a declaration of the identified natural person, the person acting on behalf of the identified legal person or a proxy, on the purpose and correctness of the identification performed, eventually on reservations to such identification,
a) the place and date of the record and the place and date of the identification, if they differ,

e) the signature of the identifying person, an official stamp, an a serial number in the log of identification records.

(3) As an appendix to the identification record, the obliged entity shall make copies of relevant parts of documents used for the identification and bearing identification data, type and serial number of the identity card, issuing country and institution, and validity as well as, with requests filed in writing, a copy of the request. Should this procedure be used to identify a proxy, the power of attorney or its certified copy shall also be attached as an appendix. All appendices shall be attached to the identification record to make a complete file.

(4) All copies shall be legible and capable of storage for the period stipulated in Section 16. The file of copies shall include a copy of the image of the identified person in his identity card which allows for visual identification.

(5) Both a public notary and an institution under Article 1 shall keep an internal log of identification records, in which it shall document the following:
a) a serial number and date of the record,
b) the following identified person's data:
1. name, surname, permanent or other residence, birth registration number or date of birth of the identified natural person or natural person acting on behalf of the identified legal person,
2. in case of a legal person, its business or corporate name, the business name, an appendix to the business name or any other identification features, place of business, and business registration number,
3. the purpose of identification.

(6) The identification record log is kept on a calendar year basis and complete logs shall be stored for a period of 10 years.

Section 11

Transfer of Identification

(1) The obliged entity may decide not to identify a customer or seek information on the purpose and nature of a transaction or a business relationship under Section 9(2a) and identify a beneficial owner under Section 9(2b), should these steps have already been performed by:
a) a credit or financial institution, with the exception of a financial institution under Section 2(1b), points 10 and 11, or
b) a foreign credit or financial institution, with the exception of a person licensed to exchange foreign currency or a financial institution providing transfers of money abroad, should it be located in the territory of a country imposing and enforcing similar identification, due diligence, and data keeping requirements and should it be subject to compulsory business licensing or registration and supervision to on and off-site control its general performance as well as individual transactions.

(2) The obliged entity acting in keeping with Article 1 shall make sure that it will receive, from the credit or financial institution, or a foreign credit or financial institution which had performed the identification, all relevant documents, including copies of all documents used in the customer identification, all data indicating the purpose and nature of the business transaction, and information on the identity of the beneficial owner. The credit or financial institution shall, upon consent of the person identified and without undue delay, submit all information including copies of the document hereabove, to another obliged entity should such person decide to rely on it for the customer identification.

(3) The obliged entity shall refuse the customer identification information, data indicating the purpose and nature of the business transaction, and information on the identity of the beneficial owner under Articles 1 and 2, should it have a reason to doubt the correctness or completeness of such information.

(4) In case of a remote agreement on financial services under the Civil Code, the obliged entity shall identify the customer as follows:

a) the first payment from this agreement shall be made via an account kept on the customer's name in a credit institution or a foreign credit institution operating in the European Union or the European Economic Area,

b) the customer shall submit to the obliged entity a copy of a document verifying the existence of an account under letter a) above together with copies of the relevant parts of his identity card and at least one more identification document from which the obliged entity may determine the customer's identification data, type and serial number of such identity cards, issuing country or institution, and validity. Such copies shall be made in line with requirements under Section 10(4).

(5) The credit or financial institution may not perform the customer identification and seek the data indicating the purpose and nature of the business transaction under Section 9(2a) and information on the identity of the beneficial owner under Section 9(2b) should these steps had been performed prior to the transaction by a person acting on its behalf and on its account and bound by its internal regulations, and should such credit or financial institution bear responsibility for damages caused by such person. All information including copies of documents under the first sentence hereabove shall be, should they have been made, kept at the obliged entity.

(6) The credit or financial institution, when providing investment services, may decide not to perform the customer identification and seek the data indicating the purpose and nature of the business transaction under Section 9(2a) and information on the identity of the beneficial owner under Section 9(2b) should these steps had been performed by an investment broker in line with this Act and its internal regulations. The obliged entity shall bear responsibility for such steps as it had been its own performance.

(7) In cases under Articles 1, 4, 5 and 6, the obliged entity shall verify that all conditions required had been met and that none of the customers, products, or transactions represents a risk of legitimisation of proceeds of crime or financing of terrorism. In case of doubt, no exceptions shall be applied.

Section 12

Common Provisions to Identification under Section 10 and Section 11

In case of identification and other steps under Section 10 or Section 11(4) and 11(6), all identification data and other information and documents listed therein shall be deposited with the obliged entity prior to the transaction.

Section 13

Exceptions from the Identification and Due Diligence Requirement

(1) The obliged entity may decide not to perform any identification or due diligence should the customer be:

a) a credit or financial institution,

b) a foreign credit or financial institution operating in the territory of a country imposing and enforcing anti money laundering and financing of terrorism measures comparable to those imposed by the European Communities acquis[1)] and supervised to that respect,

c) a company whose securities are traded at a regulated market and which is subject to reporting requirements comparable to those enforced by the European Communities acquis,

d) a beneficial owner of assets deposited with a public notary, lawyer, licensed executor, or court,

e) a central Czech public authority, the Czech National Bank, or a higher self-governing territorial entity, or

f) a customer:

1. holding important public positions under the European Communities acquis,
2. whose identification data are publicly available and there is no reason to doubt their correctness,
3. whose activities are transparent,

4. whose books show a true and real picture of his accounting and wealth,
5. who is accountable either to an European Union body or bodies of an European Union or European Economic Area member state and who is subject to other relevant control mechanisms.

(2) The obliged entity may decide not to perform any identification or due diligence should the product be:

a) a life insurance agreement or government subsidized pension insurance contract and should its one-of premium or deposit be below EUR 2,500 or should the annual premium or the total of regular premiums in a calendar year be below EUR 1,000,

b) employee pension insurance operated in the territory of the Czech Republic by institutions registered in an European Union or European Economic Area member state under their law[31], should the premiums be paid as direct wage deductions and there be no option to transfer the member stake within the given system,

c) electronic money under other law[32], should the highest sum deposited to a non-uploadable electronic money solution not exceed EUR 150, or, with uploadable electronic money solutions, should there be an annual limit of EUR 2,500, with the exception of cases when the owner converts, in a calendar year, more than EUR 1,000, or

d) other products, should they pose low risk of their use for the purposes of legitimisation of proceeds or financing of terrorism and meet the following conditions:

1. be accompanied by a written contract,
2. payments are made solely via an account held on the customer's name at a credit institution or a foreign credit institution operating in the territory of a country imposing and enforcing anti money laundering and financing of terrorism measures comparable to those imposed by the European Communities acquis[1)] and supervised to that respect,
3. the product or individual payments are not anonymous and are transparent enough to readily disclose a suspicious transaction,
4. the product has a pre-set maximum value of transaction, which does not exceed EUR 15,000; savings products do not exceed the sum of EUR 2,500 in a single deposit or a total of EUR 1,000 in regular deposits,
5. the final product balance cannot be transferred to a third party, with the exception of death, disability, certain contractually stipulated age limit, or other,
6. the final balance of products allowing for investments into equity or liabilities, including insurance or other types of liabilities with a certain condition, may be transferred only after a long period of time, cannot be used as guarantee, speeding up of payments is not allowed, there are no provisions on cession and in the course of the business relationship there is no motion possible for its preliminary termination.

(3) In cases stipulated in Articles 1 and 2 above, the obliged entity shall verify that all conditions required had been met and that none of the customers, products, or transactions represents a risk of legitimisation of proceeds of crime or financing of terrorism. In case of doubt, no exceptions under Articles 1 and 2 above shall be applied.

(4) No exceptions under Article 2 shall be applied with a customer, who is a politically exposed person.

Section 14

[31] Act No. 340/2006 Coll., on Employee pension insurance companies registered in the EU and operating in the territory of the Czech Republic and on the amendment of Act No. 48/1997 Coll., on Public medical insurance, as amended.

[32] Act No. 124/2002 Coll., as amended.

Exception from the Obligation to Record Information on the Payer Accompanying Transfers of Funds

Obligations under the directly applicable European Communities Regulation stipulating the obligation to accompany transfers of funds with information on the payer[33] shall not apply to those payment services or transfers of funds which are used to make payments for goods and services provided that:

a) the transaction is made in the Czech Republic,

b) the payment service provider is always able to determine, via the payee, the individual payer and the reason for payment,

c) the transferred sum does not exceed EUR 1,000.

Section 15

Rejection of Transaction

(1) The obliged entity shall reject to make a transaction or to enter in a business relationship should there be an identification requirement under Section 7(1) or 7(2) and should the customer refuse the identification process or fails to submit the power of attorney under Section 8(3), should he fail to assist the due diligence process under Section 9, should the customer identification or due diligence be impossible for other reasons, or should the person performing the customer identification or due diligence have a reason to doubt the correctness or authenticity of documents submitted.

(2) The obliged entity shall refuse a transaction for a politically exposed person should the origin of assets used in the transaction be unknown.

(3) No employee of the obliged entity shall make a transaction for a politically exposed person without consent of his direct supervisor or the statutory body of such obliged entity.

CHAPTER II

RECORD KEEPING

Section 16

Obliged Entity Record Keeping

(1) The obliged entity shall, for the period of 10 years after having terminated its business relationship with the customer, keep record of all identification data taken under Section 8(1) and 8(2) or in keeping with the directly applicable European Communities Regulation stipulating the obligation to accompany transfers of funds with information on the payer[20)], copies of documents submitted for identification (should there be any), records of the first identification (name and date), documents justifying potential exception from identification and due diligence under Section 13, and, in case of representation, the original or a certified copy of the power of attorney.

(2) The obliged entity shall, for the period of 10 years after the transaction or after having terminated its business relationship with the customer, keep record of all data and documents on transfers requiring identification.

(3) The obliged entity stipulated in Section 2(1j) and 2(1k) shall keep record of all data and documents for the period of at least 10 years after the transaction or after having terminated its business relationship with the customer should such transaction or relationship reach or exceed EUR 10,000; in other cases it shall keep its records for a period of 5 years.

(4) The statutory period under Articles 1 to 3 shall commence on the first day of the calendar year following the calendar year in which the obliged entity performed the last transaction.

Section 17

Cooperation in Record Keeping

Should more obliged entities take part in a single customer transaction, the record keeping may be shared. Data under Section 16 may be kept by one of these obliged entities provided the other involved obliged entities have access to all necessary information including copies of all documents.

[33] Regulation (EC) No 1781/2006 of the European Parliament and the Council.

CHAPTER III
SUSPICIOUS TRANSACTION
Section 18
Suspicious Transaction Report

(1) Should the obliged entity, in the course of its activities, disclose a suspicious transaction, it shall, without undue delay and no later than 5 days after the disclosure, report such suspicious transaction to the Ministry of Finance (hereinafter the "Ministry"). Should circumstances require so, in particular should there be a danger of delay; the obliged entity shall submit a suspicious transaction report to the Ministry immediately after having disclosed such suspicious transaction.

(2) In it suspicious transaction report, the obliged entity shall report the identification data of the disclosed person, identification data of all the parties to the transaction, available to the obliged entity upon the disclosure, information on all relevant features of the transaction and any other facts which may be important for an analysis of the suspicious transaction and potential application of measures against legitimisation of proceeds from crime and financing of terrorism.

(3) The suspicious transaction report shall not reveal any information about the obliged entity's employer or contractor who had disclosed the suspicious transaction.

(4) The Ministry shall receive the suspicious transaction report via the Financial Analytical Unit, which is a part of the organizational structure of the Ministry. The Ministry shall inform all obliged entities on its mailing address and other channels to be used to submit suspicious transaction reports.

(5) Should the suspicious transaction report under Article 2 also concern assets which are subject to international sanctions declared with the purpose of maintaining or restoring international peace and security, the obliged entity shall notify the authorities of such facts in the suspicious transaction report. The suspicious transaction report shall include a short description of the given assets, information on its location and owner, should he be known to the disclosing entity, together with information on whether there is an immediate risk of a damage,

(6) The disclosing entity shall communicate to the receiving authority the name, surname, and position of the contact person (Section 22) or the person who, on behalf of the contact person, drafted the suspicious transaction report, together with relevant telephone numbers of email addresses.

(7) Should a suspicious transaction be disclosed simultaneously by more obliged entities based on the information sharing provision under Section 39(2), the reporting obligation under Articles 2 to 4 shall be regarded as fulfilled by all obliged entities once at least one of them submits its suspicious transaction report listing the other obliged entities whose behalf it has reported on.

Section 19

The suspicious transaction report may be submitted in writing via registered mail or orally in the form of a deposition at a previously agreed place. Suspicious transaction reports may also be submitted via the electronic mail provided the data transferred are properly protected.

Section 20
Suspension of a Transaction

(1) Should there be a threat, that an immediate execution of a transaction would hamper or substantially impede securing of proceeds of crime or money intended to finance terrorism, the obliged entity may execute the customer's transaction recognized as suspicious no earlier than 24 hours after the Ministry had received the suspicious transaction report. The obliged entity shall make sure that the respective assets will not be handled in violation of this Act. The obliged entity shall inform the Ministry in the suspicious transaction report that the transaction had been suspended.

(2) The Article shall not be enforced, should the suspension of the customer'stransaction be rendered impossible, especially in transactions made via electronic means of payment, or should the obliged entity be aware of the fact, that suspension would hamper of otherwise pose a threat to the investigation of such

suspicious transaction. The obliged entity shall inform the Ministry of such transaction immediately after it has been made.

(3) Should there be a treat under Article 1 and the investigation of such suspicious transaction may require a longer period of time, the Ministry shall decide:

a) to prolong the period of suspension of the customer´s transaction for no longer than 72 hours after having received the suspicious transaction report, or

b) to suspend the customer´s transaction or to freeze the assets in such transaction for 72 hours in the obliged entity where the assets are located.

(4) The decision on suspension of a customer´s transaction or on freezing assets under Article 3 shall become binding upon its declaration. The declaration is either oral, or by means of a telephone, fax, or electronic mail, all the above must be followed by a hard copy. There is no appeal against a decision on suspension of a customer´s transaction or on freezing assets and the only party to the proceedings is the obliged entity disclosing the suspicious transaction or holding the assets believed to be involved in such transaction.

(5) The obliged entity shall notify the Ministry of the enforcement of its decision under Article (3b) and of the time of commencement of the period under Article (3b). The obliged entity shall inform the Ministry of all important facts related to the assets concerned.

(6) Should the Ministry not inform the obliged entity, prior to the end of the period under Article 3, about having filed a criminal complaint, the obliged entity shall make the transaction.

(7) Should the Ministry file a criminal complaint in the period stipulated in Article 1 or 3 to the law enforcement body as stipulated in Section 32(1), the obliged entity shall perform the transaction in 3 calendar days after the criminal complaint had been filed unless the law enforcement bodies have decided to seize such transaction. The Ministry shall inform the obliged entity of the criminal complaint prior to the expiration of the period under Article 1 or 3.

CHAPTER IV
OTHER OBLIGATIONS OF OBLIGED ENTITIES

Section 21
Internal Procedure

(1) To fulfil the obligations under this Act, the obliged entity shall establish and enforce adequate and appropriate procedures of internal control and communication.

(2) The obliged entity stipulated in Section 2(1a), (1b) to (1d), (1h) and (1i) shall create, in the extent of its activities regulated by this Act, written internal procedures, policies and compliance checks to fulfil its obligations under this Act (hereinafter only „internal procedures“).

(3) The obliged entity stipulated in Section 2(1b) to (1d), (1h) and (1i) may decide not to create any written internal procedures should, in the scope of activities regulated by this Act, it not employ or contract any other persons.

(4) The obliged entity stipulated in Section 2(1b) to (1d), (1h) and (1i) contracted by another obliged entity to perform services regulated by this Act, is not obliged to have its own internal procedures provided it enforces internal procedures of this other obliged entity which adequately describe its activities.

(5) The internal procedures under Article 2 shall include the following:

a) a detailed checklist of suspicious transaction indicators relevant for the given obliged entity,

b) a description of customer identification, including provisions to determine a politically exposed person and to recognize entities subject to international sanctions under the Act on International Sanctions,

c) a description of the customer due diligence process and the system of determining the scope of such due diligence based on the type of customer and the nature of the business relationship, product, or service and the respective risk of legitimisation of proceeds of crime and financing of terrorism,

d) adequate and relevant methods and procedures to assess and manage risks and perform internal controls and supervision of compliance with this Act,

e) a procedure for reporting of data kept under Chapter II to the relevant authorities,

f) a description of steps taken by the obliged entity from the moment of the disclosure of the suspicious transaction to its reporting to the Ministry so that the statutory period under Section 18, Article 1 is complied with and so are rules of processing such suspicious transaction and appointment of persons to evaluate the transaction,
g) rules and procedures regulating the performance of persons offering services or products on behalf of or on the account of the obliged entity,
h) measures to prevent any immediate honouring of a customer order which may substantially hamper or even render impossible the subsequent seizure of proceeds of crime,
i) logistical and HR measures to defer the customer order under Section 20 and to comply, in a statutory period, with all obligations under Section 24,
j) a description, in cases regulated by Section 25(4), of additional measures to help efficient management of risk of legitimisation of proceeds and financing of terrorism.

(6) A credit institution, financial institution under Section 2, Article (1b), points 5, 6, 10, and 11, and a obliged entity under Section 2(1c) shall submit their internal procedures to the Ministry within 60 days after having become an obliged entity. Changes of internal procedures shall be submitted to the Ministry in writing within 30 days after adoption. An obliged entity under Section 2, Article (1b), points 1 to 4 shall report to the Czech National Bank.

(7) A foreign credit or financial institution operating in the territory of the Czech Republic via its branch or a subsidiary may opt not to have separate internal procedures provided that operations of the branch or subsidiary are regulated by internal procedures of the mother foreign credit or financial institution; such internal procedures shall stipulate requirements at least equal to those stipulated by this Act and shall be available in Czech.

(8) Should the Ministry or the Czech National Bank reveal any deficiencies in the internal procedures submitted in keeping with Article 6, they shall set a date for correction. The obliged entity shall, within the prescribed period, remove the deficiencies and report its steps in writing to the above authorities.

(9) The Czech authorities have issued an implementing regulation determining, in keeping with Article (5c) and (5d), requirements for implementing and enforcing internal procedures by selected obliged entities regulated by the Czech National Bank[34].

Section 22

Contact Person

(1) The obliged entity shall appoint one of its employees to report under Section 18 and to maintain regular contacts with the Ministry, unless decided to entrust such responsibilities on its statutory body. The Ministry shall be, with no undue delay, notified of such appointment and informed of the name, surname, position, and telephone number and email address of the appointee.

(2) No credit or financial institution shall appoint a member of its statutory body as a contact person unless it was necessary with regards to its size, management structure, or number of employees.

(3) No credit or financial institution shall appoint as a contact person a member of staff responsible for performing or settlement of its transactions or an employee participating in the performance of internal audit.

(4) The obliged entities which decide not to entrust the contact responsibilities on its statutory bodies shall provide for a direct contact in between the appointed contact person on one side and its statutory and supervisory bodies on the other.

Section 23

Staff Training

[34] Section 44, Act No. 6/1993 Coll., on the Czech National Bank , as amended.

(1) The obliged entity shall organize, at least once in 12 calendar months, training of all members of its staff who may, in the course of their professional obligations, come in contact with suspicious transactions. All appointees to such positions shall be trained prior to taking their appointment.

(2) The obliged entity shall provide the training under Article 1 above to all its contractors who may, in the course of their activities, come in contact with suspicious transactions.

(3) The training shall concentrate on types and features of suspicious transactions and steps taken in detecting such transactions. The obliged entity shall regularly update such training.

(4) The obliged entity shall keep record of participants and training agenda for a period of at least 5 years.

Section 24

Obligation to inform

The obliged entity shall, upon request and within a given period of time, report to the Ministry all information on transactions requiring identification or transactions investigated by the Ministry together with documentation and information on persons taking part in such transactions. Should the Ministry request so, the obliged entity shall provide access to documentation on site.

CHAPTER V

SPECIAL PROVISIONS RELATING TO SELECTED OBLIGED ENTITIES

Section 25

Special Provision Relating to Credit and Financial Institutions

(1) A credit institution shall not enter a corresponding bank relationship with a foreign credit or similar institution (hereinafter a "Correspondent Institution")

a) which is incorporated in the commercial or similar register in a country where it does not have a physical presence and its management is not physically located in that country, and which is not affiliated to any regulated financial group;

b) which is known for allowing the use of its account by an institution referred to in point a) above, or

c) which does not apply measures against legitimisation of proceeds of crime and financing of terrorism of the standard that is at the least required by the laws of the European Communities[1)],

and if it had already entered such a relationship, it must terminate it in the shortest practicable period.

(2) Prior to entering into a corresponding bank relationship with a Correspondent Institution, the credit institution shall

a) accumulate sufficient information about the Correspondent Institution and about the nature of its operations;

b) use the public sources of information to establish the quality of supervision overseeing the Correspondent Institution;

c) evaluate measures applied by the Correspondent Institution against legitimisation of proceeds of crime and financing of terrorism.

(3) A statutory body of the credit institution or the director of the branch of the foreign credit institution with operations on the territory of the Czech Republic shall consent to the establishment of the corresponding bank relationship.

(4) A credit and financial institution shall, in its branches and subsidiaries which it has a controlling interest in, located in countries that are not members of the European Union or the European Economic Area, apply the practice of customer due diligence and data retention in the scope that is at the least required by the laws of the European Communities[1)]. To this end, it shall provide them with relevant information of the practice and procedures to be applied. If the laws of the country do not allow for the application of the same practice as in the other countries, the institution shall inform the Ministry; in such a case, the obliged entity shall adopt appropriate supplementary measures to effectively mitigate the risk of exploitation for the legitimisation of proceeds of crime or financing of terrorism, and to prevent the transfer of these risks to the territory of the Czech Republic and other member states of the European Union or the European Economic Area.

(5) The statutory body of system of the credit or financial institution shall approve the system of internal rules of the institution.

(6) Upon request from the Ministry and by the deadline granted by the Ministry, the credit or financial institution shall disclose the information whether it maintains, or has in the previous 10 years maintained, commercial relations with a specific natural or legal person, whom it was obliged to identify, and any details of the nature of the relations. To this end, the credit or financial institution shall implement an effective system, whose scope is commensurate to the size of the institution and the nature of its business operations.

(7) Rights and obligations which are laid down herein and are binding on the institution are also binding on the Czech National Bank in its process of maintaining accounts and providing other banking services.

Section 26

Special Provision Relating to Auditors, Chartered Accountants, Licensed Executors and Tax Advisors

(1) The provisions of Section 18(1) and Section 24 shall not apply to an auditor, chartered accountant, licensed executor or a tax advisor if the information obtained from or about the customer during the process of establishing of the customer's legal standing, during the representation of the customer in court, or in connection with court proceedings, including the giving of advice to instigate or avoid such proceedings, regardless of whether the information was obtained prior to, during or after the proceedings.

(2) If the auditor, chartered accountant, licensed executor or tax advisor suspects that the customer is seeking counsel for the purpose of legitimisation of proceeds of crime or the financing of terrorism, Article 1 shall not apply.

(3) Suspicious transaction report under Section 18 must be made by

a) an auditor to the Chamber of Auditors of the Czech Republic;

b) a licensed executor to the Chamber of Licensed Executors of the Czech Republic;

c) a tax advisor to the Chamber of Tax Advisors of the Czech Republic.

(4) The relevant professional chamber shall examine the suspicious transaction report made under Article 3 as to whether it is not in conflict with Article 1 or Section 18(1), and see that it has all the particulars required by this Act. If the suspicious transaction report does not have all the particulars required by this Act, the chamber shall notify the disclosing person. If the suspicious transaction report meets all the conditions set out in the first sentence, the chamber shall refer the disclosure to the Ministry without undue delay, but no later than in 7 days from the detection of the suspicious transaction.

Section 27

Special Provision Relating to Lawyers and Public Notaries

(1) The provisions of Section 9, Section 18(1) and Section 24 shall not apply to a lawyer, if the information about the customer, obtained from the customer or in any other way during or in connection with

a) providing legal advice or the later determination of the customer's legal standing;

b) defending the customer in criminal law proceedings;

c) representing the customer in court proceedings, or

d) providing any legal advice concerning the proceedings referred to in points b) and c), regardless of whether the proceedings had commenced or not, or concluded or not.

(2) The provisions of Section 9, Section 18(1) and Section 24 shall not apply to a public notary, if the information about the customer, obtained from the customer or in any other way during or in connection with

a) providing legal advice or the later determination of the customer's legal standing[35],

b) representing the customer in court proceedings subject to the mandate conferred on the public notary by law or any other legal norm[36], or

[35] Section 3(1a) of the Act No. 358/1992 Coll.

c) providing any legal advice relating to the proceedings referred to in point b), regardless of whether the proceedings had commenced or not, or concluded or not.

(3) A suspicious transaction report under Section 18 shall be made by a lawyer to the Czech Bar Association, and by a public notary to the Chamber of Notaries of the Czech Republic. The Czech Bar Association or the Chamber of Notaries of the Czech Republic, whichever may apply (hereinafter the "Chamber"), shall examine the suspicious transaction report made by a lawyer or a public notary as to whether it is not in conflict with Article 1 or 2, Section 2(1g) or Section 18(1), and see that it has all the particulars required by this Act. If the suspicious transaction report does not have all the particulars required by this Act, the Chamber shall notify the disclosing lawyer or notary. If the suspicious transaction report made by the lawyer or the notary meets all the conditions set out in the first sentence, the Chamber shall refer the disclosure to the Ministry without undue delay, but no later than in 7 days from the detection of the suspicious transaction.

(4) The Ministry shall request further detail, documents or information under Section 24 from the lawyer or the public notary via the Chamber. The lawyer or the notary shall supply to the Ministry the requested details, documents or information via the Chamber.

(5) For the purpose of this Act, a lawyer includes also European Lawyer according to the Legal Profession Act.

Section 28

Special Provision Relating to Persons Accepting Cash in the Value of EUR 15,000 or Greater

A business and a legal person as per Section 2(2e) becomes an obliged entity only if it accepts a cash payment in the value of EUR 15,000 or higher and in such instance of a transaction, the person is obliged to

a) identify the customer according to Section 8; it may substitute this identification with identification according to Section 10 or 11, provided the transaction or customer in question is not exempt under Section 13,

b) refuse to make the transaction if it suspects the veracity of the identification details supplied by the customer about himself, or if the customer refuses to subject to the identification or fails to produce a power of attorney according to Section 8(3); the obliged entity shall at the same time inform the Ministry,

c) perform customer due diligence according to Section 9(2),

d) retain data according to Section 16(1) and 16(2),

e) make a suspicious transaction report of the suspicious transaction according to Section 18,

f) disclose under Section 24,

g) maintain professional secrecy according to Section 38.

Section 29

Special Provision Relating to the Operation of Money Remittance Services

(1) Activities whose purpose is to deliver a remittance of money based on a postal contract and under conditions laid down in the Postal Services Law, shall be performed only by a person authorized by the Ministry. The authorization shall be issued on request of the person who is seeking to perform this activity.

(2) The Ministry shall issue the authorization as per Article (1) on the condition that the applicant, the person who is the partner, statutory body, member of the statutory body of the applicant, the person who will managed the business of the applicant and the actual business owner are persons with integrity.

(3) For the purposes of this law, a person with integrity shall be a person who has not been lawfully convicted of a crime committed

a) with intent, or

b) due to negligence, and the fact of the crime relate to the nature of the business,

unless the person shall be deemed as not having been lawfully convicted.

(4) For a natural person with permanently or otherwise domiciled

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[36] Section 3(1b) of the Act No. 358/1992 Coll.

a) on the territory of the Czech Republic, the integrity is verified on the basis of an extract from the Criminal Register, which shall not be older than 1 month; this provision shall not apply if the Ministry is able to procure the extract under some other legal regulation;
b) outside the territory of the Czech Republic and for a person who, in the period of the last 5 years stayed without an interruption outside the territory of the Czech Republic for a minimum of 6 months, on the basis of a document approximate to an extract from the Criminal Register issued by the competent authority of the country of permanent or other domicile of this person, or by countries where the person had stayed for a minimum of 6 months during the last 5 years; unless the country of permanent or other domicile of the person is not the same as the country where the person is a citizen, a document issued by the country where the person is a citizen shall also be required.

PART THREE

ACTIVITY OF THE MINISTRY AND OTHER AUTHORITIES

CHAPTER I

ACTIVITY OF THE MINISTRY AND OTHER AUTHORITIES

Section 30

Obtaining of Information

(1) The Ministry may request information necessary for the compliance with obligations under this Act from the Police of the Czech Republic, intelligence services and other public authorities.

(2) When investigating a suspicious transaction, the Ministry may, pursuant to the Tax Administration Act, request from the authorities competent under other laws governing tax administration information obtained in the course of tax administration; the authorities shall inform the Ministry immediately of any suspicion that a taxpayer is exploiting the tax administration system for the legitimisation of the proceeds of crime or financing of terrorism.

(3) The Ministry of Interior shall provide the Ministry for the purpose of exercising the authority conferred by this Act all information, which is necessary to investigate the suspicious transaction

a) from the information system of the population registry of the Czech Republic, registry of aliens with a leave to stay in the Czech Republic, registry of aliens who had been granted asylum on the territory of the Czech Republic,
b) from the registry of birth numbers of natural persons who had been assigned a birth number but are not covered by point a) above.

(4) Technical circumstances permitting, the Ministry of Interior shall provide the information specified in Article 3 to the Ministry in electronic format in a form allowing for remote access.

(5) Only information which must be used in the case in question shall be used from all the provided information.

(6) Based on a suspicious transaction report from an intelligence service, the Ministry shall commence investigation of the suspicious transaction; the Ministry shall notify the intelligence service of the conclusion.

Section 31

Processing of Information

(1) The Ministry collects and analyses information obtained in the course of performing its tasks under this Act. It shall have the right to store the information obtained in the course of performing its tasks under this Act in an information system, on the condition that all the requirements set out in the Personal Data Protection Act have been met. The Ministry shall have the right to collate the information and information systems serving different purposes.

(2) In keeping with the Personal Data Protection Act, the Ministry shall not provide information to the affected person in respect of the information kept about the person in the information system maintained under this Act.

(3) The Ministry shall archive data and documents relating to suspicious transactions and the investigation of the suspicious transactions for a period of 10 years, commencing at the end of the year when the investigation was concluded. Registration of a new report, or a renewal of an investigation

pertaining to the same matter or the same person or entity, the period referred to in the first sentence is suspended pending the conclusion of the new investigation.

(4) The Ministry shall maintain, and publish at least once a year on its website, statistical reports of effectiveness and results of measures against the legitimisation of proceeds of crime and financing of terrorism. Law enforcement authorities shall provide the Ministry on a regular basis with summary statistics on matters relating to the legitimisation of proceeds of crime and financing of terrorism.

(5) The Financial Analytical Unit is technically separate from the other departments at the Ministry; it has implemented measures in the area of organisation and personnel to ensure that unauthorised persons do not come into contact with information obtained under this Act.

Section 32

Disposal of Investigation Results

(1) If the Ministry finds facts suggesting that a crime had been committed, it shall lodge a criminal complaint under the Code of Criminal Procedure and provide the law enforcement authority with all the information that the Ministry had found in the course of its investigation.

(2) If the Ministry finds circumstances that may be material to the jurisdiction of the territorial fiscal authorities or customs authorities, it shall inform the competent financial directorate or the General Directorate of Customs immediately of these circumstances, and provide these authorities with the results of its investigation, unless the disclosure of the information is in violation of the Act or the Ministry had acted under Article 1.

Section 33

International Co-operation

(1) In the scope set out by an international treaty by which the Czech Republic is bound, or on the principle of reciprocity, the Ministry shall co-operate with third country authorities and international organisations of the same jurisdiction, in particular in the provision and obtaining information to deliver on the purpose of this Act.

(2) Provided that the information is used exclusively for the purpose of this Act and is protected at least in the scope laid down in this Act, the Ministry may co-operate also with other international organisations.

Section 34

Granting of Exemptions

(1) Upon request, the Ministry may decide that an obliged entity who carries out any of the activities listed in Section 2(1) only occasionally or in a very limited scope, and in a way that precludes or significantly reduces the risk of such person being exploited for the legitimisation of proceeds of crime and financing of terrorism, shall not be regarded as an obliged entity under this Act.

(2) The exemption as per Article 1 shall be granted on the condition that

a) the activity is a non-core activity directly relating to the core activity of the obliged entity, who otherwise under the exemption according to Section 2(2d) is not an obliged entity under this Act, and the activity is provided only as a sideline to the main activity of the obliged entity,

b) the total annual revenues from this activity do not exceed 5% from the total annual revenues of the obliged entity, and at the same time the total annual revenues from this activity do not exceed the limit set by the Ministry in its decision for the type of activity in question,

c) it is ensured that the value of an individual transaction or of multiple transactions with one customer of the activity referred to in point a) shall not exceed the amount of EUR 1,000 in the period of 30 consecutive days.

(3) The obliged entity shall attach proofs of compliance with the conditions set in Articles 1 and 2 to the application for an exemption.

(4) An exemption as per Article 1 may be granted only for a definite period of time. In its decision, the Ministry shall specify any other obligations within the scope of obligations of obliged entities, in order to prevent the exploitation of the exemption for the legitimisation of proceeds of crime and financing of terrorism.

(5) The Ministry shall grant the exemption only on the condition that the risk of exploitation of the exemption for the legitimisation of proceeds of crime and financing of terrorism on the part of the obliged entity is eliminated or significantly reduced.

(6) For the period of validity of the exemption as per Article 1, the obliged entity shall enable the supervisory authority (Section 35(1)) to control the compliance with the specified conditions, and to control that the exemption is not exploited for activities that would facilitate legitimisation of proceeds of crime and financing of terrorism. Supervisory authorities hold the same powers in this respect as they do for controlling obliged entities.

(7) The obligation of the obliged entity stipulated in Section 18, and the steps taken by the Ministry in respect of the obliged entity during an investigation of a suspicious transaction under Section 24, shall not be affected by the decision to grant an exemption as per Article 1.

(8) The Ministry shall revoke the exemption granted under Section 1 when:

a) the risk of exploitation of the activity for the legitimisation of proceeds of crime and financing of terrorism has materially changed, or

b) the holder of the exemption had violated the specified conditions.

(9) An administrative remedy lodged against the decision in Article 8 shall not have dilatory effect.

CHAPTER II
ADMINISTRATIVE SUPERVISION

Section 35
Performance of Administrative Supervision

(1) The Ministry shall be the supervisory authority performing the administrative supervision of the compliance with obligations set out in this Act on the part of the obliged entities; the Ministry at the same time controls whether obliged entities do not legitimize the proceeds of crime and finance terrorism. The following institutions also supervise the compliance with obligations set out in this Act:

a) the Czech National Bank in respect of persons subject to its supervision[21)],

b) administrative authorities with powers to supervise the compliance with the legislation regulating lotteries and other similar games, and in respect of holders of licences to operate betting games listed in Section 2(1c),

c) the Czech Trade Inspection in respect of persons listed in Section 2(1j) and (1k).

(2) The Ministry also exercises control of the compliance with obligations according to the directly applicable instrument of the European Communities, which stipulates the obligation to attach the payer's details to any money transfer transaction[20)]; the Czech National Bank shall exercise control of the compliance with obligations under the same instrument in respect of persons subject to its supervision[21)].

(3) The Ministry shall provide information about its own activities, in the scope necessary for the performance of state control or supervision to the other supervisory authorities.

(4) At its request, the other supervisory authorities shall provide to the Ministry their opinions or any other co-operation as per the request.

(5) If the supervisory authority as per Article (1a) to (1c) finds facts that may be related to the legitimisation of proceeds of crime and financing of terrorism, it shall immediately inform the Ministry of these findings and provide it with all information in the scope as per Section 18(2).

Section 36
Motion to Revoke a Licence for Business or Other Independent Gainful Activity

If the Ministry learns that a legal or a natural person with an income from business or other independent gainful activity had materially, grossly or repeatedly violated any of its obligations specified in this Act or in a decision issued under this Act, the Ministry shall lodge a motion to terminate or revoke a licence for business or other gainful activity to the authority, which, under another law, has the power to decide on the revocation. This authority is obliged to notify the Ministry of the steps it had taken and the result within 30 days from the making of the motion.

Section 37

Special Provision Relating to Administrative Supervision of a Lawyer, Public Notary, Auditor, Licensed Executor and a Tax Advisor

(1) The provisions of this Chapter do not apply to lawyers, public notaries, auditors, licensed executors and tax advisors.

(2) Based on a written motion from the Ministry, the relevant professional chamber shall be obliged to inspect the compliance with the obligations imposed by this Act on a lawyer, public notary, auditor, licensed executor or a tax advisor, and notify the Ministry of the result within the deadline specified by it.

PART FOUR

SECRECY

Section 38

Obligation of Secrecy

(1) Unless provided otherwise in this Act, the obliged entities and their employees, employees of the Ministry, employees of other supervisory authorities and natural persons, who, based on other than an employment contract with an obliged entity, the Ministry or another supervisory authority, shall be obliged to keep secret the facts relating to suspicious transaction reports and investigation, steps taken by the Ministry or the obligation to report a suspicious transaction stipulated Section 24.

(2) A transfer of the persons referred to in Article 1 above to another job, termination of their employment or other contractual relationship to the obliged entity, the Ministry or other supervisory authority, or the fact that the obliged entity had ceased to perform activities listed in Section 2 shall not cause the obligation of secrecy to expire.

(3) Any person who learns the facts referred to in Article 1 shall be obliged to keep secret.

Section 39

Exemptions from Secrecy

(1) The obligation of secrecy stipulated in Section 38 cannot be invoked in respect of

a) a law enforcement authority if it is conducting a criminal procedure related to the legitimisation of proceeds of crime and financing of terrorism, or if the matter concerns the compliance with the obligation to report a suspicious transaction in connection with any such crime,
b) specialised Police units involved in the identification of the proceeds of crime and financing of terrorism, provided the information had been obtained according to Section 42(3),
c) an authority of a third country referred to in Section 33 in the process of provision of information intended for the purpose of delivering on the intention of this Act, unless prohibited by another legal instrument,
d) the competent financial directorate or the General Directorate of Customs in relation to facts which are a part of information referred to in Section 32(2),
e) supervisory authorities referred to in Section 35(1), and the competent bodies of professional chambers of lawyers, public notaries, auditors, licensed executors or tax advisors,
f) administrative authorities performing tasks in the system of certification of raw diamonds subject to another legal instrument,
g) the administrative authority competent to perform state control or conduct an administrative procedure in the area of implementation of international sanctions;
h) the authority mandated by another law to decide on the revocation of a licence for business or other independent gainful activity upon the lodging of a motion therefore by the Ministry,
i) a financial arbitrator deciding, according to another law, in the dispute of the claimant against an institution,
j) a person who could raise a claim for compensation for damages incurred as a result of proceeding under this Act, provided facts conclusive for the making of the claim are learnt ex post; the obliged entity may, in this instance, inform the customer that steps had been taken under this Act, but only after the decision of the competent law enforcement authority to forfeit or seize the subject of the suspicious transaction, or for which the period as per Section 20(7) had expired, was enforced; in all other instances only after the Ministry grants its written consent,

k) a court adjudicating civil law disputes concerning a suspicious transaction or a claim for compensation for damages incurred as a result of complying with obligations under this Act,

l) the National Security Office, Ministry of Interior or the intelligence service in the process of a security procedure according to another legal instrument[37],

m) the competent intelligence service, provided the information is material for the meeting of the statutory tasks specified for the intelligence service.

(2) Provided that the disclosed information is used exclusively for the prevention of legitimisation of proceeds of crime and financing of terrorism, the obligation of secrecy stipulated in Section 38 cannot be applied to the sharing of information between

a) credit or financial institutions, including foreign credit and financial institutions, if they operate in the territory of the state which obliges them to comply with obligations in the area of legitimisation of proceeds of crime and financing of terrorism, which are equivalent to the requirements of the European Communities law, provided these institutions fall in the same category as per the law governing financial conglomerates[38],

b) obliged entities referred to in Section 2(1e) and 2(1f), or persons of the same type, which operate in the territory of the state which obliges them to comply with obligations in the area of legitimisation of proceeds of crime and financing of terrorism, which are equivalent to the requirements of the European Communities law, provided these persons carry out their profession in a relationship similar to a labour law relationship, within the same legal person and between legal persons which are related, either on the basis of a contract, or through persons,

c) credit or financial institutions, or between obliged entities referred to in Section 2(1e) and 2(1f), or persons of the same type, which operate in the territory of the state which obliges them to comply with obligations in the area of legitimisation of proceeds of crime and financing of terrorism, which are equivalent to the requirements of the European Communities law, provided the disclosed information relates to the same customer and the same transaction, which two or more persons of the same professional category are a party to, and which persons are bound by equal obligations to keep a professional secret and protect personal data.

(3) The obligation of secrecy cannot be invoked in a procedure under the law governing the implementation of international sanctions.

Section 40

Special Provision Relating to Administrative Supervision of a Lawyer, Public Notary, Auditor, Licensed Executor and a Tax Advisor

(1) The provisions of this Part shall not apply to lawyers and public notaries.

(2) With the exception of the provisions of Section 39(2), the provisions of this Part do not apply to auditors, licensed executors and tax advisors.

(3) A lawyer, public notary, auditor, licensed executor and a tax advisor shall be obliged to keep, in respect of the customer, secret the facts referred to in Section 38(1); the foregoing does not apply if the facts, if disclosed to the customer, could prevent the customer from involvement in a criminal activity.

(4) Articles 1 to 3 shall apply to other persons who are obliged by other laws to keep the same secrecy as lawyers, public notaries, licensed executors and tax advisors.

PART FIVE

CROSS-BORDER TRANSFERS

Section 41

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[37] Act No. 412/2005 Coll., on the protection of secret information and on security clearance, as amended.

[38] Act No. 377/2005 Coll., on supplemental supervision of banks, savings and credit co-operatives, electronic money institutions, insurance companies and securities traders in financial conglomerates, and on the amendment of some other laws (Financial Conglomerates Act), as amended.

Obligation to Declare in Cross-border Transit

(1) On entry on the territory of the Czech Republic from a third country which is not the territory of the European Communities, and on exit from the Czech Republic to any such territory, a natural person shall be obliged to declare to customs authorities in writing any import or export of currency of the Czech Republic or another country, travel cheques or money orders convertible into cash, bearer or registered securities or any other investment instruments which are signed, but do not contain the name of the beneficiary, or any commodities of high value, such as precious metals or stones, in the value of EUR 10,000 or higher.

(2) The obligation as per Article 1 shall apply also to a legal person importing or exporting any of the items referred to in Article 1. The natural person bearing these items on the crossing of the border of the European Communities shall be liable to make the declaration on behalf of the legal person.

(3) Any person sending a postal or other consignment from the Czech Republic to a third country outside the territory of the European Communities, or accepting a postal or other consignment therefrom, which contains items referred to in Article 1 in the value of EUR 10,000 or higher, shall declare the consignment to the competent customs authority and subject the consignment to inspection by the customs authority.

(4) The obligation to declare stipulated in Articles 1 to 3 shall be also binding on the person who imports to the territory of the European Communities or exports therefrom, or receives or sends during a period of 12 consecutive months, items referred to in Article 1 in the value of EUR 10,000 or higher. The obligation to declare shall begin to apply as of the person learning that the aforementioned limit will be reached.

(5) A declaration as per Articles 1 to 4 shall contain the declarant's identification details, the identification details of the owner and the intended recipient of the transported item, if known to the declarant, a description of the transported item, and a proof of origin of the exported or imported item, the intended route and means of transport.

(6) The declaration shall be made using a form which forms an Appendix to this Act. The form shall be available at the customs authority; the Ministry shall also publish the form in a way which allows for remote access. The declarant shall be liable for the veracity and completeness of the declared information.

(7) The exchange rate published by the Czech National Bank for whole calendar month, as is valid on the last but one Wednesday of the previous calendar month, shall be used for the conversion of another currency to Euro for the purposes of Articles 1, 3 or 4. Upon verbal enquiry, the customs authority shall inform the persons of the applicable exchange rate for the purposes of compliance with the obligation to report a suspicious transaction as per Articles 1 to 4. The value of securities and commodities of high value shall be construed as their fair market value, or the value determined based on official market rates.

Section 42

Activities of Customs Authorities

(1) Customs authorities supervise the compliance with the obligation to declare as per Section 41.

(2) Customs authorities record and process declarations referred to in Section 41, including personal data contained therein. For the purposes of exercising control as per Article 1, customs authorities may record and store information concerning the transport or delivery as per Section 41(1), whose value is lesser than EUR 10,000.

(3) Customs authorities shall forward to the Ministry immediately the information concerning the compliance with the obligation to report a suspicious transaction under Section 41, including all cases of violation thereof.

(4) A customs authority may, upon learning of a violation of obligations set out in Section 41(1) to 41(4), seize items which were concerned by the violation. No appeal is permitted against the decision to seize the item made by the customs authority; the decision is enforceable as of the moment of its verbal promulgation, against the person bearing the items. A written execution of the decision shall be delivered to the bearer from whom the items were seized; the seizure shall also be notified by way of a counterpart

of the decision sent to the importer or exporter and the owner, provided these persons are different from the bearer and are known to the customs authority.

(5) The person who receives the decision of seizure as per Article 4 shall relinquish the items to the customs authority. If the items are not relinquished on demand, they shall be officially possessed. The customs authority shall issue a receipt to that effect to the person who had relinquished the items or from whom they were possessed.

(6) If the seized items are not required for further procedure, a forfeiture or expropriation order is not issued in respect of them, and they cannot be used for the payment of a fine, cost of the procedure or distraint, the customs authority shall return them without undue delay to the person who had relinquished them or from whom they were possessed.

PART SIX

ADMINISTRATIVE OFFENCES

Section 43

Violation of the Obligation of Secrecy

(1) An employee of an obliged entity, employee of the Ministry or other supervisory authority, or a natural person who, based on other than an employment contract with an obliged entity, the Ministry or another supervisory authority, commits an offence by breaking the obligation of secrecy stipulated in Section 38(1) or 38(2).

(2) A natural person who is not a person as per Article 1 commits an offence by breaking the obligation of secrecy stipulated in Section 38(3).

(3) An obliged entity commits an administrative by breaking the obligation of secrecy stipulated in Section 38(1) or 38(2).

(4) A fine up to CZK 200,000 may be imposed for committing the offence according to Articles 1 and 2, and a fine up to CZK 200,000 shall be imposed for committing the administrative offence according to Article 3.

(5) A fine up to CZK 1,000,000 may be imposed for committing the offence according to Articles 1 and 2, and a fine up to CZK 1,000,000 shall be imposed for committing the administrative offence according to Article 3, if the violation had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible.

Section 44

Failure to Comply with the Requirement to Perform Client Due Diligence

(1) An obliged entity commits an administrative offence by

a) failing to perform the customer due diligence described in Section 7,

b) repeatedly failing to identify the customer as per Section 9,

c) realises a transaction or enters into a commercial relationships in violation of the ban stipulated in Section 15, or

d) fails to comply with the obligation of data retention stipulated in Section 16.

(2) A fine up to CZK 1,000,000 shall be imposed for the administrative offence as per Article (1a) and (1b).

(3) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per Article (1c) and (1d).

(4) If any action referred to in Article (1a), (1b) or (1d) had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 45

Failure to Comply with the Obligation to Report a Suspicious Transaction

(1) An obliged entity commits an administrative offence by

a) failing to comply with the obligation to report a suspicious transaction stipulated in Section 24, or

b) in the case according to Section 25(4), by not adopting the supplemental measures to effectively mitigate the risk of exploitation for the legitimisation of proceeds of crime or terrorism financing,

and the risk of transfer of these risks to the territory of the Czech Republic and other countries of the European Union or the European Economic Area.

(2) A credit or financial institution commits an administrative offence by

a) not informing, in breach with Section 25(4), its branch or majority-controlled subsidiary company in the country which is not a member state of the European Union or the European Economic Area, of the practices and procedures of customer due diligence and on the requirements of data retention in those countries, or

b) by not disclosing information as per Section 25(6).

(3) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per Articles 1 and 2.

(4) If any action referred to in Article 1 had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 46

Failure to Comply With the Obligation to Report a Suspicious Transaction

(1) An obliged entity commits an administrative offence by failing to report a suspicious transaction to the Ministry.

(2) A fine up to CZK 5,000,000 shall be imposed for the administrative offence as per Article 1.

(3) If any action referred to in Article 1 had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 47

Failure to Comply with the Obligation to Suspend a Transaction

(1) An obliged entity commits an administrative offence by violating the obligation to suspend a transaction of the customer as per Section 20(1).

(2) An obliged entity commits an administrative offence by violating the obligation to suspend a transaction of the customer or to seize property based on a decision issued by the Ministry under Section 20(3).

(3) A fine up to CZK 1,000,000 shall be imposed for the administrative offence as per Article 1.

(4) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per Article 2.

(5) If any action referred to in Article 1 had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 48

Failure to Comply with the Obligation of Prevention

(1) An obliged entity referred to in Section 2(1a) to 2(1d), 2(1h) and 2(1i) commits an administrative offence by failing to elaborate a system of internal rules as per Section 21(2) to 21(5).

(2) An obliged referred to in Section 2(1a), 2(1b) points 1 to 6, 10, 11 and (c) commits an administrative offence by failing to present the system of internal rules or any changes thereto as required by Section 21(6), or by failing to notify in writing of the implementation of remedies to issues found according to Section 21(8).

(3) An obliged entity commits an administrative offence by failing to ensure that its employees undergo regular training as required by Section 23.

(4) A credit institution commits an administrative offence by violating the obligations in the course of entering in a corresponding bank relationship according to Section 25(1), 25(2) or 25(3).

(5) An obliged entity referred to in Section 29(1) commits an administrative offence by carrying out activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money and are carried out without an authorization as per Section 29.

(6) A fine up to CZK 1,000,000 shall be imposed for the administrative offence as per Articles 1 to 3.

(7) A fine up to CZK 5,000,000 shall be imposed for the administrative offence as per Article 4 or 5.

(8) If any action referred to in Article 4 had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 49

Failure to Comply with Obligations Relating to Money Transfers

(1) An obliged entity, being a provider of payment services or an agent provider of payment services, commits an administrative offence relating to money transfers if, in contravention to the directly applicable instrument of the European Communities which specifies the content of information accompanying a money transfer[20)],

a) the person fails to ensure that details about the payers accompany the remittance,

b) the person has not implemented effective procedures for identification of missing or incomplete payer details,

c) the person fails to take action against the provider of payment services of the payer who had failed to ensure that a money remittance is accompanied with payer details during the transfer, or

d) fails to present upon request of the provider of payment services of the recipient the payer details in cases when the money transfer does not include full details of the payer.

(2) A fine up to CZK 10,000,000 shall be imposed for the administrative offence as per Article 1.

(3) If any action referred to in Article 1 had prevented or made more difficult the identification or seizure of the proceeds of crime, or made the financing of terrorism possible, a fine up to CZK 50,000,000 shall be imposed.

Section 50

Failure to Comply with the Obligation to Declare in Cross-border Transit

(1) A natural person commits an offence by

a) failing to comply with the obligation to declare on entry to the Czech Republic from countries outside the European Communities, or on exit from the Czech Republic to such countries as per Section 41(1) or 41(4), or

b) failing to comply with the obligation to declare a postal or other consignment from the Czech Republic to countries outside the European Communities, or from the Czech Republic to such countries as per Section 41(3) or 41(4).

(2) A legal person commits an administrative offence by

a) failing to comply with the obligation to declare on entry to the Czech Republic from countries outside the European Communities, or on exit from the Czech Republic to such countries as per Section 41(2) or 41(4), or

b) failing to comply with the obligation to declare a postal or other consignment from the Czech Republic to countries outside the European Communities, or from the Czech Republic to such countries as per Section 41(3) or 41(4).

(3) A fine up to CZK 10,000,000 or a forfeiture of the item may be imposed for the administrative offence as per Article 1.

(4) A fine up to CZK 10,000,000 or a forfeiture of the item shall be imposed for the administrative offence as per Article 2.

Common Provisions Relating to Administrative Offences

Section 51

(1) A forfeiture may be ordered if the item belongs to the offender and

a) had been used to commit the administrative offence, or

b) had been acquired by committing the administrative offence or in exchange for an item acquired by committing the administrative offence.

(2) If a forfeiture of the item as per Article 1(a) or 1(b) was not ordered, a decision shall be issued to expropriate the item if it

a) belongs to an offender who cannot be prosecuted for the administrative offence,

b) does not belong to the offender in whole or in part, or

c) its owner is not known.

(3) Forfeiture cannot be ordered or expropriated if the value of the item is grossly disproportionate to the nature of the administrative offence.

(4) The state shall become the legal owner of the forfeited or expropriated item.

Section 52

(1) A legal person shall not be liable for an administrative offence if it proves that it had expended all reasonable effort to prevent the violation of the legal obligation.

(2) In assessing a fine for a legal person, the seriousness of the administrative offence shall be taken into consideration, especially the way it had been committed, and its consequences and circumstances.

(3) The administrative liability of a legal person shall cease if the competent administrative authority does not commence a procedure within 2 years from learning of the administrative offence, but no later than 10 years from the date it was committed.

(4) Liability for actions which occurred in the course of business of a natural person or in a direct relation thereto shall not be concerned by the provisions on liability and sanctions of a legal person.

(5) With the exception of administrative offences committed by an obliged entity as per Section 2(1j) and 2(1k), and administrative offences as per Section 50, administrative offences under this Act shall in the first instance be deliberated upon by the Ministry.

(6) Administrative offences committed by an obliged entity as per Section 2(1j) and 2(1k) shall in the first instance be deliberated upon by the supervisory authority.

(7) Administrative offences under Section 50 shall be deliberated upon by the customs authority competent on the basis of the offender's permanent domicile

(8) Fines and compensation for the cost of proceedings shall be collected by the administrative authority that had imposed them, and enforced by the customs authority. Fines and compensation for the cost of proceedings shall be due in 30 days after the decision becoming final. Revenues from fines and compensation constitute revenues of the state budget.

(9) If a fine is overdue, the competent customs authority may use the seized items as per Section 41(1), 41(3) and 41(4), if any such items have been seized; the applicable provision is the provision relating to the customs lien in the Customs Act.

Section 53

Actions made by a lawyer, public notary, auditor, licensed executor or a tax advisor in the capacity of an obliged entity, which bear the signs of an administrative offence according to Sections 43 to 48, shall be deliberated upon according to another law[39]. The supervisory authority

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[39] Act No. 85/1996 Coll., on the legal profession, as amended.

Act No. 358/1992 Coll., as amended.

Act No. 254/2000 Coll., on auditors and on the amendment of the Act No. 165/1998 Coll., as amended.

Act No. 120/2001 Coll., on licensed executor, distraint (Rules of Distraint) , and on the amendment of some other laws, as amended.

Act No. 523/1992 Coll., on tax advisory and the Chamber of Tax Advisory of the Czech Republic, as amended.

referred to in Section 35(1) shall immediately refer the matter for deliberation to the authority competent under such other legal instrument, and shall take all necessary steps to secure evidence, as instructed by such competent authority.

PART SEVEN
COMMON AND FINAL PROVISIONS

Section 54

(1) The obligations imposed by this Act on the obliged entities shall concern only activities that are the subject of their business or of the services they provide.

(2) Unless stipulated otherwise in this Act, obliged entities referred to in Section 2(2a) and 2(2b) shall be bound by the obligations stipulated by this Act for the relevant type of obliged entity according to Section 2(1).

(3) Unless stipulated otherwise in this Act (Section 41(7), the amount in Euro shall for the purposes of this Act be construed as any equivalent amount in any currency based on an exchange rate published by the Czech National Bank as for the day when the obligation under this Act is being complied with; if the exchange rate is not available for the day in question, the exchange rate valid for the previous day shall be used. If a payment is divided into several instalments, the value of the transaction shall be the sum of these instalments, provided they are related.

(4) A payment in commodities of high value, especially precious details or precious stones, shall be regarded as a payment in cash.

(5) An obliged entity under whose name or on whose account products or services are marketed by third parties shall ensure that these third parties observe all the procedures against the legitimisation of proceeds of crime and financing of terrorism in the same scope as the obliged entity.

Section 55

(1) Proceedings conducted under this Act shall always be closed to public.

(2) Based on a received suspicious transaction report or another motion, the Ministry shall investigate without undue delay.

(3) After the conclusion of the investigation, the Ministry shall, without undue delay, suitably notify the person who reported the suspicious transaction. No other persons are notified of the investigation and its conclusion.

(4) In the course of their activities under this Act, authorised employees of the Ministry identify themselves with a service card issued based on the law governing the implementation of international sanctions.

Section 56

Enabling Provision

The Czech National Bank shall pass a regulation to implement Section 21(9).

Section 57

Interim Provisions

(1) Proceedings commenced prior to this Act coming into effect shall be concluded according to this Act, with the exception of proceedings concerning an infraction or another administrative violation committed prior to this Act coming into effect, if the earlier norm is more favourable for the offender.

(2) A person who, on the day of this Act coming into effect, performs activities based on a postal contract, under conditions laid down in the Postal Services Act, which activities serve the purpose of delivering a remittance of money, may continue to perform these activities without an authorisation as per Section 29 for a maximum period of 6 months after this Act becomes effective.

(3) An obliged entity referred to in Section 2(1a) – 2(1d), 2(1h) and 2(1i), who has a system of internal rules, procedures and controls compliant with the legislation valid to date, the person shall elaborate a system of rules, procedures and controls as per Section 21(2) within 60 days after this Act becomes effective.

(4) A credit institution, financial institution referred to in Section 2(1b) points 5, 6, 10 and 11, and an obliged entity referred to in Section 2(1c), who has a system of internal rules, procedures and controls

compliant with the legislation valid to date, the person shall deliver to the Ministry a system of rules, procedures and controls as per Section 21(2) within 60 days after this Act becomes effective.

Section 58

Repealing Provisions

The following are repealed:

1. Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws;
2. Regulation No. 343/2004 Coll., prescribing the format of the form according to Section 5(5) of the Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws;
3. Regulation No. 344/2004 Coll., on compliance with the obligation to report according to Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws;
4. Regulation No. 283/2006 Coll., amending the Regulation No. 344/2004 Coll., on compliance with the obligation to report according to Act No. 61/1996 Coll., on certain measures against legitimisation of proceeds of crime and on the amendment and supplementation of related laws.

Section 59

Effect

The Act becomes effective as of the first day of the second calendar month following the day of its promulgation.

8. Annex 3 / FAU – Act on Carrying out International Sanctions (3 February 2005)

ACT no. 69/2006 Coll.
of February 3, 2005
on Carrying Out of International Sanctions

The Parliament has adopted the following Act of the Czech Republic:

PART ONE
INTRODUCTORY PROVISIONS
Section 1
Purpose

In conjunction with directly applicable legislation of the European Communities [1] this Act sets forth some obligations of physical and legal persons in carrying out of international sanctions imposed for the purpose of maintaining or restoring international peace and security, protecting fundamental human rights and fighting terrorism. Further, the Act sets forth some obligations of physical and legal persons in carrying out of international sanctions imposed for the purpose of maintaining or restoring international peace and security, protecting fundamental human rights and fighting terrorism by which the Czech Republic is bound in connection with its membership in the United Nations Organization.

1) For instance: Regulation (EC) No 2580/2001 of 27 December 2001, on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, as amended, Council Regulation (EEC) No 3541/92 of 7 December 1992 prohibiting the satisfying of Iraqi claims with regard to contracts and transactions the performance of which was affected by United Nations Security Council Resolution 661 (1990) and related resolutions, Council Regulation (EC) No 3275/93 of 29 November 1993 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by the United Nations Security Council Resolution 883 (1993) and related resolutions, Council Decision no. 94/366/CFSP of 13 June 1994 on the Common Position defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning prohibition of the satisfaction of the claims referred to in paragraph 9 of United Nations Security Council Resolution No 757 (1992), Council Regulation (EC) No 1733/94 of 11 July 1994 prohibiting the satisfying of claims with regard to contracts and transactions the performance of which was affected by the United Nations Security Council Resolution 757(1992) and related resolutions, Council Regulation (EC) No 2488/2000 of 10 November 2000 maintaining a freeze of funds in relation to Mr. Milosevic and those persons associated with him, Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, Council Regulation (EC) No 147/2003 of 27 January 2003. concerning certain restrictive measures in respect of Somalia, Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96, Council Regulation (EC) No 1727/2003 of 29 September 2003 concerning certain restrictive measures in respect of the Democratic Republic of Congo, Council Regulation (EC) No 131/2004 of 26 January 2004 concerning certain restrictive measures in respect of Sudan, Council Regulation (EC) No 234/2004. of 10 February 2004 concerning certain restrictive measures in respect of Liberia, Council Regulation (EC) No 314/2004 of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe, Council Regulation (EC) No 798/2004 of 26 April 2004 renewing the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No.1081/2000, Council Regulation (EC) No 872/2004 of 29 April 2004 concerning further restrictive measures in relation to Liberia.

Definition of Terms

Section 2

International sanctions under this law are understood to be an order, a prohibition or a restriction imposed for the purpose of maintaining or restoring international peace and security, protecting fundamental human rights and fighting terrorism, provided they stem

a) from resolutions of the United Nations Security Council (hereafter „Security Council“) adopted under Article 41 of the Charter of the United Nations,

b) from common positions and joint actions or other measures adopted under the EU Treaty common foreign and security policy provisions, or

c) from directly applicable legislation of the European Communities which implements a common position or a common action adopted under the EU Treaty common foreign and security policy provisions.

Section 3

For the purpose of the Act, the following terms shall have the following meaning:

a) territory subject to international sanctions shall mean a certain territory which is fully or in part controlled by the entity or state which is subject to international sanctions, including air space and territorial waters;

b) entity subject to international sanctions shall mean the person against whom the sanctions set forth in the document under Section 2 are aimed;

c) person subject to international sanction shall mean,

1. a state which is subject to international sanctions,
2. a citizen of the state which is subject to international sanctions,
3. member or representative of an entity which is subject to international sanctions,
4. another individual who usually sojourns in the territory which is subject to international sanctions except for citizens of the Czech Republic,
5. a legal person having its registered office in the territory which is subject to international sanctions, or
6. persons listed on the lists published by the Sanctions Committees of the Security Council or in documents published by EU bodies and referred to in Section 2, Letter b) or c);

d) Czech person shall mean

1. the Czech Republic,
2. a citizen of the Czech Republic,
3. an individual other than the citizen of the Czech Republic who usually resides in the territory of the Czech Republic,
4. an individual having a permanent or temporary residence status in the territory of the Czech Republic[2)], or
5. a legal person having its registered office in the territory of the Czech Republic, including the self-governing entities[3)];

e) usually residing in a certain territory shall mean residing in this territory for at least 183 days in one calendar year, either continually or in several periods; the 183-day time period includes all days which were spent in the given territory even in part;

f) assets which are subject to international sanctions shall mean any movable or immovable item owned, held or otherwise controlled by the entity which is subject to international sanctions, by a person who is subject to international sanctions, imported to the territory

which is subject to international sanctions or earmarked for export to the territory which is subject to international sanctions;

g) goods shall mean material things, rights and other values, such as money in any form including deposits and receivables from deposits, other means of payment, securities and investment tools, and further any material designated for production of products, products, services, software and technologies and any other movable and immovable items which are subject to trade regardless of the manner and circumstances under which they are obtained;

2) Act No. 32/1999 on Residence of Aliens in the Territory of the Czech Republic and on Changes to Some Other Acts, as amended.
3) Section 18 of Act No. 40/1964 Coll., the Civil Code, as amended by Act No. 509/1991 Coll.

h) goods subject to international sanctions shall mean goods owned, held or otherwise controlled by an entity or person which is subject to international sanctions;

i) Czech goods shall mean goods owned, held or otherwise controlled by a Czech person;

j) other goods shall mean goods which is not Czech goods or goods subject to international sanctions;

k) means of transportation shall mean means used for transportation of persons, luggage, goods or postal shipments;

l) means of transportation subject to international sanctions shall mean a means of transportation

1. sailing under the flag of a country subject to international sanctions or matriculated therein,
2. owned, held or used by an entity subject to international sanctions, or for its benefit or otherwise controlled by it, or
3. owned, held, used or otherwise controlled by a person subject to international sanctions;

m) Czech means of transportation shall mean a means of transportation

1. sailing under the flag of the Czech Republic, matriculated, owned, held or used by the Czech Republic or for its benefit or otherwise controlled by it, or
2. owned, held, used or otherwise controlled by a Czech person;

n) other means of transportation shall mean a means of transportation which is not Czech means of transportation or means of transportation subject to international sanctions;

o) an object of cultural value shall mean

1. a work of art or an item of cultural value[4],
2. cultural monument, national cultural monument or a compound thereof[5],
3. museum collection or a collectable piece[6], or
4. public cultural production such as theatre, film, audiovisual or variety performance, a concert, dance or a discotheque, circus or variety or such similar shows, exhibition and the like;

p) oversight shall mean factual or legal possibility to control through one's actions the conduct of another person, use of a thing or a course of events at a certain territory.

4) Act No. 71/1994 Coll. on the Sale and Export of Items of Cultural Value, as amended.
5) Act No. 20/1987 Coll. on Managements of National Monuments, as amended.
6) Act no. 122/2000 Coll. on the Protection of Museum Collections and on Modifications of some other Acts, as amended.

PART TWO
SCOPE OF SANCTIONS

Section 4

General Provisions

(1) Restrictions or prohibitions set forth in Sections 5 through 8 shall apply in to the extent determined by the government's decree stemming from

a) a resolutions of the Security Council, or

b) a common position, joint action or another measure adopted under the EU Treaty common foreign and security policy provisions.

(2) Restrictions and prohibitions defined in Paragraph 1 may be applied in the area of

a) trade and services,

b) financial transfers, use of other payment means, purchase and sale of securities and investment tools,

c) transportation,

d) communications,

e) technical infrastructure,

f) scientific relations,

g) cultural relations, or

h) sports relations.

(3) The government's decree under Paragraph 1 shall, in keeping with Section 3, Letter c), define the scope of persons subject to international sanctions.

Section 5

Trade and Services, Financial Services and Financial Markets

(1) In the area of trade and services, sanctions may consist of restrictions and prohibitions of:

a) imports and purchases of goods subject to international sanctions, its further sale and any other disposition thereof,

b) exports, sales or facilitation of other disposing of Czech goods by an entity subject to international sanctions or to a territory subject to international sanctions,

c) transits of Czech goods through a territory subject to international sanctions or of goods subject to international sanctions through the territory of the Czech Republic,

d) transfers of other goods to the territory subject to international sanctions, or of goods consigned to an entity subject to international sanctions, or to a person subject to international sanctions through the territory of the Czech Republic, or

e) any and all activities which would or may facilitate transactions described under Letters a) through d).

(2) In the area of financial transfers, use of other payment means, purchase and sale of securities and investment tools, sanctions may consist of restrictions and prohibitions on:

a) any type of transaction by a Czech person to benefit an entity subject to international sanctions or a person subject to international sanctions, as well as deals with such persons, including trading in foreign currency,

b) renting out of safety deposit boxes to an entity subject to international sanctions or a person subject to international sanctions, or receiving of goods subject to international sanctions for safe deposit, provided it is reasonably practicable to seek evidence of the fact that the goods is subject to international sanctions,

c) provision of money, investment tools or other securities or financial and economic sources to an entity subject to international sanctions or a person subject to international sanctions,

d) transfers of money, investment tools or other securities to or from an account controlled by an entity subject to international sanctions or a person subject to international sanctions, including payments from cashier's checks, provided it is reasonably practicable to seek evidence thereof,

e) disbursement of interest from deposits in the accounts controlled by an entity subject to international sanctions or a person subject to international sanctions, including disbursement of interest from securities and investment tools,
f) entering into an insurance contract with an entity subject to international sanctions or a person subject to international sanctions, or disbursement of insurance money to such persons, or
g) any and all activities which would or may facilitate transactions described under Letters a) through f).

Section 6
Transportation and Telecommunications

(1) In the area of transportation, sanctions may consist of restrictions and prohibitions of:
a) entry of Czech means of transportation to the territory subject to international sanctions,
b) transit of other means of transportation through the territory of the Czech Republic or exit thereof to the territory subject to international sanctions,
c) crossing of national borders of the Czech Republic by means of transportation subject to international sanctions for the purpose of entering or exiting the Czech Republic,
d) any physical or legal disposing of means of transportation subject to international sanctions and located in the territory of the Czech Republic,
e) provision of Czech means of transportation to an entity subject to international sanctions or a person subject to international sanctions,
f) doing repairs or providing spare parts, components or tools necessary for such repairs or modifications of means of transportation subject to international sanctions, or
g) any and all activities which would or may facilitate transactions described under Letters a) through f).

(2) In the area of telecommunications, sanctions may consist of restrictions and prohibitions of:
a) receiving for shipment or shipping postal cargo to the territories subject to international sanctions, or addressed to an entity subject to international sanctions or a person subject to international sanctions, from or via the territory of the Czech Republic,
b) provision of services of electronic communication for the purpose of connecting with an entity subject to international sanctions or a person subject to international sanctions, or with the territory subject to international sanctions,
c) providing other type of connection with an entity subject to international sanctions or a person subject to international sanctions, or with the territory subject to international sanctions,
d) radio, television or other broadcasting in the territory subject to international sanctions, or
e) any and all activities which would or may facilitate transactions described under Letters a) through d).

Section 7
Technical Infrastructure

In the area of technical infrastructure, sanctions may consist of restrictions and prohibitions of energy and raw-material supplies, supplies of machines or technologies needed for their production from or via the territory of the Czech Republic to an entity subject to international sanctions or a person subject to international sanctions, or to the territory subject to international sanctions.

Section 8
Scientific, Cultural and Sports Relations

(1) In the area of scientific relations, sanctions may consist of restrictions and prohibitions of:

a) participation in scientific or technical research programs or projects which involve both a Czech person and an entity or a person subject to international sanctions; provided the program or project is funded by an entity or person other that those subject to international sanctions the sanction shall be limited to excluding such entity or person from the research,
b) provision of equipment or devices by a Czech person or in the territory of the Czech Republic to an entity or person subject to international sanctions for the purpose of using the same for a research program or project,
c) provision of information about scientific or technical research, programs or projects carried out by a Czech person or about the results thereof to an entity or person subject to international sanctions or at the territory subject to international sanctions, unless such information or results are in the public domain,
d) provision of industrial or intellectual rights to an entity subject to international sanctions or a person subject to international sanctions, or
e) any and all activities which would or may facilitate transactions described under Letters a) through d).

(2) In the area of cultural relations, sanctions may consist of restrictions and prohibitions of:
a) provision of cultural objects by a Czech person or from a Czech territory to an entity or person subject to international sanctions or at the territory subject to international sanctions,
b) receiving of cultural objects by a Czech person or at the Czech territory from an entity or a person subject to international sanctions or at a territory subject to international sanctions, unless the objects are received temporarily for the purpose of saving, protecting or maintaining objects of cultural value which are under immediate threat from an armed conflict or a natural disaster or unless such objects are being returned to a person which is not subject to international sanctions,
c) provision of copyright or other such rights by a Czech person to an entity or a person subject to international sanctions, or for the use at the territory subject to international sanctions, or
d) any and all activities which would or may facilitate transactions described under Letters a) through c).

(3) In the area of sports relations, sanctions may consist of restrictions and prohibitions of:
a) participation of persons or groups representing an entity or a person subject to international sanctions at a sports match or another sports event held in the territory of the Czech Republic or organized by a Czech person,
b) participation of a Czech person or a group representing the Czech Republic at a sports event organized by an entity or a person subject to international sanctions or at the territory subject to international sanctions, or
c) any and all activities which would or may facilitate transactions described under Letters a) or b).

Section 9
Exclusions from Sanctions

(1) The Ministry of Finance (hereafter „Ministry“) may, provided the document defined under Section 2 hereof so permits, grant, in compliance with such a document and to the extent necessary, an exclusion from a prohibition or restriction:
a) for medical services and health care,
b) for humanitarian aid, unless restricted by provisions of a document under Section 2; humanitarian aid is understood to be supplies of foodstuff, clothing, medicine and medical supplies and other humanitarian deliveries necessary for protection of health, saving of lives and dignified housing of civilians and provision of related services, including organization and carrying out of rescue works,

c) for provision of social allowance and government social benefits, retirement, healthcare benefits, unemployment benefits, retraining support and for contributions to social insurance, unemployment insurance and health insurance,
d) for payment of wages, refund of wages, redundancy pay and other payments due under the employment or similar contract,
e) for alimony and child support,
f) for damages due to activities unrelated to international sanctions hereunder and for insurance payments thereto related,
g) for payment of outstanding debt by an entity subject to international sanctions or by a person subject to international sanctions, provided the debt was not incurred by violation of the international sanctions,
h) for payments to an entity subject to international sanctions or to a person subject to international sanctions due and payable on the basis of contracts, agreements or liabilities entered into prior to international sanctions against the entity or the person, provided these payments are made to an account held in the Czech Republic or another country of the European Union, to which account all deposits made are considered to be assets subject to international sanctions, or
i) for another purpose set forth in the document defined in Section 2, Letter c).

(2) The exclusion may be granted upon request or without request. In its decision on the exclusion, the Ministry shall set forth the terms of the exclusion in a manner which would allow for checking of proper application of its terms and which would not mar the international sanctions. In case of a grave violation of such terms, the Ministry shall revoke the exclusion.

PART THREE
DUTIES REGARDING ASSETS WHICH ARE SUBJECT TO INTERNATIONAL SANCTIONS

Section 10
Reporting Duty

(1) Who establishes in a credible manner that he or she has in possession assets which are subject to international sanctions, shall report the same to the Ministry without undue delay.

(2) In the event of a suspicion that a party to a proposed or drafted contract is subject to international sanctions or that the assets which are the object of a contractual relation are or are contemplated to be assets subject to international sanctions but the suspicion may not be reliably verified prior to or in the course of entering into a contract, the reporting duty under Paragraph 1 arises immediately upon execution of the contract.

(3) The report shall be submitted in a written form or delivered orally for the record and in case of danger in delay also electronically or by fax. An electronic transmission is considered to be a written report when signed by a guaranteed electronic signature based on a qualified certificate issued by a licensed provided of electronic services.

Section 11
Disposing of Assets Subject to International Sanctions

(1) Who establishes in a credible manner that he or she has in possession assets which are subject to international sanctions shall not dispose of such assets other than for the purpose of their protection from loss, devaluation, destruction or other damage, unless stipulated otherwise herein. He or she shall refrain from doing so as of the moment he or she has learnt that the assets are considered to be assets subject to international sanctions.

(2) Who has in possession assets which are subject to international sanctions has the right to claim from the government reimbursement of costs incurred in connection with the management and protection of the assets as of the moment of reporting to the Ministry under

Section 10. The right to reimbursement of expenses hereunder shall not arise if it should benefit an entity subject to international sanctions or a person subject to international sanctions or persons cooperating with them, close persons or persons connected with them through business or otherwise.

(3) In case of doubt whether the person under Paragraph 1 provides sufficient protection of the assets subject to international sanctions, or if it appears necessary for their proper protection due to, for instance, the expected duration of the international sanctions imposed, the Ministry shall seek release of such assets. Who has in possession assets which are subject to international sanctions shall release such assets to the Ministry or to a person designated by it. Assets not released voluntarily may be forfeited. A written record shall be taken of such release or forfeiture of property which shall contain sufficiently precise description of the assets. A copy of the record shall be given to the person who released the property or from whom it was forfeited and that copy shall serve as a certification that the assets were taken over by the Ministry.

(4) Provisions of Paragraphs 1 through 3 apply to assets subject to the reporting duty under Section 10 Paragraph 1.

(5) The Ministry shall release to a qualified person, or to a person designated in keeping with Letters b) or c), assets which are subject to international sanctions, provided that

a) the person proves that he or she is not a person subject to international sanctions and that he or she is the owner or holder in due course of such assets,

b) that the document under Section 2 stipulates a specific person to whom the assets are to be released, or

c) there is a final judgment of a domestic government body of appropriate jurisdiction, a foreign government body or an international organization whose decision is enforceable in the Czech Republic under international law.

PART FOUR
RIGHTS AND OBLIGATIONS OF THE GOVERNMENT BODIES AND OF THE CZECH NATIONAL BANK

Section 12
Proceedings before the Ministry

(1) Having assessed whether the assets are to be considered assets subject to international sanctions, the Ministry may decide

a) on a restriction or a prohibition of disposing of such assets,

b) on a forfeiture of assets which were not released upon request in keeping with Section 11, Paragraph 3,

c) on taking over of such assets into custody for keeping and subsequent release to the qualified person,

d) on an appointment or removal of an administrator to manage such assets, and on his remuneration,

e) on a sale of the assets or any part thereof under Section 13, Paragraph 3,

f) on an extraordinary use of assets subject to international sanctions or any part thereof in keeping with Section 9 herein or with terms stipulated by directly applicable legislation of the European Communities,

g) on a release of such assets under Section 11, Paragraph 5, or

h) that the assets are not assets subject to international sanctions, provided

1. it has been proved in a conclusive manner by the owner or qualified holder,

2. it has been established through an inquiry conducted by the Ministry,

3. such assets are demonstrably worthless or of minimum value, or

4. international sanctions against such assets have been lifted.

(2) Within the deadline of 30 days as of the receipt of a report under Section 10, Paragraph 1, the Ministry shall inform the informant, whether the assets are to be considered assets subject to international sanctions, unless a decision has been made within the same deadline under provisions of Paragraph 1, Letters a), b), c), g) or h). The time deadline may be extended in justified cases.

(3) A remonstrance filed against the decision under Paragraph 1 Letters a) through d) does not have a deferring effect. The deferring effect may be excluded regarding the remonstrance filed against the decision under Paragraph 1 Letter e) in case of perishable assets.

(4) The enforceability of a decision against which a remonstrance does not have a deferring effect or against which the deferring effect has been excluded starts as of the day of service of the same to the last party to the proceedings. Parties to the proceedings are the person who motioned for such a decision to be adopted, the person who has in his or her possession the assets subject to international sanctions, or the person who released the assets or from whom the assets were forfeited. In case of danger in delay, a decision against which a remonstrance does not have a deferring effect or against which the deferring effect has been excluded may be announced orally; in that case the enforceability of the decisions starts upon the oral announcement.

(5) Proceedings in matters covered by this Act are governed by the Rules of Administrative Proceedings, unless provided otherwise herein..

(6) The personnel authorized by the Ministry to act under this law are obliged to prove authority by showing government I.D.

(7) Who has in his or her possession assets which are subject to the inquiry by the Ministry shall provide the Ministry upon request and within a set deadline with any and all information he has about the assets or other circumstances thereto related and about persons who have some relation to the assets or have been involved in disposing of the assets in any manner whatsoever. Upon request of the Ministry, he or she shall produce documents about the assets, persons or other circumstances concerning the assets and shall allow access to it to authorized personnel of the Ministry.

(8) A failure to perform the duty in keeping with Paragraph 7 carries a procedural fine of up to CZK 100 000. The procedural fine may be imposed repeatedly if the duty has not been met after a previous fine. The total of such fines must not exceed the amount of CZK 500 000. The fines represent an income to the state budget.

Section 13

Safe Keeping of Released or Forfeited Assets

(1) Unless provided otherwise hereafter, the safe keeping of the released or forfeited assets is carried out by the Ministry. With respect to such assets, the Ministry is authorized to execute all acts and act in all proceedings in connection with the management of the assets which would be otherwise the right of the owner.

(2) To cover the cost of the safe keeping of the released or forfeited assets, revenues flowing from such assets shall be used in preference; if there are no such revenues and no other solution appears feasible, proceeds from the sale of such assets or any part thereof to the extent necessary shall be used.

(3) If it appears to be necessary, due to existing circumstances and in order to maintain the value of such assets, the Ministry shall decide on the sale of assets subject to international sanctions, or any part thereof; proceeds from such sale are considered to be assets subject to international sanctions.

(4) The Ministry shall keep separate accounts and records in connection with such released or forfeited assets and shall carry out their stock-taking.

(5) In connection with safe keeping of the released or forfeited assets, the Ministry shall duly protect the assets, take proper care of them, manage them in an effective and economical manner, guard them from damage, harm, loss, theft and abuse and it shall make claims for damages in a timely fashion or motion for release of an item of unjustified enrichment, it shall continuously monitor whether debtors pay their dues in a timely fashion and in particular apply and enforce the rights of the owner or creditor or holder of securities, and it shall make sure that such rights shall not be statute-barred and extinct. Further,

the Ministry shall not enter into a contract, as a lessor, on the use of such assets for consideration coupled with an agreement on a subsequent transfer of an ownership title to such assets, it shall not enter into an agreement on the sale of an enterprise or its organizational component, use these assets as collateral or encumber immovable assets with an easement, or transfer rights attached to released or forfeited assets as security.

(6) Safe keeping of released or forfeited assets in the form of

a) radioactive material or waste shall be carried out by the Public Agency for Radioactive Waste Management,

b) tobacco products shall be carried out by the Czech Agriculture and Food Inspection Authority or the Czech Trade Inspection,

c) animals or plants shall be carried out by the Ministry of Environment,

d) weapons, ammunition and explosives shall be carried out by the Ministry of Interior.

(7) In dependence on the nature and the extent of items and rights that represent the released or forfeited assets, the Ministry may authorize the Office of the Government Representation in Property Affairs with its management.

(8) In the event the management of the released or forfeited assets cannot be carried out by the Ministry or the body authorized under Paragraph 7, the Ministry shall authorize another government department with the management in dependence on the nature of such assets.

(9) In the event the management of the released or forfeited assets cannot be carried out by the Ministry or the body authorized under Paragraph 7 or the government department under Paragraph 8, then the Ministry may enter into an asset management agreement with an entity experienced in the corresponding type of business. Such agreement must stipulate the consideration for such asset management and must cover liability for damage caused to the assets during its management. Otherwise, the agreement shall be considered null and void.

(10) The Ministry having appointed an administrator under Paragraph 7 or 8 or having signed an agreement under Paragraph 9, the administrator shall acquire the right with respect to the released or forfeited assets to represent the owner in all acts or proceedings in connection with the asset management which would otherwise be the right of the owner. The Ministry may specify the scope of such authorization to carry out owner's rights in its decision or agreement. Obligations and limitations set forth in Paragraph 5 apply to the administrator likewise; the administrator must comply with the instructions issued by the Ministry.

Section 14

Information and Data Gathering

(1) In order to fulfill the purpose of this Act, the Ministry has the right to process information including personal date. Personal data may be processed without the consent of the person concerned, however, taking regard of the duty to protect against unlawful interference with personal and private life.

(2) Public administration bodies including self-governing bodies responsible for carrying out the role of the state administration shall provide to the Ministry upon its request information, including personal data, from their respective information systems. In addition to meeting the purpose of this Act, the Ministry may use the information for the purpose of fighting money-laundering[7)].

7) Act No. 61/1996 Coll., On Some Measures Against Legalisation of Proceeds from Criminal Activity, as amended.

(3) In order for the Ministry to perform its authority hereunder, the Ministry of Interior shall provide to the Ministry with remote access to the following information:

a) regarding citizens:

1. name or names, surname, maiden name,

2. date of birth,
3. sex,
4. place and district of birth, regarding citizens born in a foreign country, place and country of birth,
5. I.D. number given at birth,
6. citizenship or citizenships,
7. address of permanent residence, including previous addresses of permanent residence,
8. date of commencement of permanent residence, or date at which the information about the place of permanent residence was cancelled, or the date of termination of permanent residence in the territory of the Czech Republic,
9. information about limited legal capacity or incapacitation,
10. prohibition of stay, place of prohibition of stay and its duration,
11. I.D. number given at birth of the father, mother, or another statutory representative; in the event that one of the parents or the statutory representative do not have the I.D. number given at birth, then the name or names, surname and date of birth,
12. marital status, date and place of entering into matrimony,
13. I.D. number given at birth of the spouse; in the event that the spouse does not have the I.D. number given at birth, then the name or names of the spouse, surname and date of birth,
14. I.D. number given at birth of a child; in the event that the child is a foreign national and does not have the I.D. number given at birth, then the name or names of the child, surname and date of birth,
15. regarding an adopted child, information about the type of adoption, the former and new name or names of the child, surname, former and new I.D. number given at birth, date and place of birth, I.D. numbers given at birth of the adoptive parents, date of the legal validity of the decision on the adoption or of the decision on the cancellation of the adoption of the child,
16. date, place and district of death, in the event of death outside of the Czech Republic, then date and country of death,
17. the date of death stated in the court ruling pronouncing a person dead;

b) regarding foreign nationals with a residence status in the Czech Republic or foreign nationals with an asylum in the Czech Republic:

1. name or names, surname, maiden name,
2. date of birth,
3. sex,
4. place and country of birth of the foreign national,
5. I.D. number given at birth,
6. citizenship or citizenships,
7. type and address of residence,
8. number and expiration of the residence permit,
9. date of commencement of permanent residence, or date at which the information about the place of permanent residence was cancelled,
10. information about limited legal capacity or incapacitation,
11. administrative expulsion and period for which entry to the Czech Republic is prohibited,
12. marital status, date and place of entering into matrimony
13. I.D. number given at birth of the spouse; in the event that the spouse is a foreign national and does not have the I.D. number given at birth, then the name or names of the spouse, surname and date of birth,
14. I.D. number given at birth of a child provided the child is a resident; in the event that the child is a foreign national and does not have the I.D. number given at birth, then the name or names of the child, surname and date of birth,

15. I.D. number given at birth of the father, mother, or another statutory representative, provided they are residents; in the event that one of the parents or the statutory representative do not have the I.D. number given at birth, then the name or names, surname and date of birth,
16. regarding an adopted child, provided the child is a resident, information about the type of adoption, the former and new name or names of the child, surname, former and new I.D. number given at birth, date and place of birth, I.D. numbers given at birth of the adoptive parents, date of the legal validity of the decision on the adoption or of the decision on the cancellation of the adoption of the child,
17. expulsion and period for which entry to the Czech Republic is prohibited,
18. date, place and district of death, in the event of death outside of the Czech Republic, then date and country of death,
19. the date of death stated in the court ruling on pronouncing a person dead.

(4) For the period of five years, information identifying the Ministry employee who has requested particular information shall be stored in the information system of the Ministry.
(5) Information gathered in keeping with this Act shall be preserved for the time period necessary to meet its purpose. The Ministry may disclose such information only in keeping with its authorization granted under Section 16 Paragraph 3.
(6) In carrying out its activities and meeting the purpose hereof, the Ministry shall make use of records available under separate legislation regarding money laundering.
(7) The Ministry may store date gathered hereunder in a database and in keeping with terms stipulated by separate legislation[8)]. To that end, the Ministry may combine information gathered hereunder with information available under separate legislation regarding money laundering in a single database. Should it jeopardize the purpose hereof, the Ministry shall not provide upon request in keeping with a special law any information regarding data stored in a database hereunder.
(8) In the event the Ministry has knowledge of facts which support a probable cause to believe that a criminal offence was committed, it shall file a criminal complaint with the police in keeping with the Code of Criminal Procedure, and it shall provide the law-enforcement bodies with all information and evidence it has in connection with the complaint.
(9) In order to meet the purpose of international sanctions, the Ministry shall, in the course of exchanging and obtaining information to the extent stipulated by an international agreement binding on the Czech Republic or on the basis of reciprocity, cooperate with foreign bodies with the same or similar jurisdiction in the area of international sanctions. Provided that the information shall be used solely for the purpose of this Act and provided it will enjoy the same level of protection as herein granted, the Ministry may cooperate also with international organizations..

8) Act no. 101/2000 of the Coll., on the Protection of Personal Data and Modifications to Some Laws, as amended.

Section 15
Oversight

(1) Government bodies responsible for the oversight shall oversee also fulfilment of obligations hereunder; if there is no such government body, the oversight shall be carried out by the Ministry. If problems are uncovered in connection with obligations hereunder, then the respective government body shall provide available documentation for punitive proceedings to the Ministry of Industry and Trade in matters that fall under its jurisdiction and to the Ministry in all other matters. The responsible government body shall continue to cooperate with the said ministries in the punitive proceedings.

(2) The Czech National Bank shall oversee the performance hereunder in case of banks, branches of foreign banks and persons who have been issued a foreign-currency license by it; in

case problems are uncovered the Czech National Banks shall proceed in keeping with Paragraph 1, second sentence.

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Section 16
Confidentiality

(1) Employees of the Ministry and of bodies mentioned in Section 15 shall maintain confidentiality regarding actions taken and information gathered hereunder. The confidentiality obligation extends to those who become aware of the information gathered hereunder in connection with inquires carried out by the Ministry.

(2) The confidentiality obligation of persons mentioned in Paragraph 1 does not become extinct upon termination of employment or another relation to the body mentioned in Section 15.

(3) The confidentiality obligation under Paragraphs 1 and 2 cannot be invoked with respect to

a) law enforcement bodies provided they investigate or prosecutes a crime in connection with enforcement of international sanctions or with terrorism or in connection with a reporting duty linked to such a crime,

b) offices of prosecution in carrying out their duties [9)],

c) government bodies responsible for enforcement of control regimes in connection with disclosure of information required for meeting of obligations under separate legislation governing exports and imports of goods and technologies subject to international control regimes,

d) persons conducting oversight in keeping with Section 15,

e) courts hearing civil or administrative cases in connection with claims hereunder,

f) person who could be entitled to make a claim for damages caused hereunder, provided such disclosure is subsequent; in such a case the information disclosed may be limited or its disclosure postponed until such time when the disclosure is not in jeopardy to the purpose of this law,

g) respective foreign body in connection with exchange of information required for the purpose of this law, unless prohibited under separate legislation,

h) intelligence services of the Czech Republic in connection with information required for their mission, or

i) financial arbitrator judging a dispute between a petitioner and an institution under separate legislation.

(4) In the event the Ministry has filed a criminal complaint in keeping with Section 14 Paragraph 8, it may provide information under Paragraph 3, Letters e) or f) only with the consent of the acting law enforcement body.

9) Section 42 Act no. 283/1993 Coll., on State Prosecution, as amended by Act. no. 261/1994 Coll., Section 66 Para. 2 of Act no. 150/2002 Coll., Rules of Administrative Procedure.

PART FIVE
ADMINISTRATIVE DELICTS

Section 17
Infractions

(1) An individual has committed an infraction by

a) violating a restriction or prohibition set forth in Sections 5 through 8 herein,

b) violating a restriction or prohibition set forth in directly applicable legislation of the European Communities whereby international sanctions have been imposed in keeping with Section 2, Letter c),
c) failing to meet the reporting duty under Section 10, Paragraph 1,

d) disposing of assets subject to international sanctions in conflict with provisions of Section 11, Paragraph 1, or
e) violating the confidentiality obligation under Section 16, Paragraph 1.

(2) The infractions under Paragraph 1, Letters a) through c) carry a fine of up to CZK 4 000 000.

(3) The infraction under Paragraph 1, Letter d) carries a fine of up to CZK 500 000, the infraction under Paragraph 1, Letter e) carries a fine of up to CZK 200 000

Section 18
Administrative Delicts of Legal Persons and Self-Employed Individuals

(1) Legal person or a self-employed individual[10)] have committed an administrative delict by
a) violating a restriction or prohibition set forth in Sections 5 through 8 herein,
b) violating a restriction or prohibition set forth in directly applicable legislation of the European Communities whereby international sanctions have been imposed in keeping with Section 2, Letter c),
c) failing to meet the reporting duty under Section 10, Paragraph 1, or
d) disposing of assets subject to international sanctions in conflict with provisions of Section 11, Paragraph 1.

10) Section 2, Paragraph 2 of the Commercial Code, as amended by Act no. 85/2004 Coll.

(2) The administrative delicts under Paragraph 1, Letters a) through c) carry a fine of up to CZK 4 000 000 or confiscation of assets.

(3) The administrative delict under Paragraph 1, Letter d) carries a fine of up to CZK 500 000.

(4) Provided the legal person or the self-employed individual obtained, through the administrative delict under Paragraph 1, Letters a) through c), a personal gain or a gain for a third party in excess of CZK 5 000 000, or caused damage in excess of CZK 5 000 000 or other serious consequence, then the fine imposed shall be up to CZK 50 000 000.

Section 19
Confiscation

(1) In connection with an administrative delict under Section 18, assets may be confiscated if they belong to the perpetrator and
a) were used or designated for committing the delict under Section 18, or
b) were obtained through committing of the delict under Section 18 or in exchange for such assets.

(2) Confiscation of assets may be ordered in addition to a fine or singularly if it appears to be a sufficient sanction given the nature of the administrative delict.

(3) Assets must not be confiscated if their value is in sharp disproportion to the nature of the administrative delict..

(4) The assets are confiscated to benefit the state which becomes the legal owner of such assets.

Joint Provisions on Administrative Delicts

Section 20

(1) Legal person shall not be held liable for an administrative delict if it can prove that it exerted reasonable effort to prevent the violation.

(2) In assessing the fine for a legal person, the gravity of the administrative delict, in particular the way in which it was committed and its consequences, shall be taken into account as well as the extent, significance and time of jeopardizing the foreign-policy and security interests of the state.

(3) The liability of the legal person becomes statute-barred, provided the administrative body did not commence the proceedings within 3 years of being notified of the same but no later than within 10 years of its commitment.

(4) The liability for conduct in connection with a business activity of a self-employed person,[10)] or in direct relation to it, is governed by the provisions concerning liability of and sanctions against legal persons.

(5) This law governs also administrative delicts committed by a Czech person in a foreign country provided the person violated a restriction or a prohibition imposed by this Act or directly applicable legislation of the European Communities which carry out a common position or a joint action adopted under the EU Treaty common foreign and security policy provisions.

(6) Administrative delicts under this Act shall be heard by the Ministry of Industry and Trade, if the international sanctions which might have been violated by the said administrative delict concern foreign trade with military material or the regime of the European Communities to control exports of dual-use goods and technologies. Other administrative delicts shall be heard by the Ministry.

(7) Fines shall be collected and enforced by the Tax Administration Office having territorial jurisdiction according to a specific legislation. The fines represent revenue for the state budget of the Czech Republic.

(8) In connection with collection and enforcement of fines, the Tax Administration Law shall apply.

Section 21

Except for provisions of Sections 4 through 8, this law shall apply in connection with restrictions and prohibitions set forth in directly applicable legislation of the European Communities which implements a common position or a common action adopted under the EU Treaty common foreign and security policy provisions as of the date of effect of this legislation.

PART SIX

FINAL PROVISIONS

Section 22

(1) This Act is without prejudice to provisions of specific legislation concerning foreign trade with military material or the regime of the European Communities to control exports of dual-use goods and technologies.

(2) This Act is without prejudice to duties and obligations of central government bodies and the Czech National Bank to carry out other responsibilities to which they are obligated within their scope of authorization in connection with international sanctions, or to their duty to act as members of various international bodies. In the event it proves necessary that as a result of such acting or international sanctions a government decree should be issued regarding their authority hereunder, they shall cooperate with the Ministry on its drafting.

Section 23

Authority

(1) The government may issue a decree to specify procedures for fulfilling the EU legislation defined in Section 2 Letter c).

(2) Through an ordinance, the Ministry shall stipulate in detail how the reporting duty should be performed and shall publish a specimen of the government I.D. referred to in Section 12 Paragraph 6.

Section 24

The following regulations shall be revoked:

1. Act no. 48/2000 Coll., on measures regarding the Afghan movement of Taliban.
2. Act no. 98/2000 Coll., on implementation of international sanctions to maintain international peace and security.
3. Act no. 4/2005 Coll., on some measures regarding the Republic of Iraq.
4. Government Decree no. 164/2000 Coll., on measures regarding the Afghan movement of Taliban.
5. Government Decree no. 327/2001 Coll., on additional measures regarding the Afghan movement of Taliban.
6. Government Decree no. 334/2001 Coll., on measures against some individuals of the Federal Republic of Yugoslavia.
7. Government Decree no. 170/2003 Coll., on some measures regarding the Republic of Iraq.

Section 25

Effect

This Act comes into effect as of the first day of the month following the month of its publication.

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