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

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# Report on Fourth Assessment Visit – Annexes

## Anti-Money Laundering and Combating the Financing of Terrorism

# AZERBAIJAN

10 December 2014

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

### **Ministries and other Government Authorities**

Ministry of Communications and Information Technologies  
Ministry of Finance  
Ministry of Foreign Affairs  
Ministry of Justice  
Ministry of Taxes

### **Investigation and Law Enforcement Bodies and Public Prosecutor' Office**

Financial Monitoring Service (FIU)  
General Prosecutor's Office  
Ministry of Internal Affairs  
Ministry of National Security

### **Financial Sector Bodies**

Central Bank of Azerbaijan  
State Committee for Securities

### **Other Government Bodies**

Judges from the first instance court  
Judges from the Supreme Court  
State Committee for Work with Religious Organisations  
State Customs Committee

### **Private Sector Representatives and Associations**

Azerpost  
Bar association  
Chamber of Auditors  
Representatives from 1 asset management company  
Representatives from 2 securities and investment companies  
Representatives from 3 banks  
Representatives from 3 life insurance companies

## ANNEX II Designated categories of offences based on the FATF Methodology and Convention Offences

### Designated categories of offence

Participation in an organised criminal group and racketeering;	Article 34 – The commission of a crime by a group of persons, by a group of persons in a preliminary conspiracy, by an organised group or by a criminal community (criminal organization) Article 217 – Racketeering Article 218 – Organisation of a criminal community
Terrorism, including terrorist financing	Article 214 – Terrorism Article 214-1 – Financing of terrorism
Trafficking in human beings and migrant smuggling; Sexual exploitation, including sexual exploitation of children;	Article 144-1– Human trafficking Article 171 – Sexual exploitation of children or involvement of children in immoral acts Article 243 – Prostitution Article 244 – Maintenance of prostitution house
Illicit trafficking in narcotic drugs and psychotropic substances;	Article 234 – Illicit manufacturing, purchase, storage, transportation, transfer or selling of narcotic drugs, psychotropic substances or their precursors
Illicit arms trafficking	Article 228 – Illegal purchase, transfer, selling, storage, transportation and carrying of arms, accessories to it, supplies, explosives
Illicit trafficking in stolen and other goods	Article 194 – Acquisition, possession, use or disposition of funds or other property, knowing, at the time of receipt, that such funds or other property is the proceeds of crime (also referred to in the context of ML offences)
Corruption and bribery	Article 311 – Passive bribery Article 312 – Active bribery Article 312-1 – Influence trading Article 179 – Assignment or waste (Embezzlement of a property, thus embezzlement of other person’s property bestowed upon guilty party) Article 308 – Abusing official powers Article 309 – Excess of official powers Article 310 – Assignment of powers of the official
Fraud	Article 178 – Fraud
Counterfeiting currency	Article 204 – Manufacturing, acquisition or selling of counterfeit currency or securities

Counterfeiting and piracy of products	<p>Article 197 – Illicit use of trade marks</p> <p>Article 192 – Illegal business</p> <p>Article 205 – Manufacturing, acquisition or selling of counterfeit credit or account cards and other payment documents</p>
Environmental crime	Chapter 28 – Ecological crimes
Murder, grievous bodily injury	<p>Article 120 – Intentional murder</p> <p>Article 121 – Intentional murder of the newborn baby by his/her mother</p> <p>Article 122 - Intentional murder in a sudden extremely strong mental excitement</p> <p>Article 123 – Murder by violating a necessary defence level or a necessary defence level for catching a criminal</p> <p>Article 124 – Unintentional murder</p> <p>Article 125 – getting someone to the extent of suicide</p> <p>Article 126 – Intentional grievous bodily injury</p> <p>Article 127 – Intentional minor non-grievous bodily injury</p> <p>Article 128 – Intentional less serious non-grievous bodily harm</p> <p>Article 129 – Intentional grievous or non-grievous bodily injury in a sudden extremely strong mental excitement</p> <p>Article 130 – Grievous bodily injury by violating a necessary defence level or a grievous or a non-grievous bodily injury by violating a necessary defence level for catching a criminal</p> <p>Article 131 – Unintentional grievous or non-grievous bodily injury</p> <p>Article 132 – Battery</p> <p>Article 133 – Torture</p>
Kidnapping, illegal restraint and hostage-taking	<p>Article 144 – Kidnapping</p> <p>Article 145 – Illegal restraint of freedom</p> <p>Article 146 – Illegal placement in a psychiatric hospital</p>
Robbery or theft;	<p>Article 177 – Theft</p> <p>Article 180 – Robbery</p> <p>Article 183 – Robbery of property of a special value</p>
Smuggling	Article 200 – Smuggling
Extortion	Article 182 – extortion
Forgery	<p>Article 313 – Service forgery</p> <p>Article 161 – Falsification of voting documents or documents of</p>

	<p>national voting (referendum), obviously wrong calculation of voices, or infringement of ballot</p> <p>Article 210 – Wrongful actions at bankruptcy</p> <p>Article 320 – Fake, manufacturing or selling of official documents, state awards, seals, stamps, forms or use of counterfeit documents</p>
Piracy	<p>Article 197 – Illegal use of trade marks</p> <p>Article 192 – Illegal business</p> <p>Article 205 – Manufacturing, acquisition or selling of counterfeit credit or account cards and other payment documents</p>
Insider trading and market manipulation	<p>Article 202-2 – Insider trading</p> <p>Article 203-1 – Market manipulation</p>

**Conventions listed in the Annex of the FT Convention**

<b>Convention</b>	<b>Relevant Article in the Criminal Code</b>
Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970	<b>219.</b> Stealing of aircraft, ship or railway train
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on 23 September 1971	<p><b>116.0.12.</b> Attack on constructions, of which destruction can result in big losses among civilians or cause significant damage to civil objects</p> <p><b>120.2.4.</b> Deliberate murder committed with special cruelty or in a publicly dangerous way</p> <p><b>126.2.4.</b> Deliberate causing of serious harm to health in a publicly dangerous way, from hooligan prompting</p> <p><b>127.2.3.</b> Deliberate causing of minor serious harm to health in a publicly dangerous way or from hooligan prompting</p> <p><b>186.</b> Deliberate destruction or damage of property</p> <p><b>216.</b> Obviously untrue report on terrorism</p> <p><b>266.</b> Reduction to unsuitability of vehicles or means of communication</p> <p><b>296.</b> Obviously false denunciation</p>
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973	<p><b>102.</b> Attack on persons or establishments, which use international protection</p> <p><b>120.2.3.</b> Deliberate murder of victims or his close relatives in connection with implementation of a given person of service activity or performance of public debt</p> <p><b>277.</b> Attempt on life of the state or public authority (act of terrorism)</p>

<p>International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979</p>	<p><b>215.</b> Capture of hostages.</p>
<p>Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980</p>	<p><b>116.0.16.</b> Application of a weapon, means and ways of conducting a war, forbidden by an international agreement to which the Azerbaijan Republic is a party</p> <p><b>206.2.</b> Smuggling committed except or with concealment from the customs control or with use of fowls documents or means of customs identification or connected with undeclared or doubtful declaring</p> <p><b>224-1.</b> Violation of rules on using double purpose goods (works, services)</p> <p><b>226.</b> Illegal handling of radioactive materials</p> <p><b>227.</b> Plunder or extortion of radioactive materials</p> <p><b>248.</b> Infringement of rules on handling of ecologically dangerous substances and waste products</p> <p><b>350.</b> Infringement of rules on manipulation of a weapon and subjects representing increased danger to associates</p>
<p>Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988</p>	<p><b>120.</b> Deliberate murder</p> <p><b>126.</b> Deliberate causing of serious harm to health</p> <p><b>186.</b> Deliberate destruction or damage of property</p> <p><b>233.</b> Organisation of actions promoting infringement of a social order or active participation in such actions</p> <p><b>266.</b> Reduction to unsuitability of vehicles or means of communication</p>
<p>Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988</p>	<p><b>120.2.4.</b> Deliberate causing of serious harm to health in a publicly dangerous way, from hooligan prompting</p> <p><b>126.2.4.</b> Deliberate causing of serious harm to health in a publicly dangerous way, from hooligan prompting</p> <p><b>127.2.3.</b> Deliberate causing of minor serious harm to health in a publicly dangerous way or from hooligan prompting</p> <p><b>186.</b> Deliberate destruction or damage of property</p> <p><b>216.</b> Obviously untrue report on terrorism</p> <p><b>219.</b> Stealing of aircraft, ship or railway train</p> <p><b>219-1.</b> Piracy</p> <p><b>266.</b> Reduction to unsuitability of vehicles or means of communication</p>



	<b>296.</b> Obviously false denunciation
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988	<b>126.2.4.</b> Deliberate causing of serious harm to health in a publicly dangerous way, from hooligan prompting <b>127.2.3.</b> Deliberate causing of minor serious harm to health in a publicly dangerous way or from hooligan prompting <b>186.</b> Deliberate destruction or damage of property <b>219.</b> Stealing of aircraft, ship or railway train <b>219-1.</b> Piracy <b>266.</b> Reduction to unsuitability of vehicles or means of communication
International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997	<b>214.</b> Terrorism <b>282.</b> Diversion

### **Implementation of the Vienna Convention**

<b>Provisions of the Vienna Convention</b>	<b>Croatian legislative acts and regulations that cover requirements of the Vienna Convention</b>
Article 3 (Offences and Sanctions)	Criminal Code Articles 193-1, 194
Article 4 (Jurisdiction)	Criminal Code Articles 11, 12
Article 5 (Confiscation) with regard to confiscation of proceeds derived from offences involving illicit trafficking of narcotic drugs or psychotropic substances; with regard to seizure of property (assets); with regard to rendering mutual legal assistance.	Criminal Code Articles 99-1, 99-2, 99-3
Article 6 (Extradition)	Criminal Code Article 13 Law on "Providing criminals (extradition)" of the Republic of Azerbaijan
Article 7 (Mutual Legal Assistance)	Law on "Mutual legal assistance on criminal cases"
Article 8 (Transfer of Proceedings)	Criminal Procedural Code Article 521
Article 9 (Other Forms of Cooperation and Training)	Article 20 of the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism"
Article 10 (International Cooperation and Assistance for Transit States)	Article 16 of the Law on "Providing criminals (extradition)" of the Republic of Azerbaijan

Article 11 (Controlled Delivery)	Article 10 of the Law of the Republic of Azerbaijan “On operation-search activity”
Article 15 (Commercial Carriers)	Article 10 of the Law of the Republic of Azerbaijan “On operation-search activity”
Article 17 (Illicit Traffic by Sea)	Article 10 of the Law of the Republic of Azerbaijan “On operation-search activity”
Article 19 (The Use of the Mails)	Article 10 of the Law of the Republic of Azerbaijan “On operation-search activity”

### **Implementation of the Palermo Convention**

<b>Provisions of the Palermo Convention</b>	<b>Croatian legislative acts and regulations that cover requirements of the Palermo Convention</b>
Article 5 (Criminalization of Participation in an Organized Criminal Group)	Criminal Code Articles 34, 218
Article 6 (Criminalization of the Laundering of Proceeds of Crime)	Criminal Code, Articles 193-1, 194
Article 7 (Measures to Combat Money-Laundering)	The Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”
Article 10 (Liability of Legal Persons)	Criminal Code, Articles 99-4 – 99-9
Article 11 (Prosecution, Adjudication and Sanctions)	Criminal Code, Criminal Procedural Code
Article 12 (Confiscation and Seizure)	Criminal Procedural Code Section 32 Criminal Code Articles 99-1, 99-2, 99-3
Article 13 (International Cooperation for Purposes of Confiscation)	Criminal Procedural Code Article 521
Article 14 (Disposal of Confiscated Proceeds of Crime or Property)	Criminal Procedural Code
Article 15 (Jurisdiction)	Criminal Code Articles 11, 12
Article 16 (Extradition)	Criminal Code Article 13 Law on “Providing criminals (extradition)” of the Republic of Azerbaijan
Article 18 (Mutual Legal Assistance)	Law on “Mutual legal assistance on criminal cases”
Article 19 (Joint Investigations)	Criminal Procedural Code

Article 20 (Special Investigative Techniques)	Criminal Procedural Code The Law of the Republic of Azerbaijan “On operation-search activity”
Article 24 (Protection of Witnesses)	Criminal Procedural Code
Article 25 (Assistance to and Protection of Victims)	Criminal Procedural Code
Article 26 (Measures to Enhance Cooperation with Law Enforcement Authorities)	Criminal Procedural Code The Law of the Republic of Azerbaijan “On operation-search activity”
Article 27 (Law Enforcement Cooperation)	Criminal Procedural Code
Article 29 (Training and Technical Assistance)	N/A
Article 30 (Other Measures: Implementation of the Convention through Economic Development and Technical Assistance)	N/A
Article 31 (Prevention)	Civil Code Law of the Republic of Azerbaijan on “State registry of legal entities” The Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”
Article 34 (Implementation of the Convention)	Decision of Parliament of the Republic of Azerbaijan on “Affirmation of UN Transnational Organized Crime Convention” dated 13 May 2003, #435-IIQ

**Implementation of the UN International Convention for the Suppression of the Financing of Terrorism**

<b>Provisions of the UN International Convention for the Suppression of the Financing of Terrorism</b>	<b>Croatian legislative acts and regulations that cover requirements of the UN International Convention for the Suppression of the Financing of Terrorism</b>
Article 2	Criminal Code 214-1
Article 3	Criminal Code Law on “Mutual legal assistance on criminal cases” Article 21 of the law on “Suppression of terrorism”
Article 4	Criminal Code 214-1
Article 5	Criminal Code, Articles 99-4 – 99-9
Article 6	N/A

Article 7	Criminal Code Articles 11, 12
Article 8	Criminal Procedural Code Section 32 Criminal Code Articles 99-1, 99-2, 99-3
Article 9	Criminal Code Article 12 Criminal Procedural Code Article 521 Law on “Providing criminals (extradition)” of the Republic of Azerbaijan
Article 10	Criminal Code Law on “Mutual legal assistance on criminal cases”
Article 11	Decision of Parliament of the Republic of Azerbaijan on “joining UN Convention for the Suppression of the Financing of Terrorism” dated 01 October 2001, #174-IIQ
Article 12	Law on “Mutual legal assistance on criminal cases” Law on “Providing criminals (extradition)” of the Republic of Azerbaijan The Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”
Article 13	Article 3 of the law on “Mutual legal assistance on criminal cases”
Article 14	N/A
Article 15	N/A
Article 16	Article 9 of the law on “Mutual legal assistance on criminal cases”
Article 17	The Constitutions of the Republic of Azerbaijan Criminal Procedural Code
Article 18	Civil Code Law of the Republic of Azerbaijan on “State registry of legal entities” The Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”

**Status of Implementation of the UN Security Council Resolutions**

**Resolution 1267 (1999)**

Provisions of the Resolution 1267 (1999)	Croatian legislative acts and regulations that cover requirements of the Resolution 1267 (1999)
subparagraph “a” of paragraph 4	Presidential Decree of the Republic of Azerbaijan on “Executing of UN Security Resolutions 1267 and 1269” dated 15 July 2000, #470
subparagraph “b” of paragraph 4	<p>Article 7.2.5. of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”</p> <p>The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»</p>

**Resolution 1333 (2000)**

Provisions of the Resolution 1333 (2000)	Croatian legislative acts and regulations that cover requirements of the Resolution 1333 (2000)
subparagraphs “a”, “b”, and “c” of paragraph 5	<p>Article 7.2.5. of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”</p> <p>The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»</p>
subparagraphs “a”, “b”, and “c” of paragraph 7	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»
subparagraphs “a”, “b” and “c” of paragraph 8	<p>Article 7.2.5. of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”</p> <p>The Ordinance of the Cabinet of Ministers of the Republic of</p>

	Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»
subparagraphs “a” and “b” of paragraph 10	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»
subparagraphs “a” and “b” of paragraph 11	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»
subparagraphs “a” and “b” of paragraph 14	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»

**Resolution 1363 (2001)**

<b>Provisions of the Resolution 1363 (2001)</b>	<b>Croatian legislative acts and regulations that cover requirements of the Resolution 1363 (2001)</b>
paragraph 8	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»

**Resolution 1373 (2001)**

Provisions of the Resolution 1373 (2001)	Croatian legislative acts and regulations that cover requirements of the Resolution 1373 (2001)
subparagraphs “a”, “b” and “c” of paragraph 1	<p>Criminal Code Article 214-1</p> <p>Article 7.2.5. of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”</p> <p>The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»</p>
Paragraph 2	<p>The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»</p>

**Resolution 1390 (2002)**

Provisions of the Resolution 1390 (2002)	Croatian legislative acts and regulations that cover requirements of the Resolution 1390 (2002)
subparagraphs “a”, “b” and “c” of paragraph 2	<p>The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»</p>

**Resolution 1455 (2003)**

Provisions of the Resolution 1455 (2003)	Croatian legislative acts and regulations that cover requirements of the Resolution 1455 (2003)
paragraph 1	<p>The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on</p>

	counter terrorist financing to which the Republic of Azerbaijan is a party»
paragraph 5	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»
paragraph 6	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»

**Resolution 1526 (2004)**

<b>Provisions of the Resolution 1526 (2004)</b>	<b>Croatian legislative acts and regulations that cover requirements of the Resolution 1526 (2004)</b>
paragraph 4	Article 7.2.5. of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”
paragraph 5	The Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”
Paragraph 17	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»
paragraph 22	The Ordinance of the Cabinet of Ministers of the Republic of Azerbaijan # 124, from 25 June 2010 «On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party»





# ANNEX III Anti Money Laundering and Terrorist Financing Law

*Non-official translation*

## LAW OF THE REPUBLIC OF AZERBAIJAN

### ON THE PREVENTION OF THE LEGALIZATION OF CRIMINALLY OBTAINED FUNDS OR OTHER PROPERTY AND THE FINANCING OF TERRORISM

This law is aimed at creating a legal mechanism to detect and prevent the offenses related to the legalization of criminally obtained funds or other property and the financing of terrorism, establishment a regime that excludes the use of the financial system for the purposes of the legalization of criminally obtained funds or other property and the financing of terrorism, and to protect the interests of the state and public.

#### SECTION I

##### GENERAL PROVISIONS

###### Article 1. Basic definitions

**1.0.** The definitions used in this Law shall have the following meanings:

**1.0.1. *criminally obtained funds or other property*** – funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offence provided by the Criminal Code of the Republic of Azerbaijan;

**1.0.2. *legalization of funds or other property, knowing that such funds or other property is the proceeds of crime*** – conversion or transfer of funds or other property, knowing that such funds or other property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the funds or other property or of helping

any person who is involved in the commission of any crime to evade the legal consequences of his or her action, or accomplishment of financial transactions or other deals for the same purposes by using funds or other property, knowing that such funds or other property is the proceeds of crime; or the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to funds or other property, knowing that such funds or other property is the proceeds of crime;

**1.0.3. *transactions with funds or other property*** – transactions aimed at acquisition, exercising, change or termination of civil rights to the funds or other property as a result of transactions with them;

**1.0.4. *financing of terrorism*** – wilful provision or collection funds or other property by any means, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to finance the preparation, organisation or carrying out by a person or by a group (organisation, community) of persons of an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan, or by an individual terrorist or by a terrorist organisation;

**1.0.5. *financial monitoring organ*** – state authority empowered to function in the sphere of prevention of the legalization of criminally obtained funds or other property and the financing of terrorism;

**1.0.6. *monitoring*** – measures of control carried out by the financial monitoring organ, based on the information on transactions with the funds or other property received from the monitoring entities, other persons involved in monitoring, the supervision authorities, or other known sources;

**1.0.7. *monitoring entities*** – persons defined in the article 4 of this Law and obligated to implement the measures stipulated under the articles 9–12 of this Law for the purposes of preventing the legalization of criminally obtained funds or other property and the financing of terrorism;

**1.0.8. *other persons involved in monitoring*** – lawyers, notaries, other persons providing legal or audit services that implement the measures provided by this Law for the purposes of preventing the legalization of criminally obtained funds or other property and the financing of terrorism;

**1.0.9. *supervision authorities*** – the designated competent authorities responsible for ensuring compliance by monitoring entities and other persons involved in monitoring with requirements of the articles 9–12 of this Law;

**1.0.10. *internal control system*** – the complex internal supervision measures in the sphere on preventing the legalization of criminally obtained funds or other property and the financing of terrorism as defined by the article 12 of this Law, carried out by the monitoring entities and other persons involved in monitoring which are legal persons;

**1.0.11. *customer*** – any natural or legal person permanently or occasionally using the services of the monitoring entities or other persons involved in monitoring the persons, that concern the transactions with the funds or other property;

**1.0.12. *beneficial owner*** – natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted; it also incorporates those persons who exercise ultimate effective control over a legal person or arrangements;

**1.0.13. *currency values*** – cash foreign currency, securities the value or nominal of which is expressed in foreign currency, precious stones, precious metals, as well as the jewelries or other goods made of the precious stones or precious metals;

**1.0.14. *politically exposed persons of foreign country*** – individuals who are or have been entrusted with prominent public functions in a foreign country (Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials), as well as their family members or close associates.

## **Article 2. Scope of application of this Law**

**2.1.** For the purposes to detect and prevent the acts targeted to the legalization of criminally obtained funds or other property and the financing of terrorism, this Law regulates the relations of the citizens of the Republic of Azerbaijan, foreigners, stateless persons, legal persons carrying out transactions with the funds and other property, as well as the activity of supervision authorities empowered to supervise execution of transactions with funds or other property on the territory of the Republic of Azerbaijan.

**2.2.** This Law shall apply to the activities related to legalization of the criminally obtained funds or other property and the financing of terrorism outside the jurisdiction of the Republic of Azerbaijan in accordance with the international instruments to which the Republic of Azerbaijan is a party.

## **SECTION II**

### **PREVENTION OF THE LEGALIZATION OF CRIMINALLY OBTAINED FUNDS OR OTHER PROPERTY AND THE FINANCING OF TERRORISM**

#### **Article 3. Measures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism**

**3.0.** Measures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism include:

**3.0.1.** monitoring;

**3.0.2.** preparation and application of the internal control system by the monitoring entities and other persons involved in monitoring which are legal persons;

**3.0.3.** prohibition of informing the customer or any other person on the measures implemented against the legalization of criminally obtained funds or other property and the financing of terrorism;

**3.0.4.** other measures as defined by the laws of the Republic of Azerbaijan and the international instruments to which the Republic of Azerbaijan is a party.

#### **Article 4. Monitoring entities**

**4.0.** Monitoring entities are the following:

**4.0.1.** credit institutions;

**4.0.2.** insurers, reinsurers, insurance intermediaries;

**4.0.3.** brokers, who professionally participate in the securities market and those, who are engaged in the professional management of securities;

**4.0.4.** credit institutions providing leasing services;

**4.0.5.** institutions and other organizations providing post services that are engaged in transfers of the funds;

**4.0.6.** pawnshops;

**4.0.7.** investment funds;

**4.0.8.** natural and legal persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals;

**4.0.9.** non-governmental or religious organizations parts of activities of which consist of receiving, collecting, delivering or transferring the funds;

**4.0.10.** lottery organizer;

**4.0.11.** natural and legal persons providing intermediary services on the buying and selling of real estate.

#### **Article 5. Other persons involved in monitoring**

**5.1.** The requirements of the articles 9–11 and 12-1 of this Law shall apply to lawyers, notaries, other persons providing legal or audit services when they prepare for or carry out transactions for their customers with respect to the following activities:

**5.1.1.** buying and selling of real estate;

**5.1.2.** managing of customer funds, securities or other property;

**5.1.3.** managing of customer bank and securities accounts;

**5.1.4.** creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons.

**5.2.** Lawyers, notaries, other persons providing legal or audit services that submitted information to the financial monitoring organ shall not disclose it.

**5.3.** The provisions of the article 5.1 of this Law shall not apply to the information that is considered as professional secrecy or legal professional privilege.

**5.4.** Other persons involved in monitoring which are legal persons shall establish and maintain internal control system against the legalization of criminally obtained

funds or other property and the financing of terrorism as defined by the article 12 of this Law.

#### **Article 6. Supervision authorities**

**6.1.** Supervision authorities are the following bodies:

**6.1.1.** Central Bank of the Republic of Azerbaijan – for credit institutions and the ones providing leasing services;

**6.1.2.** relevant executive authority carrying out supervision over the securities market – for brokers, who are the professional participants of the securities market, those who professionally operate in the management of securities, lottery organizers and investment funds;

**6.1.3.** relevant executive authority – for insurers, reinsurers and insurance intermediaries, natural and legal persons that engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones or precious metals;

**6.1.4.** relevant executive authority that supervises over the institutions providing post services – for the institutions providing post services;

**6.1.5.** relevant executive authorities – for the non–governmental or religious organizations part of activities of which concerns receipt, collection, deliver or transfer of funds;

**6.1.6.** relevant executive authority – for the notaries and other persons providing legal services;

**6.1.7.** Bar of Lawyers of the Republic of Azerbaijan within the framework of competence – for the lawyers;

**6.1.8.** Chamber of Auditors of the Republic of Azerbaijan within the framework of competence – for the persons providing audit services.

**6.2.** If a supervision authority is not envisaged for any monitoring entity and other persons involved in monitoring, the supervision over the compliance with the requirements of this Law shall be carried out by the financial monitoring organ.

**6.3.** If the supervision authorities detect incompliance with the requirements of the articles 9–12 of this Law by the monitoring entities and other persons involved in monitoring, supervision authorities shall impose administrative penalty or implement other measures as provided by the legislation in respect to the monitoring entity and other persons involved in monitoring, and shall inform the financial monitoring organ about that.

**6.4.** Violation of the requirements of this Law by the monitoring entities and other persons involved in monitoring, operating under a license may cause revocation (annulling) of a license in accordance with the legislation of the Republic of Azerbaijan, or undertaking other measures stipulated in the legislation of the Republic of Azerbaijan.

**6.5.** Supervision authorities shall establish regulations on supervision over the compliance with the requirements of the articles 9–12 of this Law by the monitoring entities and other persons involved in monitoring.

## **Article 7. Transactions with funds or other property subject to monitoring**

**7.1.** The monitoring entities shall submit to the financial monitoring organ the information on transactions with funds or other property, the list and minimum threshold of total amount of which is designated by the financial monitoring organ.

**7.2.** Information on funds or other property, transactions with them and the attempts to carry out transactions involving the following features shall be submitted to the financial monitoring organ regardless of their amount:

**7.2.1.** situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing;

**7.2.2.** any transaction with the funds or other property associated with the citizens of the country (jurisdiction) determined by the article 7.3 of this Law, with the persons registered or that, who has a residency or permanent business in this country (jurisdiction), with the persons who has a bank account in banks registered in this country (jurisdiction);

**7.2.3.** any transactions with funds or other property of politically exposed persons of foreign country;

**7.2.4.** transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan;

**7.2.5.** any transactions of persons the list of which is designated in the order specified by the relevant executive authority on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments to which the Republic of Azerbaijan is a party.

**7.3.** The list of countries that do not or insufficiently comply with the international standards on prevention of the legalization of criminally obtained funds or other property, financing of terrorism, or suspected in support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, or the countries that do not require disclosing identification information when conducting financial transactions is determined and published by the financial monitoring organ in the order as established by the relevant executive authority. The relevant list and the list of persons envisaged in the article 7.2.5 of this Law shall be submitted to the monitoring entities and other persons involved in monitoring by the financial monitoring organ directly or via supervision authorities.

**7.4.** Appropriate counter-measures shall be applied in relation to the business relationships and transactions with natural and legal persons of the countries which

continuously not applying or insufficiently applying the requirements of international instruments on prevention of the legalization of criminally obtained funds or other property and the financing of terrorism to which the Republic of Azerbaijan is a party.

**7.5.** Foreign branches and subsidiaries of monitoring entities having permanent business in the country (jurisdiction) determined by the article 7.3 of this Law, shall comply with the requirements of the legislation of the Republic of Azerbaijan and international standards against the legalization of criminally obtained funds or other property and the financing of terrorism, to the extent that the legislation of the country (jurisdiction) determined by the article 7.3 of this Law are permitted. Monitoring entities are required to inform their appropriate supervision authorities in written form, when a foreign branch or subsidiary is unable to observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism because this is prohibited by host country legislation.

## **Article 8. Monitoring of transportation of currency values into or from the territory of the Republic of Azerbaijan**

**8.1.** The relevant executive authority of the Republic of Azerbaijan shall immediately submit the information to the financial monitoring organ on the following transactions:

**8.1.1.** transportation of the currency values into or out of the Republic of Azerbaijan by the persons envisaged by the article 7.2.2 of this Law;

**8.1.2.** transportation of the currency values, the initial source of which is the country (jurisdiction) envisaged by the article 7.3 of this Law, into or out of the Republic of Azerbaijan by any person.

**8.2.** Based on the Law of the Republic of Azerbaijan «On Currency Regulation», the information on currency values transported through the customs boundary of the Republic of Azerbaijan shall be submitted to the financial monitoring organ as well.

**8.3.** The form of the compiling of information listed in the article 8.1 of this Law shall be determined by the relevant executive authority.

## **Article 9. Customer due diligence measures for customers and beneficial owners**

**9.1.** Monitoring entities are not permitted to keep anonymous accounts or accounts in fictitious names, or anonymous deposit accounts, as well as to issue the anonymous deposit certificates.

**9.2.** Monitoring entities shall take measures on identification (CDD) of customers and beneficial owners in the following cases:

**9.2.1.** before establishing business relations;

**9.2.2.** before carrying out occasional transactions above the applicable designated threshold in the amount of 15000 manats (hereinafter – threshold); this also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;

**9.2.3.** before carrying out occasional transactions that are wire transfers regardless of the amount;

**9.2.4.** when there is a suspicion of money laundering or terrorist financing regardless of any exemptions or thresholds;

**9.2.5.** the monitoring entity has doubts about the veracity or adequacy of previously obtained customer identification data.

**9.3.** If the total amount of a transaction is not known before the execution of that transaction, the identification of the customer and the beneficial owner shall be carried out from the moment when the amount of transaction will exceed the limit.

**9.4.** Identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Monitoring entities shall verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. Monitoring entities are required to verify the legal status of the legal person, by obtaining proof of incorporation (establishment or existence), and obtain information concerning the customer's name, legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person.

**9.5.** Identification of a natural person shall be carried out on the basis of his ID documents.

**9.6.** Identification of a natural person engaged in the entrepreneurship activity without forming a legal person shall be carried out on the basis of his/her ID cards and a certificate issued by the relevant tax agency.

**9.7.** Copy of ID card, notarized copies of the certificate given by the relevant tax agency, power of attorney for the representative confirming his right to act on behalf of the customer, the charter and the state registration certificate of the legal person submitted for the identification purposes shall be kept by monitoring entity.

**9.8.** The monitoring entities, in cases stipulated in article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in articles 9.4–9.6 of this Law to verify the identity of that other person. For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).

**9.9.** The measures applying for verification of a legal person are the following:

**9.9.1.** comparing the information submitted by a legal person with information included into the state register of legal persons;

**9.9.2.** obtaining the information on activity of legal person from mass-media, internet or official publication;

**9.9.3.** comparing the latest submitted information with previously received information.

**9.10.** The measures applying for verification of a natural person are the following:

**9.10.1.** confirming the date of birth from birth certificate document, passport, driving license or other official documents;

**9.10.2.** confirming the permanent address from a utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract.

**9.11.** Monitoring entities shall obtain information on the purpose and intended nature of the business relationship.

**9.12.** Monitoring entities shall conduct ongoing due diligence on the business relationship. Ongoing due diligence shall include the following:

**9.12.1.** 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, their business and risk profile, and the source of funds;

**9.12.2.** ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

**9.13.** Alongside with the requirements on identification and verification stipulated in the article 9 of this Law monitoring entities shall perform enhanced due diligence for higher risk categories of customer, business relationship or transaction under the circumstances listed below:

**9.13.1.** non-resident customers;

**9.13.2.** legal persons or arrangements such as trusts that are personal assets holding vehicles;

**9.13.3.** companies that have nominee shareholders or shares in bearer form;

**9.13.4.** establishing of correspondent banking relationships or any other transactions with correspondent accounts of foreign banks;

**9.13.5.** in cases specified by the article 7.2 of this Law.

**9.14.** The enhanced due diligence measures performed by the monitoring entities are the following:

**9.14.1.** verification of accounts and business relationships or other transactions carried out with other means, clarification of the purpose and nature of the transactions;

**9.14.2.** learning the names of the shareholders and their shares, in case if the customer is a legal person;

**9.14.3.** obtaining from other reliable sources and comparing more precise information about the customers, beneficial owner, and if possible, about the sources of funds or other property.

**9.15.** Where the monitoring entity is unable to identify and verify the parties of transactions in order as defined by this Law or whether refused from submitting

identification information on the customer or beneficial owner, or the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data, the monitoring entity shall not open the account, commence business relations or perform the transaction, and in accordance with article 11 of this Law shall inform the financial monitoring organ about that.

**9.16.** Monitoring entities shall apply CDD requirements to customers existing until the entrance into force of this Law, on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.

**9.17.** Taking into account the features of the activity of a monitoring entity, additional documents for identification of the customer and beneficial owner may be required in order specified by legislation.

**9.18.** Natural and legal persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones or precious metals, as well as the natural and legal persons providing intermediary services on the buying and selling of real estate, shall carry out the identification measures as defined in this article in course of conducting cash transactions above the threshold.

**9.19.** Monitoring entities can apply simplified CDD measures in cases specified by the articles 9.2.1 and 9.2.2 of this Law. Simplified CDD measures shall be determined by the financial monitoring organ on the basis of evaluation of materiality and risk of customers, business relationships or financial transactions.

#### **Article 9–1. Politically exposed persons of foreign countries**

**9–1.1.** Monitoring entities are required, in addition to performing the CDD measures required under the article 9 of this Law, to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person of a foreign country.



**9–1.2.** Monitoring entities are required to obtain senior management approval for establishing business relationships with a politically exposed person of a foreign country. Where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a politically exposed person of a foreign country, monitoring entities should be required to obtain senior management written approval to continue the business relationship.

**9–1.3.** Monitoring entities are required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as politically exposed person of foreign countries.

#### **Article 9–2. Unusual transactions**

Monitoring entities are required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. Monitoring entities are required to examine as far as possible the background and purpose of the transactions stipulated in the article 9–2.1 of this Law, and to set forth their findings in writing.

#### **Article 10. Record keeping requirements**

**10.1.** The monitoring entities shall maintain the documents on due diligence measures envisaged by the article 9 of this Law, documents on the transactions with the funds or other property and documents envisaged by articles 9–1 and 9–2 of this Law, in the information carriers or in the electronic format within the timeframes indicated below, if no longer period is envisaged by the legislation:

**10.1.1.** documents on due diligence measures of the customer, beneficial owner or authorized representative – at least for 5 (five) years after the customer’s account is closed or after termination of legal relations with the customer;

**10.1.2.** documents on the transactions with the funds or other property conducted by the customer (account files, business correspondence and other relevant documents) and the information prepared in accordance with the article 11 of this Law – at least for 5 (five) years following completion of the transaction.

**10.2.** Monitoring entities are required to ensure that all customer and transaction records and information mentioned in the article 10.1 of this Law are available on a timely basis to the supervision authorities and financial monitoring organ upon appropriate request.

**10.3.** The timeframe stipulated in the article 10.1 of this Law may be prolonged if requested by supervision authorities or financial monitoring organ in specific cases upon proper authority.

#### **Article 11. Submission of information to the financial monitoring organ**

**11.1.** The monitoring entities in cases listed in the articles 7 and 9.15 of this Law and other persons involved in monitoring in the articles 7.2 and 9.15 of this Law shall submit the following information to the financial monitoring organ in the form determined by the financial monitoring organ:

**11.1.1.** type of transaction;

**11.1.2.** date of execution of transaction;

**11.1.3.** amount of executed transaction;

**11.1.4.** necessary information received by the monitoring entities in accordance with the articles 9.4–9.6 of this Law for the identification of legal and natural persons conducting the transaction;

**11.1.5.** information about the beneficial owner;

**11.1.6.** information on the nature, as well as the information describing a chronological history of the transaction;

**11.1.7.** the grounds stipulating the suspiciousness of transaction.

**11.2.** The information on transactions mentioned in the article 7.1 of this Law shall be submitted within 3 (three) business days after receiving the order (commission) to execute the transaction.

**11.3.** The information on transactions mentioned in the articles 7.2 and 9.15 of this Law shall be submitted before the execution of the transaction. Where non-execution of a transaction is impossible or where it is known that non-execution of

the transaction may cause impediments for identification of the beneficial owner, after execution of the transaction the monitoring entities shall immediately inform the financial monitoring organ.

**11.4.** Since the time, when monitoring entity reports to the financial monitoring organ on the transactions specified by the articles 7.2 and 9.15 of this Law, the monitoring entity shall not execute the transactions for two working days. If during that period, the financial monitoring organ does not order to suspend these transactions the monitoring entity may execute the transaction.

**11.5.** In case of urgency, the information mentioned in the article 11.1 of this Law shall be orally submitted to the financial monitoring organ. The same information shall be immediately submitted in a written format to the financial monitoring organ.

**11.6.** In accordance with this Law, the information submitted to the financial monitoring organ shall not be disclosed. This information may only be demanded from monitoring entities by the criminal investigation bodies in the course of criminal proceeding. In this case, information may be disclosed only on the basis of the court decision that has come into force.

**11.7.** Except the cases prescribed by the legislation of the Republic of Azerbaijan, informing the customers or any other persons about the measures to be taken against legalization of criminally obtained funds or other property and the financing of terrorism shall entail responsibility, as defined by the legislation.

**Article 12. Internal control system of the monitoring entities which are legal persons to prevent the legalization of criminally obtained funds or other property and the financing of terrorism**

**12.1.** The monitoring entities which are legal persons shall establish and maintain internal control system to prevent the legalization of criminally obtained funds or other property and the financing of terrorism. This system shall include, *inter alia*, the followings:

**12.1.1.** establishment of the internal rules and procedures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism;

**12.1.2.** establishment of the centralized internal archive to identify and verify the customers, the persons acting on behalf of customers, the beneficial owners and the transactions, or to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person of a foreign country;

**12.1.3.** preparation of the rules on the documentation and the confidentiality of information;

**12.1.4.** ensuring that employees are kept informed of new developments, including information on current techniques, methods and trends of the legalization of criminally obtained funds or other property and the financing of terrorism;

**12.1.5.** definition of the criteria for detecting the transactions to be monitored taking into account features of the activity of the monitoring entities;

**12.1.6.** establishment of measures targeted to resolution of problems caused by the suspension of a transaction;

**12.1.7.** establishment of the internal audit mechanism to test compliance of the application by monitoring entities of the rules as stipulated by this Law;

**12.1.8.** appointment in the monitoring entities which are legal persons of a compliance-officer at the level of management or heads of structural units, who shall be responsible to supervise the implementation of internal rules and procedures, carry out the exchange of information with the financial monitoring organ, as well as to have timely access to CDD information, transaction records, and other relevant information for preparing and submitting reports on transactions which are subject to monitoring;

**12.1.9.** to put in place screening procedures to ensure high standards when hiring employees depending on features of the activity, as well as the other mechanisms and rules for detecting and preventing any transactions, the nature of

which is suspicious, and submission of the necessary information to the financial monitoring organ in accordance with the article 11 of this Law.

**12.2.** A compliance–officer defined in the article 12.1.8 of this Law and employed with a monitoring entity which are legal person, shall report only to the senior management of that legal person.

**12.3.** The monitoring entities which are legal persons shall develop their internal control systems in accordance with the requirements of the financial monitoring organ.

**12.4.** The monitoring entities the quarterly turnover of which is less than 50000 manats shall be exempted from the requirement to develop the internal control system.

#### **Article 12–1. Non-face to face business relationships and transactions**

**12–1.1.** Monitoring entities are required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in schemes of the legalization of criminally obtained funds or other property and the financing of terrorism.

**12–1.2.** Monitoring entities are required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures shall apply when establishing customer relationships and when conducting ongoing due diligence.

**12–1.3.** Measures for managing the risks mentioned in the article 12–1.2 of this Law shall include specific and effective CDD procedures that apply to non-face to face customers.

#### **Article 13. Submission of information by supervision authorities to the financial monitoring organ**

For the purposes to prevent the legalization of criminally obtained funds or other property and the financing of terrorism, the financial monitoring organ may request the supervision authorities to submit relevant information. In this case, requested information shall be submitted to the financial monitoring organ.

#### **Article 14. Exemption from liability for reporting of the transaction which is subject to monitoring**

Where the monitoring entities and other persons involved in monitoring, its personnel, as well as the personnel of the supervision authorities submit the information on the transaction which is subject to monitoring in good faith to the financial monitoring organ in order as defined by this Law, they shall be exempt from any liability for breach of any restriction on disclosure of the bank or other legally protected secrecy, as well as causing the material and moral damage emerged as a result of the disclosure of information.

#### **Article 15. Exemption from liability for executing the transactions**

Where the transaction, which is subject to monitoring, has been executed and there are no bargain to commit the crime between the customer or beneficial owner and the responsible persons (*who make arrangement for execution of this transaction*) of the monitoring entity or other persons involved in monitoring, as well as where the information on this transaction has been reported to the financial monitoring organ in accordance with article 11 of this Law, the monitoring entity and other persons involved in monitoring, its personnel shall be exempt from any liability.

#### **Article 16. Prohibition to reject submitting information**

**16.1.** Banking or other legally protected secrecy regimes shall not be invoked as a ground to reject submitting to the FINANCIAL MONITORING ORGAN information as defined in article 11.1 of this Law.

**16.2.** The requirements of this Law shall not apply to the state secrets.

### **SECTION III**

#### **ORGANIZATION OF THE ACTIVITY OF THE FINANCIAL MONITORING ORGAN**

##### **Article 17. The financial monitoring organ**

**17.1.** The state authority carries out powers of the financial monitoring organ is defined by the relevant executive authority.

**17.2.** The financial monitoring organ shall gather and analyze the information submitted by the monitoring entities, other persons involved in monitoring, supervision authorities and by the relevant executive authority mentioned in the article 8.1 of this Law.

**17.3.** Upon receiving information from the known sources on transaction which is subject to monitoring, the financial monitoring organ may request monitoring entities, other persons involved in monitoring, supervision authorities and relevant executive authority mentioned in the article 8.1 of this Law to submit information defined in the article 11.1 of this Law for the purposes of inquiry, also within the framework of analysis and its own authority the financial monitoring organ may obtain from mentioned bodies or other state authorities additional information needed to properly undertake its functions.

**17.4.** Information held by the financial monitoring organ shall be securely protected and used solely for the goals of this Law; also the financial monitoring organ shall create an information protection system.

**17.5.** Where the financial monitoring organ, within the framework of analysis determines that the executed transaction is related to the legalization of criminally obtained funds or other property and the financing of terrorism, the information on the legalization of criminally obtained funds or other property shall be submitted to the General Prosecutor Office, and the information on the financing of terrorism shall be submitted to the relevant executive authority.

**17.6.** Where the financial monitoring organ, in course of carrying out of its employment duties, obtains information on non-compliance of the monitoring entities and other persons involved in monitoring with the requirements of this Law, it shall submit such information to the relevant supervision authorities for enforcement to the monitoring entities and other persons involved in monitoring of administrative or stipulated by the national legislation other measures.

**17.7.** The powers of the financial monitoring organ are defined by this Law and the Statute approved by the relevant executive authority.

**17.8.** Financial monitoring organ adopts following regulations: on the list and minimum threshold of total amount of transactions with funds or other property to be submitted to the financial monitoring organ in the order specified by this Law, on the list of country (jurisdiction) determined by the article 7.3 of this Law and on the list of persons determined by the article 7.2.5 of this Law, on simplified CDD measures, in accordance with the article 6.2 on supervision over the compliance with the requirements of this Law, on submission of information to the financial monitoring organ, on requirements to the preparation of internal control system, on the form of submission of statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism.

#### **Article 18. Collection of statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism**

**18.1.** In order to centralize statistical information, the relevant executive authority and General Prosecutor Office within the framework of their powers shall submit statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism to financial monitoring organ on semiannual basis.

**18.2.** A form of submission of information stated in article 18.1 of this Law is defined by the financial monitoring organ after being agreed with the relevant state authorities.

#### **Article 19. Freezing of the execution of a suspicious transaction concerning the legalization of criminally obtained funds or other property and the financing of terrorism**

**19.1.** The financial monitoring organ, based on the information obtained, may within two business days take substantiated decision to freeze the execution of a suspicious transaction on the legalization of criminally obtained funds or other property and the financing of terrorism. In this case, the relevant instruction shall be immediately sent by the financial monitoring organ to the monitoring entities and other persons involved in monitoring executing the transaction.

**19.2.** Execution of a suspicious transaction on the legalization of criminally obtained funds or other property and the financing of terrorism, may be frozen by financial monitoring organ for a period not exceeding 72 hours.

**19.3.** Where the financial monitoring organ takes decision to freeze the execution of a suspicious transaction, the decision and relevant documents shall be immediately sent to the state authorities who are responsible for criminal prosecution on legalization of criminally obtained funds or other property and the financing of terrorism. The same state authorities may take measures, in the order specified by the Criminal Procedure Code of the Republic of Azerbaijan, for prolongation of a period specified in article 19.2 of this Law for suspension of execution of a suspicious transaction for a longer period.

**19.4.** Information about the freezing of the execution of the suspicious transaction on the legalization of criminally obtained funds or other property and the financing of terrorism shall not be disclosed to the customer.

**Article 20. International cooperation in the field of combating against legalization of criminally obtained funds or other property and the financing of terrorism**

**20.1.** State authorities of the Republic of Azerbaijan carrying out their activity in the field of combating against the legalization of criminally obtained funds or other property and the financing of terrorism, shall cooperate with the competent authorities of foreign states in the sphere of combating against legalization of criminally obtained funds or other property and the financing of terrorism, exchange of information on committed crimes, execution of the court decisions and criminal prosecution in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party.

**20.2.** The financial monitoring organ shall submit information on issues as defined in the article 20.1 of this Law to the foreign competent authorities upon their requests or on its own initiative, as well as to request such information from the foreign

competent authorities in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is party.

**20.3.** This information shall be submitted to the competent authority of the foreign state only if it does not contradict with the legislation of the Republic of Azerbaijan and does not affect its national interests or the submitted information forms a basis for a competent authority of the foreign state to initiate an criminal investigation or to send a relevant request.

**20.4.** The information shall be submitted to the competent authority of the foreign state provided that the information will not be used for purposes not indicated in the request.

**20.5.** The execution of requests on mutual legal assistance on issues of legalization of criminally obtained funds or other property and the financing of terrorism, also the recognition and execution of the court decisions of foreign states in that sphere shall be regulated in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party.

**20.6.** In accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party, based on the article 20.5 of this Law, the funds or other property confiscated on the territory of the Republic of Azerbaijan may be fully or partially delivered to the state where the court decision has been made.

**SECTION IV**

**FINAL PROVISIONS**

**Article 21. Liability upon violating this Law**

The persons, who violate the requirements of this Law, shall bear responsibility in accordance with the legislation of the Republic of Azerbaijan.

**Article 22. Effective date of this Law**

This Law shall enter into force from the date of publication.

**Ilham ALIYEV**

**President of the Republic of Azerbaijan**

**Baku, «10» February 2009**

**№ 767–IIIQ**

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**With amendments by the Law of the Republic of Azerbaijan «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» # 973–IIIQ, dated March 5, 2010 (Published in «Azerbaijan» official newspaper # 64, dated 21 March, 2010).**

## **ANNEX IV Criminal Code of the Azerbaijan Republic - Extracts**

Unofficial translation

### **Article 11. Implementation of the criminal law on the persons who have committed a crime on the territory of the Azerbaijan Republic**

11.1. The person, who has committed a crime on the territory of the Azerbaijan Republic, shall be applied to the criminal liability by the present Code. The crime, which has begun, proceeded, or terminated on territory of the Azerbaijan Republic, shall be admitted as crime committed on the territory of the Azerbaijan Republic.

11.2. The crime committed on territorial waters of the Azerbaijan Republic, on sector of Caspian sea (lake) which belongs to the Azerbaijan Republic, on air space above the Azerbaijan Republic and its economic zone, shall be admitted as crime committed on the territory of the Azerbaijan Republic.

11.3. The person, who has committed a crime on a water or air vessel, which are attributed to air or to seaport of the Azerbaijan Republic, implemented on water or air space outside of limits of the Azerbaijan Republic, flying under the flag or a recognition symbol of the Azerbaijan Republic, shall be instituted to the criminal liability by the present Code.

11.4. The person, who has committed a crime on a ship, which belong to military fleet or military - air forces of the Azerbaijan Republic, shall be instituted to criminal proceedings under the present Code, irrespective to the location of this ship.

11.5. The question on the criminal liability of diplomatic representatives of the foreign states and other citizens which use immunity, in case of committing by these persons of a crime on the territory of the Azerbaijan Republic shall be implemented according to the norms of international law.

### **Article 12. Implementation of the criminal law concerning the persons who have committed a crime out of border of the Azerbaijan Republic**

12.1. Citizens of the Azerbaijan Republic and persons constantly living on the Azerbaijan Republic without the citizenship, who have committed action (action or inaction) out of border of the Azerbaijan Republic, shall be instituted to the criminal liability under the present Code, if this action is recognized as a crime in the Azerbaijan Republic and in the state on the territory of which it was committed, and if these persons were not condemned in the foreign state.

12.2. Foreigners and persons without the citizenship, committed a crime outside of limits of the Azerbaijan Republic, shall be instituted to criminal proceedings under the present Code, in cases, if the crime shall be directed against the citizens of the Azerbaijan Republic, interests of the Azerbaijan Republic, and also in the cases, stipulated by international agreements to which the Azerbaijan Republic is a party, if these persons were not condemned in the foreign state.

12.3. Citizens of the Azerbaijan Republic, foreigners and persons without the citizenship, who have committed crimes against the peace and mankind's, war crimes, terrorism, financing of terrorism, stealing of an air ship, capture of hostages, torture, a sea piracy, illegal circulation of narcotics and psychotropic substances, manufacturing or sale of false money, attack on persons or the organizations using the international protection, the crimes connected to radioactive materials, and also other crimes, punish of which stipulated in international agreements to which the Azerbaijan Republic is a party, shall be instituted to criminal liability and punishment under the Present Code, irrespective of a place of committing a crime.

12.4. Military men of military units of the Azerbaijan Republic included in peace forces, for the crimes, committed outside of limits of the Azerbaijan Republic, shall be instituted to criminal proceedings under the present Code, unless it is not stipulated by the international agreements to which Azerbaijan Republic is a party.

12.5. At condemnation by courts of the Azerbaijan Republic, of the persons specified in articles 12.1-12.4 of the present Code, punishment shall not exceed the top limit of the sanction provided by the law of the foreign state on which territory the crime was committed.

### **Article 13. Distribution of the persons who have committed a crime**

13.1. The citizens of the Azerbaijan Republic, who have committed a crime on the territory of the foreign state, shall not be applied to distribution to the foreign state. The question of attraction of these persons to the criminal liability shall be solved according to the article 12 of the present Code.

13.2. Foreigners and persons without the citizenship, who have committed a crime outside of limits of the Azerbaijan Republic and living on the territory of the Azerbaijan Republic, can be distributed to the foreign state for instituting to the criminal liability or servings of punishment according to international agreements to which the Azerbaijan Republic is a party.

13.3. If the persons, who have committed a crime outside of limits of the Azerbaijan Republic, shall not distributed out to the foreign state, and this action (action or inaction) is admitted as a crime according to the present Code, they shall be instituted to criminal proceedings in the Azerbaijan Republic.

13.4. If the international agreements, to which the Azerbaijan Republic is a party, establish other regulations about distribution of the persons who have committed a crime, then the international agreements shall be appreciated.

### **Article 34. Commitment of a crime by group of persons, on preliminary arrangement by group of persons, by organized group or criminal community (criminal organization)**

34.1. The crime, which is committed by two or more executors in common participated in its commitment without preliminary arrangement, shall be admitted as committed by group of persons.

34.2. The crime, which is committed by two or more persons beforehand agreed about joint commitment of a crime and in common participated in its commitment, shall be admitted as committed on preliminary arrangement by group of persons

34.3. The crime, which is committed by steady group consisting of two or more persons, beforehand united for commitment of one or several crimes, shall be admitted as committed by organized group

34.4. Creation of the steady organized criminal group with the purpose of commitment minor serious or serious crimes or steady association of two or more organized criminal groups created in the same purposes shall be admitted as criminal community (the criminal organization).

34.5. The crime, accomplished by a participant (participants) of criminal community (the criminal organization) for implementation of the purposes of this community (organization), and also committed by a person (persons) who is not being the participant (participants) of criminal community (the criminal organization) but committed crime on behalf of this community (organization), shall be admitted as committed by criminal community (the criminal organization).

34.6. The person created organized group either criminal community or supervising them, shall be subjected to the criminal liability for their organization and a management of them in the cases provided by appropriate articles of the Especial part of the present Code, and also for all committed by organized group or criminal community crimes if they were covered by his intention. Other participants of the organized group or criminal community shall carry the criminal liability, for participation in these crimes in the cases provided by appropriate articles of the Especial part of the present Code, and also for crimes, in which they participated in preparation or commitment.

34.7. Creation of the organized group in the cases which have been not provided by articles of the Especial part of the present Code, shall attract to criminal liability for preparation of crimes for which commitment it is created.

34.8. Commitment of acts by group of persons, on preliminary arrangement by group of the persons, by organized group or criminal community (criminal organization) shall attract more strict punishment on grounds and limits provided by the present Code.



### **Article 51. Confiscation of property**

51.1. Confiscation of property is compulsory gratuitous withdrawal to the property of the state of instruments and means, used by condemned at commitment of a crime, and also a property extracted in criminal way.

51.2. Confiscation of property is appointed only in the cases provided by appropriate articles of the Especial part of the present Code.

51.3 – Is excluded by the law of the Azerbaijan Republic from July 2, 2001.

### **Article 120. Deliberate murder**

120.1. Deliberate murder, is deliberate deprivation of life of other person – shall be punished by imprisonment for the term from seven up to twelve years.

120.2. Deliberate murder:

120.2.1. committed by group of persons, on preliminary arrangement by group of persons, by organized group or criminal community (organization);

120.2.2. committed from hooligan prompting;

120.2.3. of victims or his close relatives in connection with implementation of a given person of service activity or performance of public debt;

120.2.4. committed with special cruelty or in publicly dangers way;

120.2.5. committed on mercenary prompting or by order, as well as with a view of use a body of a victim;

120.2.6. with the purpose to hide other crime or to facilitate its commitment, as well as connected with rape or other violent actions of sexual nature;

120.2.7. of two or more persons;

120.2.8. of women, which was obviously for guilty pregnant;

120.2.9. persons, obviously for guilty in a helpless condition, as well as connected to kidnapping a person or capture of hostage;

120.2.10. committed repeatedly;

120.2.11. connected to robbery, extortion, terrorism or gangsters;

120.2.12. on motive of national, racial, religious hatred or enmity –

shall be punished by imprisonment for the term from twelve up to fifteen years or life imprisonment.

NOTE: Repeated crime, is commitment of crime again provided by article 120 of the present Code, the person who earlier has made one or several crimes, provided by articles of the present Code establishing responsibility for deliberate murder.

### **Article 121. Deliberate murder by mother of a newborn child**

Deliberate murder by mother of a newborn child at time or direct after sorts –

shall be punished by imprisonment for the term up to three years.

### **Article 122. Deliberate murder committed in a condition of suddenly arisen strong emotional excitement**

122.1. The deliberate murder committed in a condition of suddenly arisen strong emotional excitement (affect), caused by violence, serious insult by victim either his other illegal or immoral actions (inaction), as well as long psychological conditions which has arisen in connection with regular illegal or immoral behaviour of a victim –

shall be punished by restriction of freedom for the term up to three years or imprisonment for the term up to four years.

122.2. The deliberate murder of two or more persons accomplished in a condition of strong emotional excitement – shall be punished by imprisonment for the term from three up to six years.

**Article 123. Deliberate murder, committed at excess of limits necessary for defense or at excess of measures, necessary for detention of a person who have committed a crime**

123.1. The deliberate murder accomplished at excess of limits necessary for defense – shall be punished by restriction of freedom for the term up to two years or imprisonment for the term up to two years.

123.2. Deliberate murder at excess of measures necessary for detention of a person, committed a crime shall be punished by restriction of freedom for the term up to three years or imprisonment for the term up to three years.

**Article 124. Murder on imprudence**

124.1. The murder accomplished on imprudence – shall be punished by restriction of freedom for the term up to three years or imprisonment for the term up to three years.

124.2. Murder on imprudence of two or more persons – shall be punished by imprisonment for the term from two up to six years.

**Article 125. Bringing to suicide**

Bringing a person, who is taking place in material, service or other dependence from guilty, to suicide or to attempt at suicide by threats, cruel treatment or regular humiliation of his dignity – shall be punished by restriction of freedom for the term up to three years or imprisonment for the term from three up to seven years.

**Article 126. Deliberate causing of serious harm to health**

126.1. Deliberate causing of serious harm to health, is harm dangerous to human life, or brought to loss of seeing, hearing, speech either organs or loss by body of its functions, mental frustration or other frustration of health, long disability which is not less than on one third or obviously for guilty caused full loss of professional work capacity, either interruption of pregnancy, or harm which consequence brought to disease of a person to narcotics or glue sniffing or expressed in ugliness of persons –

shall be punished by imprisonment for the term from three up to eight years.

126.2. The same act committed:

126.2.1. concerning two or more persons, and also repeatedly or by group of persons, on preliminary arrangement by group of persons, by organized group or criminal community (organization);

126.2.2. concerning a victim or his close relatives in connection with implementation of service activity by him or performance of the public debt;

126.2.3. with special cruelty, tortures to a victim or by order, as well as concerning a person, which is obviously for guilty, taking place in a helpless condition;

126.2.4. publicly dangers a way, from hooligan prompting;

126.2.5. with a view of use of body parts or skin of a victim –

shall be punished by imprisonment for the term from six up to eleven years.

126.3. The acts, which is provided by articles 126.1 and 126.2 of the present Code, on imprudence entailed to death of a victim –

shall be punished by imprisonment for the term from seven up to twelve years.

#### **Article 127. Deliberate causing of minor serious harm to health**

127.1. Deliberate causing of less serious harm to the health which was not dangerous to life of a victim and did not bring to any consequences, provided in article 126 of the present Code, but which has caused to health long frustration or significant loss of general work capacity less than on one third part of it –

shall be punished by corrective works for the term up to two years, or restriction of freedom on the same term, or imprisonment for the term up to two years.

127.2. The same act committed:

127.2.1. concerning a victim or his close relatives in connection with implementation by a given person of service activity or performance of public debt;

127.2.2. with special cruelty, tortures to a victim or by order, as well as concerning a person, which is obviously for guilty, taking place in a helpless condition;

127.2.3. in publicly dangerous way or from hooligan prompting

127.2.4. with a view of use of body parts or skins of victim –

shall be punished by imprisonment for the term up to five years.

#### **Article 128. Deliberate causing of less serious harm to health**

Deliberate causing of less serious harm to health, caused short-term frustration of health or insignificant loss of general work capacity –

shall be punished by the penalty at a rate of up to three hundred of nominal financial unit or corrective works for the term up to one year.

#### **Article 129. Deliberate causing of serious or minor serious harm to health in a condition of suddenly arisen strong emotional excitement**

129.1. Deliberate causing of serious harm to the health, committed in a condition of suddenly arisen strong emotional excitement (affect) caused by violence, heavy insult by victim either his other illegal or immoral actions (inaction), as well as long psychological injure conditions of which has arisen in connection with regular illegal or immoral behavior of victim –

shall be punished by restriction of freedom for the term up to two years or imprisonment on the same term.

129.2. Deliberate drawing of minor serious harm to the health, committed in a condition of suddenly arisen strong emotional excitement (affect) caused by violence, heavy insult by victim either other illegal or immoral actions (inaction) of a victim, as well as long psychological injure conditions of which has arisen in connection with regular illegal or immoral behavior of victim –

shall be punished by corrective works for the term up to two years or imprisonment for the term up to one year.

#### **Article 130. Causing of serious harm to health at excess of limits necessary for defense or causing of serious or minor serious harm to health at excess of measures necessary for detention of person, which committed a crime**

130.1. Deliberate causing of serious harm to health, committed at excess of limits necessary for defense shall be punished by corrective works for the term up to one year, or restriction of freedom for the term up to two years, or imprisonment for the term up to one year.

130.2. Deliberate causing of serious or minor serious harm to health, committed at excess of measures necessary for detention of a person, which committed a crime –

shall be punished by restriction of freedom for the term up to two years or imprisonment on the same term.

**Article 131. Causing of minor serious or serious harm to health on imprudence**

131.1. Causing of minor serious harm to health on imprudence –

shall be punished by the penalty at a rate of up to three hundred of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term about six months.

131.2. Causing of serious harm to health on imprudence –

shall be punished by the penalty at a rate of up to five hundred of nominal financial unit, or corrective works for the term up to two years, or restriction of freedom for the term up to two years, or imprisonment for the term about six months.

**Article 132. Battery**

Deliberate causing battery or causing a physical pain by other violent actions, not entailed to consequences provided in article 128 of the present Code –

shall be punished by the penalty at a rate of up to two hundred nominal financial unit, or public works for the term up to two hundred forty hours, or corrective works for the term up to one year, or imprisonment for the term about six months.

**Article 133. Torture**

133.1. Causing strong physical pains or mental sufferings by regular causing battery or other violent actions, not entailed to consequences provided in articles 126 and 127 of the present Code –

is punished by imprisonment for the term up to three years.

133.2. The same act committed:

133.2.1. concerning two or more persons or person recognized as hostage either stolen, or committed by order;

133.2.2. concerning woman who is obviously taking place in a condition of pregnancy;

133.2.3. by croup of persons, on preliminary arrangement by group of the persons, by organized group or criminal community (organization);

133.2.4. concerning minor or person in helpless condition which was obvious for guilty;

133.2.5. concerning a victim or his close relatives in connection with implementation of service activity by him or performance of the public debt –

is punished by imprisonment for the term from three up to seven years.

133.3. Commitment of the acts which is provided by articles 133.1 and 133.2 of the present Code, by official with use of service position or his instigation with a view to receipt information or compulsion of his recognition, or with a purpose of punishment for committed act or to which commitment the given person is suspected –

is punished by imprisonment from five till ten years.

**Article 137. Sale - purchase and compulsion to withdrawal for transplantation of body organs or tissues of a person**

137.1. Illegal sale and purchase of body organs or tissues of a person –

is punished by the penalty at a rate from two up to five thousand of nominal financial unit or corrective works for the term up to two years, or with imprisonment for the term up to three years with deprivation of the right to hold the certain posts or to engage in the certain activity for the term up to three years or without it.

137.2. Compulsion to withdrawal of body parts or tissues of a person for transplantation, committed with application of violence or with threat of its application –

is punished by imprisonment for the term up to four years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

137.3. The same act committed with use of a helpless condition of the victim or his material, service or other dependence from guilty –

is punished by imprisonment for the term from three up to five years with deprivation of the right to hold the certain posts or to engage in the certain activity for the term up to three years.

#### **Article 144. Kidnapping of the person**

144.1. Kidnapping of the person –

is punished by imprisonment for the term of five to ten years.

144.2. The same action committed:

144.2.1. against two or more persons;

144.2.2. against a woman, which was pregnant and guilty kidnapping knew about it;

144.2.3. committed by a group of persons, by a group with a premeditated conspiracy or by an organized group or criminal community (organization);

144.2.4. with application of violence which puts in danger life or health of the victim;

144.2.5. with application of weapon or a subjects used as the weapon;

144.2.6. in mercenary prompting or by order –

it is punished by imprisonment for the term of eight to twelve years.

144.3. The actions provided by articles 144.1 and 144.2 of the present Code, committed against minor or by negligence brought to death of the victim or other serious consequences –

is punished by imprisonment for the term of ten to fifteen years.

Note: Person who has voluntarily released kidnapped, shall be released from the criminal liability if his actions do not contain structure of other crime.

#### **Article 145. Illegal imprisonment**

145.1. Illegal deprivation of freedom of a person, not connected with kidnapping –

is punished by corrective work for the term of up to two years or imprisonment for the term of up to one year.

145.2. The same action committed:

145.2.1. against two or more persons;

145.2.2. against the woman, which was pregnant and guilty of illegal imprisonment knew about it;

145.2.3. against the minors;

145.2.4. committed by a group of persons, by a group with a premeditated conspiracy or by an organized group or criminal community (criminal organization);

145.2.5. with application of violence which puts in danger life or health of the victim;

145.2.6. with application of weapon or a subjects used as the weapon –

is punished by imprisonment for the term of three to five years.

145.3. The action provided by articles 145.1 or 145.2 of the present Code, on negligence ended with death of the victim or other serious consequences –

is punished by imprisonment for the term of five to ten years.

**Article 146. Illegal placement in psychiatric hospital**

146.1. Placement of the obviously mentally healthy person in psychiatric hospital –

is punished by corrective work for the term of up to two years or imprisonment for the term of up to three years.

146.2. The same action committed by the guilty person with use of the service position –

is punished by imprisonment for the term of three to five years with deprivation of the right to hold the certain posts or to engage in certain activities for the term of up to three years.

146.3. The actions provided by articles 146.1 or 146.2 of the present Code, on negligence ended with death of the victim or other serious consequences –

is punished by imprisonment for the term of five to eight years.

**Article 161. Falsification of voting documents or documents of national voting (referendum), obviously wrong calculation of voices, or infringement of ballot**

161.1. Falsification of voting documents or documents of national voting (referendum), obviously wrong calculation of voices, or obviously wrong establishment of voting results, or infringement of ballot accomplished by a member of voting commission or commission on implementation of national voting (referendum) –

is punished by the penalty at a rate of from hundred up to five hundred of nominal financial unit or corrective works for the term up to two years.

161.2. Falsification of voting documents by other persons –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit or corrective works for the term up to one year.

**Article 171. Involving of minor to prostitution, or commitment of immoral actions**

171.1. Involving of minor to prostitution or commitment of other immoral actions –

is punished by imprisonment for the term from three up to six years.

171.2. The same act committed:

171.2.1. with application of violence or with threat of its application;

171.2.2. by organized by group –

is punished by imprisonment for the term from four up to eight years.

**Article 177. Theft**

177.1. Theft that is secret plunders of another persons property –

is punished by the penalty at a rate from hundred up to seven hundred of nominal financial unit, or public works for the term from hundred eighty till two hundred forty hours, or corrective works for the term up to two years, or imprisonment for the term up to two years.

177.2. The same act committed:

177.2.1. on preliminary arrangement by group of persons;

177.2.2. repeatedly;

177.2.3. with illegal penetration into dwelling, a premise, warehouse or other storehouse;

177.2.4. with causing damage in the significant size –

is punished by the penalty at a rate from three up to five thousand of nominal financial unit, or imprisonment for the term from three up to seven years with confiscation of property or without it.

177.3. The same act committed:

177.3.1. by organized group;

177.3.2. with causing damage in large size;

177.3.3. by person, who have been sentenced two or more times for plunder or extortion –

is punished by imprisonment for the term from six up to twelve years with confiscation of property or without it.

NOTE:

1. The responsibility provided by article 177.1 of the present Code, shall be implemented in case of causing to proprietor or other owner of property of damage at a rate from thirty up to thousand nominal financial unit.

2. " The significant size " in articles 177-187 and 189 of the present Code shall be understood as sum at a rate of from one up to seven thousand, and " the large size " – as over seven thousand of nominal financial unit.

3. Repeated shall be admitted commitment of crime again, which is provided by articles 177-185 of the present Code, if it was preceded with commitment of one or more crimes provided by these articles, and also as it is provided in articles 217, 227, 232 and 235 of the present Code.

4. The person, who has been convicted for plunder or extortion, as it shown in articles of the present chapter, and also in other articles of the present Code shall be admitted a person having a previous conviction for one or several crimes, as it is provided in articles 177-183, 217, 227, 232 and 235 of the present Code.

#### **Article 178. Swindle**

178.1. Swindle, is maintaining another persons property or buying another persons property by a deceit or breach of confidence – is punished by the penalty at a rate of from hundred up to seven hundred of nominal financial unit, or public works for the term from hundred eighty to two hundred forty hours, or corrective works for the term up to two years, or imprisonment for the term up to two years.

178.2. The same act committed:

178.2.1. on preliminary arrangement by group of persons;

178.2.2. repeatedly;

178.2.3. by person with use of service position;

178.2.4. with causing damage in the significant size –

is punished by the penalty at a rate of from three up to five thousand of nominal financial unit or imprisonment for the term from three up to seven years with confiscation of property or without it.

178.3. The same act committed:

178.3.1. by organized group;

178.3.2. with causing damage in the large size;

178.3.3. by person, who has been convicted two or more times for plunder or extortion –

is punished by imprisonment for the term from seven up to twelve years with confiscation of property or without it.

#### **Article 180. Robbery**

180.1. The robbery, is plunder of another persons property –

is punished by corrective works for the term up to two years or imprisonment for the term up to three years.

180.2. The same act committed:

180.2.1. on preliminary arrangement by group of persons;

180.2.2. repeatedly;

180.2.3. with illegal penetration into dwelling, a premise, warehouse, or other storehouse;

180.2.4. with application of violence not dangerous to life or health;

180.2.5. with causing of damage to a victim in significant size –

is punished by imprisonment for the term from four up to eight years with confiscation of property or without it.

180.3. The same act committed:

180.3.1. by organized group;

180.3.2. with causing damage to victim in the large size;

180.3.3. by person, who has been convicted two or more times for plunder or extortion –

is punished by imprisonment for the term from seven up to thirteen years with confiscation of property or without it.

### **Article 181. Burglary**

181.1. Burglary, that is an attack with a view occupy another's property, committed with application of violence dangerous to life or health of a person, by attack, or with threat of application of such violence –

is punished by imprisonment for the term from three up to eight years with confiscation of property or without it.

181.2. The same act committed:

181.2.1. on preliminary arrangement by group of persons;

181.2.2. repeatedly;

181.2.3. with illegal penetration into dwelling, premise, warehouse, or other storehouse;

181.2.4. with causing damage to the victim in significant size;

181.2.5. with application of weapon or subjects used as the weapon –

is punished by imprisonment for the term from eight up to twelve years with confiscation of property.

181.3. The same act committed:

181.3.1. by organized group;

181.3.2. with a view to occupy large size of property;

181.3.3. with causing heavy harm to health of the victim;

181.3.4. by person, who have been convicted earlier two or more times for plunder or extortion –

is punished by imprisonment for the term from ten up to fifteen years with confiscation of property.

### **Article 182. Extortion**

182.1. Extortion, is requirement to transfer another's property or right on property or commitment of other actions which is admitted as in property nature under threat of application of violence, distribution of data, dishonoring a victim or his close relatives, as well as by threat of destruction of property belonging to them –

is punished by restriction of freedom for the term up to three years or imprisonment for the term from three up to five years.

182.2. The same act committed:



182.2.1. on preliminary arrangement by group of persons;

182.2.2. repeatedly;

182.2.3. with application of violence;

182.2.4. with causing damage to a victim in significant size

is punished by imprisonment for the term from five up to ten years with confiscation of property or without it.

182.3. The same act committed:

182.3.1. by organized group;

182.3.2. with a purpose of occupying large size of property;

182.3.3. with causing heavy harm to health of a victim;

182.3.4. by person, who have been convicted earlier two or more times for plunder or extortion –

is punished by imprisonment for the term from ten up to fifteen years with confiscation of property.

### **Article 183. Plunder of subjects which have special value**

183.1. Plunder of subjects or documents having special historical, scientific, art or cultural value, irrespective of plunder way –

is punished by imprisonment for the term from five up to eight years with confiscation of property or without it.

183.2. The same act committed:

183.2.1. on preliminary arrangement by group of persons or by organized group;

183.2.2. repeatedly;

183.2.3. entailed destruction, defacement or destruction of subjects or documents provided in article 183.1 of the present Code –

is punished by imprisonment for the term from eight up to fifteen years with confiscation of property.

### **Article 192. Illegal business**

192.1. Implementation of business activity without registration in the order provided by the legislation of the Azerbaijan Republic, or without special sanction (license) in cases when such sanction (license) is mandatory, or with infringement of conditions of licensing, which caused damage to citizens, organizations or state in the significant size, as well as committed with extraction of income in the significant size –

is punished by the penalty at a rate from one up to five thousand of nominal financial unit, or restriction of freedom for the term up to two years, or imprisonment for the term about six months.

192.2. The same act committed:

192.2.1. with extraction of income in the large size;

192.2.2. by organized group –

is punished by restriction of freedom for the term up to three years or imprisonment for the term up to five years.

### **Article 193. Miss interpreneurship**

193.1. Miss interpreneurship, that is creation of enterprise or other legal person without intention to carry out the enterprise activity, implemented in order to receive credits, to be released from tax, or extraction of other property benefit or covering of forbidden activity causing significant damage, as well as committed with extraction of income in a significant size –

is punished by the penalty at a rate from one up to five thousand of nominal financial unit, or restriction of freedom for the term up to two years, or imprisonment for the term about six months.

193.2. The same act:

193.2.1. causing damage in the large amount;

193.2.2. committed to extract large amount of income;

193.2.3. committed by organized group –

is punished by restriction of freedom for the term up to three years or imprisonment for the term up to five years \*.

#### **Article 194. Purchase or selling of the property extracted obviously in the criminal way**

194.1. Beforehand not promised purchase or selling of a property in significant size obviously extracted in the criminal way –

is punished by the penalty at a rate from one up to three thousand of nominal financial unit, or restriction of freedom for the term up to three years, or imprisonment for the term up to three years with the penalty at a rate of up to one thousand of nominal financial unit.

194.2. The acts, which are provided by article 194.1 of the present Code, committed:

194.2.1. on preliminary arrangement by group of persons or organized group; 1

94.2.2. by official with use of the service position;

194.2.3. by person, who have been convicted earlier for this crime;

194.2.4. in the large amount is punished by imprisonment for the term from three up to seven years with confiscation of property or without it.

#### **Article 195. Illegal reception of a credit or use of it not to destination**

195.1. Reception by head of organization or individual businessman of a credit, credit on favorable terms, or state credit by representation of obviously false data on economic position or financial condition of organization or individual businessman, as well as use of the credit not to destination, which caused damage in significant size –

is punished by the penalty at a rate from one up to five thousand of nominal financial unit, or restriction of freedom for the term up to two years, or imprisonment on same term.

195.2. The same acts causing damage in the large size –

is punished by restriction of freedom for the term up to three years or imprisonment for the term from two up to five years.

#### **Article 197. Illegal use of a trade marks**

197.1. Illegal use of another's trade mark or service mark, origin name of a place of goods or similar designations of goods, committed repeatedly or caused damage in the significant size–

is punished by the penalty at a rate from one up to five thousand of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term up to one year.

197.2. The same act causing damage in the large size –

is punished by corrective works for the term up to two years, or restriction of freedom for the term up to three years, or imprisonment on the same term.

#### **Article 200. Deceit of consumers or manufacture and selling of lower-quality production**

200.1. A deceit of consumers, that is false measuring, counting, deception concerning consumer properties or qualities of goods (service) in organizations realizing the goods or rendering services to a population, as well as by citizens registered as individual businessmen in sphere of trade (services) and committed in significant amount–

is punished by the penalty at a rate from hundred up to three hundred of nominal financial unit or public works for the term up to eighty hours.

200.2. The same acts committed:

200.2.1. repeatedly;

200.2.2. on preliminary arrangement by group of persons;

200.2.3. with causing damage in the large amount –

is punished by the penalty at a rate from three hundred up to six hundred of nominal financial unit or with restriction of freedom for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

200.3. Manufacture, release for sale or selling of obviously lower-quality productions, excepted as inequality production, which caused less heavy or heavy harm to health of the victim –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit or imprisonment for the term up to three years.

200.4. The same acts, which brought to death of a victim on imprudence or other heavy consequences –

is punished by imprisonment for the term from three up to seven years.

NOTE: " the significant size or amount " in given article is understood as the sum at a rate of forty, and " the large size or amount " – as over forty of nominal financial unit amounts.

#### **Article 202. Illegal reception or disclosure of a data which are commercial or bank secrets**

202.1. Collecting of a data which is commercial or bank secret, by abduction of documents, payoff or threats, as well as by other illegal way with a view of disclosure or illegal use of these data –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term up to two years.

202.2. Illegal use or disclosure of a data which is commercial or bank secret, without consent of their owner, committed on mercenary or other personal interest with causing damage in the large amount –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or corrective works for the term up to two years, or restriction of freedom on the same term.

#### **Article 203. Infringement of rules on release of securities (issue)**

203.1. Adoption into prospectus of issue of securities obviously unreliable information, as well as statement to prospectus of issue containing obviously a unreliable information or statement of obviously doubtful results to issues causing damage in the significant amount

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or public works for the term from hundred fifty up to two hundred hours, or corrective works for the term up to one year.

203.2. The same acts committed with causing of damage in the large amount

is punished by corrective works for the term up to two years, or restriction of freedom for the term up to two years, or imprisonment on the same term.

#### **Article 204. Manufacturing or selling of counterfeit money or securities**

204.1. Manufacturing with a view of selling, and also selling of counterfeit money, state securities either foreign currency, or securities in foreign currency –

is punished by imprisonment for the term from five up to seven years with confiscation of property or without it.

204.2. The same acts committed in significant amount or by person, who have been convicted earlier for manufacturing or selling of counterfeit money or securities –

is punished by imprisonment for the term from seven up to ten years with confiscation of property.

204.3. The acts provided by articles 204.1 or 204.2 of the present Code, committed:

204.3.1. by organized group;

204.3.2. in the large amount –

is punished by imprisonment for the term from eight up to twelve years with confiscation of property.

#### **Article 205. Manufacturing or selling of counterfeit credit or account cards and other payment documents**

205.1. Manufacturing with a view of selling or selling of counterfeit credit or account cards, and also other payment documents which are not being securities –

is punished by imprisonment for the term from two up to five years with the penalty at a rate from five hundred up to one thousand of nominal financial unit.

205.2. The same acts committed:

205.2.1. repeatedly;

205.2.2. on preliminary arrangement by group of persons or organized group;

205.2.3. in the large amount is

punished by imprisonment for the term from four up to seven years with confiscation of property.

#### **Article 206. Smuggling**

206.1. Smuggling, is moving large amount through customs border of the Azerbaijan Republic of goods or other subjects, except for ones which provided in article

206.2 of the present Code, committed except or with concealment from the customs control or with use of fowls documents or means of customs identification or connected with undeclared or doubtful declaring –

is punished by imprisonment for the term up to five years.

206.2. Moving through customs border of the Azerbaijan Republic of narcotics, psychotropic, strong, poisonous, radioactive explosives and explosives, military weapon and engineering (except for the smoothbore hunting weapon and ammunition to it), fire-arms or ammunition, nuclear, chemical, biological and other kinds of mass destruction weapons, materials and equipment which can be used at creation of mass destruction weapons and concerning which established special rules on moving through customs border of the Azerbaijan Republic, of strategically important raw material, subjects representing cultural, historical or archeological value concerning which established appropriate rules for moving through customs border of Azerbaijan Republic, committed besides or with concealment from the customs control or with use of fowls documents or means of customs identification or connected with undeclared or doubtful declaring –

is punished by imprisonment for the term from three up to seven years with confiscation of property or without it.

206.3. The acts which are provided by articles 206.1 or 206.2 of the present Code, committed:

206.3.1. repeatedly;

206.3.2. on preliminary arrangement by group of persons;

206.3.3. by official with use of the service position;

206.3.4. with application of violence to a person who is carrying out customs control –

is punished by imprisonment for the term from five up to eight years with confiscation of property or without it.

206.4. The acts which are provided by articles 206.1-206.3 of the present Code, committed by the organized group –

is punished by imprisonment for the term from seven up to twelve years with confiscation of property.

NOTE: " The large amount " in present article is understood as the cost of displaced illicit subjects exceeding four thousand of nominal financial unit amount.

**Article 207. Not returning on territory of the Azerbaijan Republic of subjects of art, historical and archeology property of the Azerbaijan Republic and foreign countries**

Not returning on territory of the Azerbaijan Republic on assigned time of subjects of art, historical and archeology property of the Azerbaijan Republic and foreign countries which have been taken out of its limits if such returning is obligatory according to the legislation of the Azerbaijan Republic –

is punished by imprisonment for the term from three up to eight years with confiscation of property or without it.

**Article 208. Not returning from abroad of means in foreign currency**

208.1. Not returning from abroad by heads of a organizations of means in the foreign currency in a significant amount, received as a result of implementation on foreign trade activities and according to the legislation of the Azerbaijan Republic is obligatory transfer to accounts of authorized bank of the Azerbaijan Republic –

is punished by imprisonment for the term up to three years.

208.2. The same act committed:

208.2.1. in the large amount;

208.2.2. on preliminary arrangement by group of persons –

is punished by imprisonment for the term from three up to five years.

NOTE: " the significant amount" is understood as the sum of the not returned means in foreign currency, exceeding twenty thousand, and as " the large amount" - thirty thousand of nominal financial unit.

**Article 209. Evasion from payment of customs charges**

209.1. Evasion from payment significant amount of customs charges–

is punished by the penalty at a rate from one up to two thousand of nominal financial unit or corrective works for the term up to one year.

209.2. The act which is provided by article 209.1 of the present Code, committed:

209.2.1. repeatedly;

209.2.2. by large amount –

is punished by the penalty at a rate from two five thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment on the same term.

NOTE: 1. " The significant amount" in present article is understood as the sum of unpaid customs charges exceeding two thousand, and as " the large amount" - four thousand of nominal financial unit.

2. The person who has committed acts for the first time, which are provided by articles 209.1 and 209.2.2 of the present Code, shall be released from a criminal liability if he has completely compensated damage caused by a crime.

**Article 210. Wrongful actions at bankruptcy**

210.1. Concealment of property or property obligations, data on property, its size (amount), location or other information on property, assignment of it to other person, alienation or destruction of property, as well as concealment, destruction, falsification of accounting and other registration documents reflecting economic activities, committed by the head or owner of debtor organization, or individual businessman at bankruptcy or in a prediction of bankruptcy causing damage in the significant amount –

is punished by corrective works for the term up to two years, or restriction of freedom for the term up to two years, or imprisonment for the term up to two years.

210.2. The satisfaction of property requirements of separate creditors by head or owner of the organization -

debtor or individual businessman knowing about the actual inconsistency (bankruptcy), obviously to detriment of other creditors, as well as acceptance of such satisfaction by creditor knowing about preference given to him by a poor debtor to the detriment of other creditors, which caused damage is in the large amount

is punished by restriction of freedom for the term up to two years or imprisonment for the term up to two years.

#### **Article 214. Terrorism – Edited by the law of the Azerbaijan Republic from May 17, 2002.**

214.1. Terrorism, that is commitment of explosion, arson or other actions creating danger to destruction of people, causing harm to their health, significant property damage or approaches other socially dangerous consequences committed with a view of infringement of public safety, intimidation of population or rendering of influence to acceptance of decisions by the state authorities or international organizations, and also threat of commitment of a specified actions in a same purposes-

is punished by imprisonment for the term from eight up to twelve years with confiscation of property.

214.2. The same acts:

214.2.1. committed on preliminary arrangement by group of persons, by organized group or criminal community (criminal organization);

214.2.2. committed repeatedly;

214.2.3. committed with application of fire-arms or subjects used as a weapon;

214.2.4. entailed on imprudence of death of a victim or other heavy consequences –

is punished by imprisonment for the term from ten up to fifteen years or life imprisonment with confiscation of property.

NOTE: Person participating in preparation of act of terrorism, shall be released from a criminal liability if he had warned authorities or in different way promoted prevention of implementation of given act and if in his actions there were no attributes of structure of other crime.

#### **Article 214-1. Financing of terrorism - Adopted by the law of the Azerbaijan Republic from May 17, 2002**

Deliberate full or partial, direct or indirect reference of money resources or other property for commitment of terrorism or accumulation of money resources or other property in the same purposes–

is punished by imprisonment for the term from eight up to twelve years with confiscation of property.

#### **Article 215. Capture of the hostage**

215.1. Capture or deduction of a person as the hostage, committed with a view of compulsion of state, organization or citizen to make any action or to refrain from commitment of any action as conditions of release of the hostage –

is punished by imprisonment for the term from five up to ten years.

215.2. The same acts committed:

215.2.1. on preliminary arrangement by group of persons;

- 215.2.2. repeatedly;
- 215.2.3. with application of the violence dangerous to life or health;
- 215.2.4. with application of fire-arms or subjects used as a weapon;
- 215.2.5. against of obviously know as a minor;
- 215.2.6. concerning woman, obviously know to guilty as pregnant
- 215.2.7. concerning two or more persons;
- 215.2.8. from mercenary prompting –

is punished by imprisonment for the term from ten up to twelve years.

215.3. The acts provided by articles 215.1 or 215.2 of the present Code, committed by organized group or on imprudence entailed to death of a victim or other heavy consequences –

is punished by imprisonment for the term from twelve up to fifteen years.

NOTE: The person who has committed act, provided by the present article and voluntary or on demand of authorities released a hostage, shall be released from a criminal liability if his actions do not contain structure of other crime.

#### **Article 217. Gang**

217.1. Creation of a steady armed groups (gangs) with a view of an attack on organization or citizens, as well as a management of such groups (gangs) –

is punished by imprisonment for the term from ten up to fifteen years with confiscation of property or without it.

217.2. Participation in the steady armed groups (gangs) or in attacks committed by them –

is punished by imprisonment for the term from seven up to twelve years with confiscation of property or without it.

#### **Article 218. Organization of criminal community (criminal organization)**

218.1. Creation of criminal community (criminal organization) for commitment minor serious or serious crimes, as well as a management of such community (organization) or structural divisions included to it, and also creation of organizers association, heads or other representatives of the organized groups with a view of plans development and conditions for commitment of minor serious or serious crimes –

is punished by imprisonment for the term from eight up to fifteen years with confiscation of property or without it.

218.2. Participation in criminal community (criminal organization) or in association of organizers, heads or other representatives of the organized groups –

is punished by imprisonment for the term from six up to twelve years with confiscation of property or without it.

218.3. The acts provided by articles 218.1 or 218.2 of the present Code, committed by a person with use of the service position –

is punished by imprisonment for the term from ten up to fifteen years with confiscation of property or without it.

#### **Article 219. Stealing of airship, ship or railway train**

219.1. Stealing of airship, ship or railway train, as well as capture of such ships or a train with a view of stealing –

is punished by imprisonment for the term from four up to eight years.

219.2. The same acts committed:

219.2.1. on preliminary arrangement by group of persons;

219.2.2. with application of the violence dangerous to life or health, or with threat of application of such violence;

219.2.3. with application of a weapon or subjects used as a weapon;

219.2.4. repeatedly –

is punished by imprisonment for the term from seven up to twelve years.

219.3. The acts provided by articles 219.1 or 219.2 of the present Code, committed by organized group or entailed on imprudence death of a victim or other heavy consequences –

is punished by imprisonment for the term from eight up to fifteen years.

**Article 219-1. Sea robbery** - Adopted by the law of the Azerbaijan Republic from July 2, 2001

219-1.1. Sea robbery, that is an attack on sea and river ships with a view of capture of another's property with application of violence or with threat of application of violence –

is punished by imprisonment for the term from five up to ten years.

219-1.2. The same act:

219-1.2.1. committed by group of persons, on preliminary arrangement by group of persons;

219-1.2.2. committed with application of weapons or subjects used as a weapon –

is punished by imprisonment for the term of from eight up to twelve years with confiscation of property or without it.

219-1.3. The same act:

219-1.3.1. committed repeatedly;

219-1.3.2. committed by group organized or criminal community (criminal organization);

219-1.3.3. on imprudence entailed to death of a victim or other heavy consequences – is punished by imprisonment for the term from twelve up to fifteen years or life imprisonment with confiscation or without it.

**Article 226. Illegal handling with radioactive materials**

226.1. Illegal purchase, storage, use, selling, transfer or destruction of radioactive materials –

is punished by corrective works for the term up to two years or imprisonment for the term up to three years.

226.2. The same acts, on imprudence entailed death of a victim or other heavy consequences–

is punished by imprisonment for the term from three up to eight years.

**Article 227. Plunder or extortion of radioactive materials**

227.1. Plunder or extortion of radioactive materials –

is punished by the penalty at a rate from one up to four thousand of nominal financial unit or imprisonment for the term from three up to five years.

227.2. The same acts committed:

227.2.1. on preliminary arrangement by group of persons;

227.2.2. by convicted with use of the service position;

227.2.3. with application of a violence not dangerous to life or health, or with threat of application of such violence –

is punished by imprisonment for the term from five up to seven years.

227.3. The acts, which are provided by articles 227.1 or 227.2 of the present Codes, committed:

227.3.1. by organized group;

227.3.2. with application of violence dangerous to life or health, or with threat of application of such violence –



is punished by imprisonment for the term from five up to ten years with confiscation of property or without it.

**Article 228. Illegal purchase, transfer, selling, storage, transportation and carrying of fire-arms, accessories to it, supplies, explosives**

228.1. Illegal purchase, transfer, selling, storage, transportation or carrying of fire-arms, accessories to it, supplies (except for the smooth-bore hunting weapon and ammunition to it), explosives –

is punished by corrective works for the term up to two years or imprisonment for the term up to three years.

228.2. The same acts committed:

228.2.1. on preliminary arrangement by group of persons;

228.2.2. repeatedly –

is punished by imprisonment for the term from three up to five years.

228.3. The acts, which provided by articles 228.1 or 228.2 of the present Code, committed by organized group –

is punished by imprisonment for the term from five up to eight years.

228.4. Illegal purchase, selling or carrying of gas weapon, cold steel, including throwing weapon, except for districts where carrying of a cold steel is an accessory of a national suit or connected to hunting –

is punished by public works for the term from hundred sixty up to two hundred hours, or corrective works for the term up to two years, or imprisonment for the term up to one year. NOTE: The person voluntary given subjects, provided in the present article, is released from a criminal liability if his actions do not contain structure of other crime.

**Article 229. Illegal manufacturing of a weapon**

229.1. Illegal manufacturing of fire-arms, supplies to it, ammunition, explosives, and also repair of fire-arms –

is punished by imprisonment for the term up to three years.

229.2. The same acts committed:

229.2.1. on preliminary arrangement by group of persons;

229.2.2. repeatedly –

is punished by imprisonment for the term from three up to five years.

229.3. The acts provided by articles 229.1 or 229.2 of the present Code, committed by organized group –

is punished by imprisonment for the term from five up to ten years.

229.4. Illegal manufacturing of a gas weapon, cold steel, including the throwing weapon –

is punished by public works for the term from hundred sixty up to two hundred, or corrective works for the term up to two years, or imprisonment for the term up to two years.

NOTE: The person voluntary given subjects, provided in the present article, shall be released from a criminal liability if his actions do not contain structure of other crime.

**Article 234. Illegal manufacturing, purchase, storage, transportation, transfer or selling of narcotics, psychotropic substances**

234.1. Illegal purchase or storage without a purpose of selling of narcotics or psychotropic substances in a quantity (amount) exceeding necessary for personal consumption –

is punished by imprisonment for the term up to three years.

234.2. Illegal purchase or storage with a view of selling, manufacturing, processing, transportation, transfer or selling of narcotics or psychotropic substances –

is punished by imprisonment for the term from three up to seven years with confiscation of property or without it.

234.3. Manufacturing, purchase, storage, transfer, transportation or selling drug with a view of illegal manufacturing and processing of narcotics or psychotropic substances –

is punished by imprisonment for the term up to three years with confiscation of property or without it.

234.4. The acts provided by articles 234.2 and 234.3 of the present Code, committed:

234.4.1. on preliminary arrangement by group of persons or organized group;

234.4.2. repeatedly;

234.4.3. in large amount –

is punished by imprisonment for the term from five up to twelve years with confiscation of property.

234.5. Infringement of rules manufacture, processing, storage, holiday, sale, distribution, transportation, transfer, purchase, use, import, export or destruction of raw material, drugs, tools or equipment, used for manufacturing narcotics or psychotropic substances and which are under special control, and also narcotics or psychotropic substances, committed by the person which duties include observance of the specified rules –

is punished by the penalty at a rate from two hundred up to one thousand of nominal financial unit or with imprisonment for the term up to three years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to five years.

The note: 1. The person voluntary given narcotics, psychotropic substances or drugs and actively promoting disclosing or suppression of a crimes connected to illegal circulation of narcotics, psychotropic substances or drugs, to exposure of persons, who has committed it, to detection of the property extracted in the criminal way, shall be released from a criminal liability.

2. The quantity(amount) specified in the present chapter necessary for personal consumption and other quantities(amounts) of narcotics or psychotropic substances, are established by the appropriate legal-acts.

#### **Article 241. Legalization of money resources or other property, acquired from illegal circulation of narcotics or psychotropic substances**

241.1. Implementation of financial operations or other contracts with use of money resources or other property, acquired from illegal circulation of narcotics or psychotropic substances, and also use of these means or other property with a purpose of implementation in enterprise or other economic activities –

is punished by the penalty at a rate from two up to five thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment for the term up to four years.

241.2. The same acts committed:

241.2.1. on preliminary arrangement by group of persons;

241.2.2. repeatedly;

241.2.3. by person with use of the service position –

is punished by imprisonment for the term from four up to eight years with confiscation of property or without it.

241.3. The acts provided by articles 241.1 and 241.2 of the present Code, committed:

241.3.1. by organized group;

241.3.2. in large amount –

is punished by imprisonment for the term from seven up to twelve years with confiscation of property or without it.

#### **Article 247. Infringement of protection rules on environment by manufacture of works**

Infringement of preservation rules on environment at designing, accommodation, construction, commissioning and operation of industrial, agricultural, scientific and other objects by a persons responsible for observance of these rules, entailed to essential change of radioactive background, which caused harm to health of person, mass destruction of animals or to other heavy consequences –

is punished by imprisonment for the term up to five years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it.

**Article 248. Infringement of rules on handling with ecologically dangerous substances and waste products**

248.1. Manufacture of a forbidden kinds of dangerous waste products, transportation, storage, burial place, use or other handling with radioactive, bacteriological, chemical substances and waste products with infringement of the established rules if these acts have created threat of causing essential harm to health of a person or environment –

is punished by the penalty at a rate from two hundred up to one thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment on the same term.

248.2. The same acts which have entailed pollution, poisoning of an environment, causing harm to health of a person, or mass destruction of animals, as well as committed in a zone of a dangerous ecological situation –

is punished by imprisonment for the term up to five years.

248.3. The acts provided by articles 248.1 or 248.2 of the present Code, on imprudence entailed death of a victim or mass disease of people –

is punished by imprisonment for the term from three up to eight years.

**Article 249. Infringement of veterinary rules and rules established for struggle against illnesses and wreckers of plants**

249.1. Infringement of veterinary rules, on imprudence entailed to distribution of epizootic or other heavy consequences –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment for the term up to two years.

249.2. Infringement of rules established for struggle against illnesses and wreckers of plants, on imprudence entailed heavy consequences –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment for the term up to one year.

**Article 250. Pollution of waters (sources of water)**

250.1. Pollution, exhaustion of superficial or underground waters, sources of drinking water supply or other change of their natural properties, causing essential harm to animal or flora, fish stocks, wood or to an agriculture –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to five years, or corrective works for the term up to two years, or imprisonment for the term about six months.

250.2. The same acts which have entailed causing of harm to health of a person or mass destruction of animals, as well as committed on territory of reserve or in a zone of a dangerous or extreme ecological situation –

is punished by the penalty at a rate from five hundred up to two thousand of nominal financial unit, or corrective works for the term up to two years, or restriction of freedom for the term up to two years, or imprisonment for the term up to two years.

250.3. The same acts, on imprudence entailed death of a victim –

is punished by imprisonment for the term from three up to five years.

### **Article 251. Pollution of an atmosphere (air)**

251.1. Infringement of emission rules in an atmosphere of polluting substances or infringement of service regulations of equipment, constructions and other objects, entailed pollution or other change of natural properties of air –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years, or corrective works for the term up to one year, or imprisonment for the term about six months.

251.2. The same acts, on imprudence entailed causing of harm to health of a person –

is punished by corrective works for the term up to one year, or restriction of freedom for the term up to one year, or imprisonment for the term up to two years.

251.3. The same acts, on imprudence entailed death of the victim –

is punished by imprisonment for the term from three up to five years.

### **Article 252. Pollution of sea**

252.1. Pollution of the sea environment from sources taking place on land or by infringement of rules of dump or burial place made by vehicles or artificial constructions of substances erected in the sea and materials, which are unhealthy to person and alive resources of the sea or interfering legal use of the sea environment –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years, or corrective works for the term up to one year.

252.2. The same act causing essential harm to health of the person, to animals or flora, fish stocks, environment, zones of rest or other protected by law interests –

is punished by corrective works for the term up to two years or imprisonment for the term up to two years.

252.3. The same act, on imprudence entailed death of a victim –

is punished by imprisonment for the term from three up to five years.

### **Article 253. Infringement of legislation of the Azerbaijan Republic about a coastal shelf**

253.1. Illegal erection of constructions or other installations on a coastal shelf of the Azerbaijan Republic, illegal creation around them of safety zones, as well as infringement corrected constructions, operation, protection or liquidations of erected constructions and means of a sea safety navigation –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment for the term up to two years.

253.2. Research, investigation, development of natural resources and implementation of other activities on a continental shelf of the Azerbaijan Republic by foreign legal or physical persons, if implementation of these works is not provided by international agreements to which the Azerbaijan Republic is a party or in the special sanction given by the appropriate state body of the Azerbaijan Republic –

is punished by imprisonment for the term from three up to five years.

### **Article 254. Damage of a ground**

254.1. The poisoning, pollution or other damage of a ground by harmful products of economic or other activity by infringement of handling rules with the fertilizers, dangerous chemical or biological substances at their storage, use or transportation, entailed significant cause of harm to health of people or environment –

is punished by the penalty at a rate of from hundred up to one thousand of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years, or corrective works for the term up to one year.

254.2. The same acts committed in a zone of an extreme or dangerous ecological situation – is punished by corrective works for the term up to two years or imprisonment on the same term.

254.3. The same acts, which is committed on imprudence and entailed death of a victim – is punished by imprisonment for the term from three up to five years.

#### **Article 255. Infringement of rules of protection and use of bowels**

Infringement of rules of protection and use of bowels at designing, accommodation, construction, commissioning and operation of a mining enterprises or underground constructions which have been not connected to extraction of minerals, as well as illegal building of the areas holding minerals, causing significant damage –

is punished by the penalty at a rate from hundred up to one thousand of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activity for the term up to three years, or corrective works for the term up to one year.

#### **Article 256. Illegal extraction of a fish and other water animals**

256.1. Illegal extraction of a fish or other water animals, causing damage in the significant size –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or public works up to hundred sixty hours, or corrective works for the term up to one year.

256.2. The same act committed:

256.2.1. with causing damage in the large amount;

256.2.2. with application of self-propelled transport floating means or explosive and chemical substances, or means of mass destruction of a fish or other water animals;

256.2.3. on territory of reserve, or on zone of an extreme or dangerous ecological situation –

is punished by the penalty at a rate from hundred up to one thousand of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term up to two years.

256.3. The acts provided by articles 256.1 or 256.2 of the present Code, committed by a person with use of the service position or on preliminary arrangement by group of persons or by organized group –

is punished by the penalty at a rate from one up to two thousand of nominal financial unit or with imprisonment for the term from two up to five years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

NOTE: " the significant amount " in article 256.1 of the present Code is understood as the sum at a rate of from four hundred up to one thousand, and as " the large amount" in article 256.2.2 - over one thousand of nominal financial unit.

#### **Article 257. Infringement of rules on protection of fish stocks**

Construction of bridges, dams, realization of explosive and other works, as well as operation of water intoning constructions by infringement of protection of fish stocks which have brought to mass destruction of a fish or other water animals –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years, or corrective works for the term up to one year.

#### **Article 258. Illegal hunting**

258.1. The hunting which has been carried out without appropriate sanction either in prohibited zones or in forbidden time, or by forbidden instruments and ways, causing damage in the significant amount –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or public works for the term up to hundred sixty hours, or corrective works for the term up to one year.

258.2. The same act committed:

258.2.1. by causing damage in the large amount;

258.2.2. with use of explosives or different ways of mass destruction of birds and animals;

258.2.3. concerning birds and animals, hunting on which is forbidden completely;

258.2.4. on territory of reserve or in zone of ecological disaster or in a zone of an extreme ecological situation –

is punished by the penalty at a rate from hundred up to one thousand of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term up to two years.

258.3. The act provided by article 258.1 of the present Code, committed:

258.3.1. by official with use of the service position;

258.3.2. on preliminary arrangement by group of persons or organized group –

is punished by the penalty at a rate from six hundred up to one thousand of nominal financial unit, or restriction of freedom up to two years, or with imprisonment for the term from two up to five years with deprivation of the right to hold the certain posts or to engage in the certain activity for the term up to three years or without it.

NOTE: " The significant amount" in article 258.1 of the present Code is understood as the sum at a rate of from four hundred up to one thousand, and as " the large amount" in article 258.2.1 - over one thousand sizes of nominal financial unit.

#### **Article 259. Illegal felling of trees**

Illegal felling of trees or bushes in the woods which are carrying out functions of protective, sanitary-and hygienic and improving nature, in reserves and in other woods, in national or natural parks, causing damage in the significant amount–

is punished by the penalty at a rate of from five hundred up to one thousand of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term about six months.

NOTE: " the significant damage " in article 259 of the present Code is understood as the sum over four hundred of nominal financial unit.

#### **Article 260. Destruction or damage of woods**

260.1. Destruction or damage of woods, as well as plantings which are not included in wood fund, in a result of casual handling by fire or other sources of the increased danger –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term up to one year.

260.2. Destruction or damage of woods, as well as plantings which are not included in wood fund, by an arson or other socially dangerous way or in a result of pollution by harmful substances, waste products –

is punished by imprisonment for the term from two up to seven years.

#### **Article 261. Infringement of especially protected natural territories and natural objects**

Infringement of reserves, national parks, nature sanctuaries and other natural territories especially protected by the state, entailed causing of essential harm –

is punished by the penalty at a rate from hundred up to five hundred of nominal financial unit, or corrective works for the term up to one year, or imprisonment for the term about six months.

NOTE: " essential harm " in article 261 of the present Code is understood as the sum over two hundred sizes of nominal financial unit.

#### **Article 284. Disclosure of the state secret**

284.1. Disclosure of the data, making state secret, by a person to whom it was trusted or it became known on service or work, at absence of traits of treason for state —

is punished by imprisonment for the term from two up to five years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

284.2. The same act which has brought to serious consequences —

is punished by imprisonment for the term from three up to seven years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to five years.

#### **Article 308. Abusing official powers**

308.1. Abusing official powers, that is deliberate, contrary to interests of service, use by the official of service powers from self-interest or other personal interest, causing essential harm to rights and legitimate interests of citizens or organizations or protected by law interests of a society or state —

is punished by the penalty at a rate from one up to two thousand of nominal financial unit, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years, or corrective works for the term up to two years, or imprisonment for the term up to three years.

308.2. The act provided by article 308.1 of the present Code, entailed heavy consequences —

is punished by imprisonment for the term from three up to seven years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

The note: 1. Officials in articles of the present chapter, shall be persons constantly, temporarily or on special power carrying out functions of authority representative either carrying out organizational - administrative or administrative functions in state bodies, institutions of local government, state and municipal establishments, enterprises or organizations, and also in other commercial and noncommercial organizations.

2. Civil servants and employees of institutions of local government who are not admitted as officials, and also employees of other commercial and noncommercial organizations carry criminal liability under articles of the present chapter in cases, which are specially provided by appropriate articles.

#### **Article 309. Excess of official powers**

309.1. Commitment by official of actions, which are obviously preternatural powers, entailed causing of essential harm to rights and legitimate interests of citizens or organizations or protected by law interests of a society or state —

is punished by the penalty at a rate of from one up to two thousand of nominal financial unit, or corrective works for the term up to two years, or with imprisonment for the term up to three years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it.

309.2. The act provided by article 309.1 of the present Code, committed with application of violence or with threat of its application, or with application of weapon or other special means, or entailed heavy consequences —

is punished by imprisonment for the term from three up to seven years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

#### **Article 310. Assignment of powers of the official**

Commitment of actions connected to autocratic representation by official or assignment of powers of official, entailed essential infringement of rights and legitimate interests of citizens or organizations —

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or public works for the term up to two hundred hours, or corrective works for the term up to two years, or imprisonment for the term up to three years.

### **Article 311. Reception of a bribe**

311.1. Reception by official personally or through intermediary of a bribe as money, securities, other property or benefits of property nature on actions (inaction) for the benefit of the briber or person represented by him, if such actions (inaction) are included into service powers of the official or it by virtue of official position can promote such actions (inaction), as well as for the general protection or indifference on service –

is punished by imprisonment for the term from two up to seven years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it.

311.2. Reception by official of a bribe for illegal actions (inaction) –

is punished by imprisonment for the term from five up to ten years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years.

311.3. The acts provided by articles 311.1 or 311.2 of the present Code, committed:

311.3.1. on preliminary arrangement by group of persons or organized group;

311.3.2. repeatedly;

311.3.3. in the large amount;

311.3.4. with application of threats –

is punished by imprisonment for the term from seven up to twelve years with confiscation of property.

The note: a «the large amount» bribe is understood as the sum of money, cost of securities, property or benefits of the property nature, exceeding five thousand of nominal financial units.

### **Article 312. Presentation of a bribe**

312.1. The presentation of a bribe to official personally or through the intermediary –

is punished by the penalty at a rate from one up to two thousand of nominal financial unit or imprisonment for the term up to five years with the penalty at a rate from five hundred up to one thousand of nominal financial unit or without it.

312.2. The presentation of a bribe to official for commitment of obviously illegal actions (inaction) by him or repeated presentation of a bribe –

is punished by the penalty at a rate of from two up to four thousand of nominal financial unit or imprisonment for the term from three up to eight years with confiscation of property or without it.

NOTE: The person given a bribe, shall be released from a criminal liability if presentation of a bribe took place by threats of official or if the person has voluntarily informed the appropriate state body about a presentation of a bribe.

### **Article 313. Service forgery**

Service forgery, that is bringing by official, and also civil servant or employee of institutions of local government who is not being official, to official documents of obviously false data, as well as entering into specified documents of the corrections deforming their valid contents, committed from mercenary or other personal interest –

is punished by the penalty at a rate from five hundred up to one thousand of nominal financial unit, or public works for the term up to two hundred forty hours, or corrective works for the term from one year till two years, or with imprisonment for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to two years or without it.



**Article 320. Fake, manufacturing or selling of official documents, state awards, seals, stamps, forms or use of counterfeit documents**

320.1. Fake of certificate or other official document giving the rights or releasing from duties, with a view of its use or selling of such document, as well as manufacturing in same purposes or selling of counterfeit state awards of the Azerbaijan Republic, stamps, seals, forms –

is punished by restriction of freedom for the term up to three years or imprisonment for the term up to two years.

320.2. Use of obviously counterfeit documents provided in article 320.1 of the present Code –

is punished by the penalty at a rate from two hundred up to five hundred of nominal financial unit, or public works for the term up to eighty, or corrective works for the term up to one year, or imprisonment on the same term.

**Article 350. Infringement of rules on manipulation with a weapon and subjects representing increased danger to associates**

350.1. Infringement of rules on manipulation with a weapon, supplies, radioactive materials, explosive or other substances and subjects representing increased danger to associates, on imprudence entailed causing of harm to health of a victim, destruction of military engineering or other heavy consequences –

is punished by restriction on military service for the term up to two years or maintenance to disciplinary military unit on the same term.

350.2. The same act, committed on imprudence and entailed to death of a person –

is punished by imprisonment for the term from two up to five years.

350.3. The act provided by article 350.1 of the present Code, committed on imprudence and entailed to death of two or more persons –

is punished by imprisonment for the term from three up to eight years.

## **ANNEX V The Law on amendments to the Criminal Code of the Republic of Azerbaijan**

The Milli Majlis of the Republic of Azerbaijan, guided by Paragraph 17, Part I of Article 94 of the Constitution of the Republic of Azerbaijan **decides:**

**Article 1.** the following amendments to be made into the Criminal Code of the Republic of Azerbaijan (Legislation Compendium of the Republic of Azerbaijan, 2000, №4, II book, Article 251, №5, Article 323, №12, Article 835; 2001, №1, Article 24, №7, Article 455; 2002, №1, Article 9, №5, Articles 236, 248, 258, №6, Article 326, №8, Article 465; 2003, №6, Articles 276, 279, №8, Articles 424, 425, №12, I book, Article 676; 2004, №1, Article 10, №4, Article 200, №5, Article 321, №8, Article 598, №10, Article 762, № 11, Article 900; 2005, №1, Article 3, №6, Article 462, №7, Article 575, №10, Article 904, №11, Article 994; 2006, №2, Articles 71, 72, 75, №5, Article 390, №12, Articles 1008, 1020, 1028; 2007, №2, Article 68, №5, Article 398, №6, Articles 560, 562, 579, №8, Article 757, №10, Articles 937, 941, №11, Articles 1049, 1080, 1090, №12, Article 1221; 2008, №6, Articles 454, 461, №7, Article 602, №10, Article 884, №12, Articles 1047, 1049; 2009, №5, Article 315, №7, Article 517, №12, Article 953; 2010, №2, Article 70, №3, Articles, 171, 178, №4, Articles 275, 276, №7, Article 591; 2011, №4, Article 253, №6, Article 472, №7, Articles 587, 601, 621; №11, Article 980, №12, Article 1093; the Law 256-IVQD dated 15 November 2011 of the Republic of Azerbaijan):

1.1. to remove Articles 42.0.8 and 51;

1.2. to remove the words “property confiscation” from Article 43.3;

1.3. to replace in Article 68.2 the words “, as well as fine or property confiscation” with the words “or fine”;

1.4. the name of the Section VI to be edited as follows:

### **“Section VI**

### **OTHER CRIMINAL AND LEGAL MEASURES”;**

1.5. Chapters 15-1 and 15-2 with the following contents to be added to Section VI :

### **“Chapter 15-1**

### **Special confiscation**

#### **Article 99-1. Special confiscation**

99-1.1. Special confiscation, as a criminal measure, is the mandatory and non-compensable forfeiture of following property by the state on the basis of court decision:

99-1.1.1. tools and instrumentalities belonging to condemned person, which are used in, intended for use in commitment of crime (except tools and instrumentalities which shall be returned to its owner);

99-1.1.2. funds and other properties belonging to condemned person which are obtained by criminal activity, including income, profits or other benefits from these funds and other property (except funds other property which shall be returned to its owner);

99-1.1.3. funds and other property obtained by criminal activity or part of them, which were fully or partially transferred by means of concluding civil-law acts;

99-1.1.4. property intended or used for financing of terrorism, illegal armed units or groups or organized groups and criminal organizations.

99-1.2. For each criminal case courts decide about the existence of property subject to confiscation which is envisaged in the Article 99-1.1 of this Code. Special confiscation can be applied to both legal and natural person.

99-1.3. Funds and other properties envisaged in the Article 99-1.1 of this Code, which were alienated or given to third parties by condemned person, shall be confiscated, if the recipient of this property new or should have know that this property had been obtained by criminal means.

#### **Article 99-2. Value confiscation**

In cases when forfeiture of property obtained by criminal means is not possible since that property is used, alienated or because of some other reason, the other property owned by condemned person which is equivalent to the value of the same property shall be confiscated.

#### **Article 99-3. Reimbursement of damage caused by crime using confiscated property**

99-3.1. When deciding the issue of confiscation, the caused damage to owner of property as a result of crime shall be reimbursed first.

99-3.2. Unless condemned person owned any property besides confiscated property, the caused damage to owner of property as a result of crime shall be reimbursed by confiscated property and after that the rest of property shall be made subject to forfeiture by the state.

### **Chapter 15-2**

#### **Applicable criminal legal measures in respect of legal persons**

#### **Article 99-4. Terms and basis of criminal legal measures in respect of legal persons**

99-4.1. The criminal legal measures shall be applied to legal persons due to the crimes committed by following natural person for the benefit of legal person or protecting interest of legal person:

99-4.1.1. The officials having authority to represent the legal person;

99-4.1.2. The officials having authority to take decision on behalf of the legal person;

99-4.1.3. The officials having authority to supervise the activity of legal person;

99-4.1.4. The employers of legal persons in the cases of lack of supervision by the officials envisaged in the Articles 99-4.1.1 – 99-4.1.3 of this Code.

99-4.2. The criminal legal measures in respect of a legal person don't exclude the criminal liability of a natural person, who participates in the commitment of the same crime in any form.

99-4.4. As defined by legislation, in the cases of termination of criminal case with regard to natural persons envisaged in the Article 99-4.1 of this Code doesn't exclude the application of criminal legal measures in respect of legal person.

99-4.5. Criminal legal measures in respects of legal persons cannot be applied to state agencies, municipalities and international organizations.

99-4.6. Criminal legal measures shall be applied to legal persons for offences stipulated in Articles 144-1, 144-2, 193-1, 194, 214, 214-1, 271-273, 308, 311, 312, 313, 316-1 and 316-2 of this Code.

99-4.7. Until the decision taken by court in terms of criminal measures in respect of legal person, if the legal person is reorganized, the criminal measures will apply to the successor of legal person. It is prohibited to reorganize or liquate legal person by the decision of founders (shareholders) of legal person or a body of legal person authorized by the charter of legal person from the time of the decision taken by court in terms of criminal measures in respect of legal person till execution or reversal of this decision.

#### **Article 99-5. Types of criminal legal measures in respect of legal person**

99-5.1. Criminal legal measures in respect of legal person are set forth below:

99-5.1.1. fine;

99-5.1.2. special confiscation;

99-5.1.3. deprivation of a legal person to engage some activities;

99-5.1.4. liquidation of legal person.

99-5.1.2. Special confiscation shall be applied in accordance with Chapter 15-2 of this Code.

99-2.1.3. Liquidation of a legal person shall be applied only as a primary criminal measure, fine both as a primary and an additional criminal measure, and deprivation of legal person to engage some activities only as an additional criminal measure.

99-5.3. These cases shall be taken into consideration while deciding the type and measure criminal measures:

99.5.3.1. the character and degree of public dangerousness of crime;

99-5.3.2. the volume of benefit of a legal person derived from criminal activity or character and degree of the protecting its interest.

99-5.3.3. numbers of crimes and gravity of their results;

99-5.3.4. opening case, exposing of its participants, supporting to search and find criminally obtained property.

99-5.3.6. voluntary compensation or liquidate of pecuniary and non-pecuniary damages or other measures to mitigate damages carried out by legal person;

99-5.3.7. states to characterize legal person, moreover previous decision in terms of criminal measures in respect of legal person or charitable or other social activities of legal person.

#### **Article 99-6. Fine**

99-6.1. The fine as a criminal legal measure in respect of legal person is a monetary payment appointed by court in certain circumstances and amounts, provided by the present Code.

99.6.2. Taking the circumstances envisages in the Article 99-6.3, 99-6.4 and 99-8.3 of this Code and financial situation of legal person into the consideration, fine in respect of legal person is appointed at a rate from 50000 up to 200000 manats or from one up to five times more than the damages of crime or benefits derive from crime.

99-6.3. Fine as a criminal legal measure shall be applied to legal person in the following cases:

99-6.3.1. for crimes which shall not cause significant public danger – a rate from 50000 up to 75000 manats or from one up to two times more than the damages of crime or benefits derives from crime.

99-6.3.2. for less grave crimes – a rate from 75000 up to 100000 manats or from two up to three times more than the damages of crime or benefits derive from crime.

99-6.3.3. for grave crimes – a rate from 100000 up to 125000 manats or from three up to four times more than the damages of crime or benefits derives from crime.

99-6.3.4. for more grave crimes – a rate from 125000 up to 150000 manats or from four up to five times more than the damages of crime or benefits derives from crime.

99-6.4. The fine appointed to the legal person cannot exceed the half amount of property of legal person.

#### **Article 99-7. Deprivation of the legal person's right to engage in the certain activity**

99-7.1. Deprivation of the legal person's right to engage in the certain activity includes withdrawal license which allows to conduct certain business activity or the restriction of concluding certain acts, issuing of stocks and other securities, getting subsidies, allowances or other privileges from the state or being engaged in other type of activity.

99-7.2. Taking the cases envisages in the Article 99-3.5 of this Code into account, deprivation of the legal person's right to engage in the certain activity shall be applied for following period if it is determined that it is impossible to retain conducting certain activities:

99-7.2.1. for crimes which shall not cause significant public danger – a period from one up to two years;

- 99-7.2.2. for less grave crimes – a period from two up to three years;
- 99-7.2.3. for grave crimes – a period from three up to four years;
- 99-7.2.4. for more grave crimes – a period from four up to five years;

#### **Article 99-8. Termination of legal person**

99-8.1. Termination of legal person as a exceptional criminal legal measure consist of termination the existence of legal person and its activities for the crimes committed for the benefit of legal person or protecting interest of legal person without transferring the rights and obligations with the inheritance to other person.

99-8.2. Termination of legal person shall be applied if the legal person is consistently used in to commit crimes or conceal and disguise the trace of crime, criminally obtained funds and other property or the more than half of property of the legal person consists of the property that is subject to confiscation in accordance with the Article 99-1.1 of this Code.

99-8.3. If the termination of legal person is decided as a criminal measure, a fine of 200000 manats shall be applied as an additional criminal measure.

99-8.4. termination of legal person cannot be applied to political parties, trade unions, state (municipality) enterprises or state (municipality) owned legal persons whose controlling block of shares belong to the state(municipality).

#### **Article 99-9. Release of legal person from criminal legal measures**

If the person who committed crime for the benefit, or protecting the interest, of legal person is released of criminal liability due to passing of period as specified in Article 75 of this Code, no criminal legal measures shall be applied to the legal person.;

1.6. to remove the words “with the confiscation of the property” from the sanctions of the Articles 144-1.1, 144-1.2, 144-1.3, 165.2, 165-2.1, 165-2.2, 181.2, 181.3, 182.3, 183.2, 184.3, 204.2, 204.3, 205.2, 206.4, 213-1.1, 213-1.2, 214.1, 214.2, 214-1, 232.3, 234.4, 235.4, 308.1, 309.2, 311.3, 312.1, 312.2, 312-1.1 and 312-1.2;

1.7. to remove the words “with the confiscation of the property” from the sanctions of the Articles 165-3.1 and 165-3.2;

1.8. to remove the words “with the property being or not being confiscated” from the sanctions of the Articles 177.2, 177.3, 178.2, 178.3, 179.2, 179.3, 180.2, 180.3, 181.1, 182.2, 183.1, 194.2, 199.3, 204.1, 206.2, 206.3, 207, 217.1, 217.2, 218.1, 218.2, 218.3, 219-1.2, 219-1.3, 227.3, 234.2, 234.3, 235.2, 235.3, 274, 276 and 279.3;

1.9. to remove the words “, with the confiscation of the property” from the sanctions of the Articles 193-1.1, 193-1.2, 193-1.3, 202-2.1, 202-2.2, 203-1.1, 203-1.2, 308.2, 309.1, 311.1, 311.2 and 313;

1.10. to remove the words “with the confiscation of the property” from the sanctions of the Articles 194.1, 233-1.1, 233-1.2;

1.11. to add the numbers “226, 227,” after the number “219-1,” in Article 214-1;

#### **Article 2. Coming into effect of the Law**

2.1. Chapter 15-2 of the Criminal Code of the Republic of Azerbaijan comes into effect on the same day as the amendments to be made in the Criminal Procedure Code of the Republic of Azerbaijan and Code of Execution of Punishments as to the criminal-legal measures in relation to legal persons .

2.2. Except for the case stipulated in Article 2.1 of this Law, all the other provision of this Law comes into effect on May 1, 2012.

**Ilham ALIYEV,**

**President of the Republic of Azerbaijan**

Baku, 7 March 2012

№ 314-IVQD

## **ANNEX VI Code of Criminal Procedure**

### **Extracts**

#### **Article 148. Detention of persons suspected of committing an offence**

148.1. A person suspected of committing an offence shall be detained if there is a direct suspicion that he committed the offence or other information giving grounds for suspicion that he committed the act provided for in criminal law.

148.2. If there is a direct suspicion that a person committed an offence, the preliminary investigator, another official of the preliminary investigating authority, the investigator or the prosecutor may detain him in the following cases:

148.2.1. if the person is caught in the act of committing an offence provided for in criminal law or immediately thereafter on the scene of the offence;

148.2.2. if the victim or other witnesses to the act themselves assert that the act provided for in criminal law was committed by this person;

148.2.3. if clear marks indicative of the commission of the criminal act are discovered on the person's body, on his clothes or on other items he uses, in his home or in his means of transport.

148.3. If there is other information giving grounds to suspect a person of committing an act provided for in criminal law, he may be detained by the preliminary investigator, another official of the investigating authority, the investigator or the prosecutor in the following cases:

148.3.1. if he tries to escape from the crime scene into hiding, or to hide from the prosecuting authority;

148.3.2. if he has no permanent home or lives in another area;

148.3.3. if his identity cannot be established.

148.4. In the circumstances provided for in Article 148.1 and 148.2 of this Code, the person may be detained before the start of the criminal case. If no decision to start the criminal case is taken within 24 hours of the person being detained, the person shall be released immediately. Even if this decision is taken, the detention of the person may not exceed 48 hours. The detained person shall be charged within 48 hours of being taken into custody and shall be brought before a court; the court shall examine the case without delay and decide between arrest as a restrictive measure and release.

#### **Article 215. Conduct of the investigation into a criminal case**

215.1. Investigation shall be obligatory in all cases, except where the preliminary investigation takes the form of simplified pre-trial proceedings in respect of offences which do not pose a major public threat.

215.2. The investigation of a criminal case shall be carried out by the prosecutor's office or the relevant executive authority of the Azerbaijan Republic.

215.3. The investigation shall be carried out by the prosecutor's office in the following cases: 215.3.1. cases involving offences covered by Articles 100-113, 120-125, 126.3, 135-138, 145, 146, 149, 154-164, 165.2, 166.2, 167, 168, 179, 190, 191, 195, 202, 203, 208, 210-212, 222, 223, 262, 268, 286-288, 290-302, 304, 307-315, 317, 321 and 323 of the Criminal Code of the Azerbaijan Republic;

215.3.2. cases involving charges of abuse of authority by the President of the Azerbaijan Republic, members of parliament, the prime minister, judges, employees of the prosecutor's office, employees of the diplomatic service of the Azerbaijan Republic in foreign countries and of foreign countries' diplomatic representations in the Azerbaijan Republic and employees of the judicial, police, security, tax and customs authorities.

215.4. The investigation of cases concerning war crimes, military service or offences committed by military personnel shall be conducted by the military prosecutor's office (if someone who is not military personnel is an accessory to the offence, the investigation in respect of that person shall also be conducted by the military prosecutor's office).

215.5. The preliminary investigation of criminal cases other than those provided for in Articles 215.3 and 215.4 of this Code shall be conducted by the relevant executive authority of the Azerbaijan Republic.

215.6. If in the course of the pre-trial proceedings it is established that the case concerns several investigative authorities, the following measures shall be taken by reasoned decision of the Principal Public Prosecutor of the Azerbaijan Republic or one of his deputies in order to ensure that the investigation is conducted thoroughly, completely and objectively:

215.6.1. where the criminal case is a matter for the prosecutor's office or the relevant executive authority, a joint investigating team shall be set up under the leadership of the prosecutor or an investigator from the prosecutor's office;

215.6.2. where the criminal case is a matter for several executive authorities of the Azerbaijan Republic, depending on the seriousness of the crime, a joint investigating team involving investigators from those authorities shall be set up, and a head of team shall be appointed.

215.7. Transfer of the case from the investigating authority concerned to another investigating authority, with a view to ensuring that the investigation of the case is conducted thoroughly, completely and objectively, shall be possible by reasoned decision of the Principal Public Prosecutor of the Azerbaijan Republic in the following exceptional cases:

215.7.1. if it is established that the offence was concealed by the investigating authority concerned (or if the necessary measures were not taken by the head of the appropriate executive authority of the Azerbaijan Republic, including failure to remove the circumstances in question and to charge the accused);

215.7.2. if it is established that during the investigation of the case the accused was arrested unlawfully or tortured by the investigating authority concerned;

215.7.3. if it is established that the accused was denied the right to counsel, as provided for in Article 92.3 of this Code, by the investigating authority concerned;

215.7.4. if the head of the relevant executive authority of the Azerbaijan Republic in charge of investigating the criminal case, or one of his close relatives, is victim, suspect or accused, civil party or defendant to the civil claim in the criminal case.

215.8. If the Principal Public Prosecutor of the Azerbaijan Republic himself or one of his close relatives is victim, suspect or accused, civil party or defendant to the civil claim, the case which the prosecutor's office has jurisdiction to investigate shall be transferred to another investigating authority by reasoned decision of the first Deputy Principal Public Prosecutor of the Azerbaijan Republic.

#### **Article 242. Conduct of a search**

242.1. Where the available evidence or material discovered in a search operation gives rise to a suspicion that a residential, service or industrial building or other place contains, or certain persons are in possession of, objects of potential significance to a case, the investigator may conduct a search.

242.2. A search may be conducted with the aim of finding persons or animals being sought or human or animal remains.

242.3. Objects and documents which may be of significance as evidence may be impounded by the investigator once it has been established on the basis of the evidence collected or the material discovered in a search operation where or in whose possession they are.

#### **Article 243. Grounds for conducting a search and seizure**

243.1. As a rule, searches and seizures shall be conducted by decision of a court. A court may decide to give permission for a search or seizure in response to a reasoned request from the investigator and submissions made by the prosecutor in charge of the procedural aspects of the investigation. The search or seizure shall be conducted in accordance with the requirements of Articles 177.2-177.6 of this Code.

243.2. The decision to authorise the search or seizure shall state the following:



- 243.2.1. the date, time and place of the decision;
  - 243.2.2. the family name, first name, father's name and title of the person making the decision;
  - 243.2.3. the objective grounds for conducting the search or seizure;
  - 243.2.4. the family name, first name and father's name of the person conducting the search or seizure;
  - 243.2.5. the place where the search or seizure is to be carried out (nature of the building, address or location);
  - 243.2.6. in the case of a decision authorising seizure, the objects and documents to be impounded.
- 243.3. In circumstances which admit no delay, the investigator may conduct a search or seizure without court permission only if there is precise information indicating that:
- 243.3.1. objects or documents concealed in a residential building constitute proof of the commission of an offence or of preparations for the commission of an offence against a person or the state;
  - 243.3.2. a person who has prepared or committed an offence against a person or the state or a person who has escaped from a remand facility or prison is hiding in a residential building;
  - 243.3.3. there is a human corpse (or parts of a corpse) in the building;
  - 243.3.4. there is a real danger to someone's life or health in the building.
- 243.4. In the circumstances provided for in Article 243.3 of this Code, the investigator shall give a reasoned decision to conduct a search or seizure. The investigator's decision shall be drawn up in accordance with the requirements of Article 243.2 of this Code and shall give due consideration to the need to conduct the search and seizure without court permission and the reasons why it cannot be delayed.

**Article 253. Complaints of mistaken attachment of property**

253.0. Anyone who considers that property not belonging to the accused has been attached in error shall have the right to request the prosecuting authority to release the property from attachment. If the prosecuting authority refuses the request or fails to respond to the applicant's request within 10 (ten) days of its receipt, the applicant shall be entitled to apply to the civil courts for the release of the property from attachment. The civil court shall decide the issue of the ownership of the property, and its decision concerning the release of the property from attachment shall be binding on the investigator, the prosecutor in charge of the procedural aspects of the investigation and the court examining the criminal case.

**Article 488. Procedural and other acts relating to legal assistance in the territory of the Azerbaijan Republic**

488.1. In the territory of the Azerbaijan Republic, procedural and other acts relating to legal assistance may be carried out only at the official request of the relevant authorities of foreign states with which the Azerbaijan Republic has an agreement on legal assistance in criminal matters.

488.2. In the territory of the Azerbaijan Republic, procedural and other acts relating to legal assistance shall be carried out on the basis of this Code, of other laws and of the international agreements to which the Azerbaijan Republic is a party. In such cases, if the provisions of the legislation of the Azerbaijan Republic conflict with those of the international agreements to which the Azerbaijan Republic is a party, the provisions of the international agreements shall apply.

## **ANNEX VII Law on the struggle against terrorism**

### **Law of the Republic of Azerbaijan on the struggle against terrorism**

This Law defines legal and organization basis of struggle against terrorism in the Azerbaijan Republic, coordinates the activities of state authorities, performing struggle against terrorism, and secures rights and responsibilities of these authorities and citizens.

#### **Chapter I General provisions**

##### **Article 1 Key definitions**

Following definitions are used in this Law:

**terrorism** is committing of explosions, fires or other actions causing the threat of death of the human being, , damaging their health, causing significant property damage or occurrence of other hazardous consequences to public for the purpose of breaching public order, spread of panic among population or influencing the decisions of state authorities or international entities, as well as threatening to commit such actions for the that purpose;

**terrorist** — person participating in terrorist activity in any form;

**terrorist group** — union of two or more persons for the purposes of implementation of terrorist activities;

**terrorist organization** — organization established for the purposes of committing terrorist activities or tolerating terrorism in its operations. If one of structural units with the consent of any managing authority of the organization is engaged in terrorist activities, such organization shall be deemed a terrorist organization;

**struggle against terrorism**— activity connected to identification, prevention of terrorist acts or minimizing the damage as a result of terror;

**operations against terror** — special activities implemented for the purposes of prevention of terrorist acts, provision of security of natural persons, disarming, of terrorists, as well as minimizing of damage which may be incurred as a result of terrorist act;

**anti-terrorist operation zone** — territorial boundaries or certain sections offshore, transport means, buildings, installations, residential houses and adjacent territories or offshore areas, where operations are implemented;

**terrorist activity** — activity related to organization, planning, preparation and implementation of terrorist acts, acts of violence over natural persons or legal entities, for the purposes of terror via destruction or damaging of material facilities, formation of armed groups, criminal groups for the purposes of committing of terrorist acts, as well as participation in these acts, involvement of others to terrorist activities, their arming, training and use, deliberate funding of terrorist groups or provision of other assistance;

**international terrorist activity**—activities of terrorists or terrorist organizations on the territory of several states, or related to crime, which can damage interests of several states, committed by the person against the citizen of any state on the territory of the state, or other state, in the event, when terrorist and person affected by the terror, are the citizens of the same or different states, outside of the territory of this state;

**terrorist financing** — is the deliberate collection and provision of funds or other property, irrespective of their source, partly or completely, directly or indirectly, for financing the preparation, organization or commission by a person or a group (gang, organization) of the actions specified in Articles 102, 214, 215,

219, 219-1, 277, 278, 279, 280 and 282 of the Criminal Code of the Republic of Azerbaijan or with the knowledge that the such funds or property may be used for provision of that person or a group (gang, organization) for the purpose of committing those crimes.

funds or other property – is irrespective of their source, any tangible or intangible property, moveable or immovable property, as well as and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, bank loans, travellers' cheques, banque cheques, money orders, shares and securities, bonds, drafts, letters of credit.

### **Article 2 Anti-terrorist legislation**

Anti-terrorist legislation is comprised of the Constitution of the Azerbaijan Republic, intergovernmental treaties to which the Azerbaijan Republic is a signatory, this Law and other legislative acts of the Azerbaijan Republic.

### **Article 3 Purpose of struggle against terrorism**

Struggle against terrorism in the Azerbaijan Republic is implemented for following purposes:

- 1) provision of human rights and freedoms, public and state security;
- 2) identification, prevention of terrorism and minimization of the damage resulting from terrorism;
- 3) detection and liquidation of causes and conditions for formation and commission of terrorism, as well as terrorist financing or other assistance.

### **Article 4 Main principles of struggle against terrorism**

Struggle against terrorism in the Azerbaijan Republic is based on following principles:

- 1) provision of legality;
- 2) inevitability of punishment stipulated under the legislation of the Azerbaijan Republic for commitment of terrorist activity;
- 3) coordination of public and concealed methods of struggle against terrorist;
- 4) combined use of legal, political, socio-economic and organizational-preventive measures;

- 5) prioritized protection of rights of persons endangered by terrorist activity;
- 6) independence in control of resources attracted to operations against terrorism;
- 7) minimum disclosure of staff involved in operations against terrorism, including methods and tactics used for these purposes.

## **Chapter II Organization of struggle against terrorism. Performance of anti-terrorist operations**

### **Article 5 Authorities performing struggle against terrorism**

Provision of necessary anti-terrorist forces and resources, as well as control over the struggle against terrorism is implemented by the relevant executive authority of the Azerbaijan Republic.

Other relevant authorities of the Azerbaijan Republic within their competence take part in anti-terrorist activities in accordance with this Law.

### **Article 6 Assistance to state authorities involved in anti-terrorist activities**

State and local management authorities, organizations and unions independent of their form of ownership, officials and citizens shall assist the state authorities engaged in anti-terrorist activities.

They all obliged to provide to law-enforcement agencies the information and data on the event, which may help in identification and prevention of terror, as well as minimization of damage which may occur.

### **Article 7 Control of anti-terrorist operations**

For the purposes of direct and unified control of anti-terrorist operations, by the decision of relevant executive authority dependent on the requirement, the temporary (for the period of implementation of anti terrorist operation) operations center shall be established to control the anti-terrorist operations (hereinafter referred to as operations center) and person in charge is appointed.

Operational procedures of the operations center shall be regulated by the statute approved by the relevant executive authority.

Staff involved in anti-terrorist operations: military servicemen, associates and experts shall report to person in charge of the operations center since commencement of operation.

Person in charge of the operations center defined the operations zone, specifics of implemented antiterrorist operation, and makes decisions on use of attracted forces and sources.

Person in charge of the operations center adopts other decisions including the decisions limiting the rights of officials and citizens, to provide their partial and temporary provision of their security in the anti- terrorist operation zone.

Instructions of the person in charge of the operations center shall be implemented by all officials and citizens in the anti-terrorist operations zone.

During the anti-terrorist operation, nobody can interfere with actions of the person in charge of operations center or cancel his decisions, with exception of the head of relevant state authority.

#### **Article 8 Provision of forces and resources to anti-terror operations**

For the purposes of performance of anti-terror operations the operations center uses required forces and resources subordinated to relevant executive authorities, participating in anti-terrorist operations.

#### **Article 9 Legal regime of the anti-terror operations zone**

In the anti-terror operations zone, the persons performing the operation shall have the following rights:

- 1) if necessary, to apply measures temporarily limiting or restricting traffic of transport means and pedestrians on the streets and roads, restrict the access of transport to certain areas and facilities, restrict the towing of transports;
- 2) check identification documents of citizens and officials, and in the event of absence of such documents detain them in accordance with procedures and terms set by the legislation of the Azerbaijan Republic;
- 3) detain persons performing actions directed at interference of operations of anti-terrorist operations forces, and transfer them to relevant executive authority;
- 4) if during the arrest of suspects at the time of anti-terrorist operation, performance of such acts or postponement of them endangers the health and lives of people, enter into apartments and places of residence of citizens, their land, independent of the form of ownership, as well as to territories, buildings and transport means of entities, independent of the form of ownership in accordance with procedures set by the legislation of the Azerbaijan Republic;
- 5) in entering or leaving the anti-terrorist operations zone, survey with or without use of technical means and in accordance with procedures, establish by the legislation of the Azerbaijan Republic, citizens, their belongings, transport means and items in their transport means, with exception of transport means owned by diplomatic representations and consulates;
- 6) with exception of telecommunications and transport means of diplomatic representations or consulates, use for operational purposes telecommunications and transport means, owned by citizens, organizations, public unions, independent of their form of ownership.

Activities of mass media in the anti-terrorist operations zone shall be defined by the person in charge of operations center.

#### **Article 10 Negotiations with terrorist**

For the purposes of identification of opportunities for saving lives and property, as well as prevention of terrorist acts negotiations with terrorists shall be allowed.

Only persons authorized by the person in charge of the operations center shall be allowed to negotiate with terrorists.

During negotiations with terrorist as condition there is a prohibition passing of any person to terrorists against his will, execution of political requirements, as well as provision of weapons and other means application of which will endanger lives and health of people.

Negotiations with terrorists can not be the basis for their release from liability for committed actions, as per legislation of the Azerbaijan Republic.

#### **Article 11 Public disclosure about terrorist acts**

During operations implemented against terror, the public is informed about terrorist attacks in the form and to the extent established by the person in charge of the operations center or responsible representative of operations center for public relations.

Disclosure of following information is not allowed:

- 1) tactics and technical methods of anti-terror operation;
- 2) information endangering lives and health of people within or outside the anti-terrorist operations zone, interfering the anti-terror operation implementation;
- 3) information justifying or promoting terrorism;
- 4) about persons participating in anti-terror operation, as well as assisting in implementation.

#### **Article 12. Completion of anti-terror operation**

In prevention of terrorist attack or liquidation of threats to lives and health of people in the anti-terror operations zone, the operation shall be deemed complete.

Head of operations center shall announce the completion of operation.

### **Chapter III Compensation of damage incurred as a result of terrorist acts. Legal and social protection of persons involved in anti-terrorist activities**

#### **Article 13 Compensation of damage incurred as a result of terrorist acts, and social rehabilitation of victims**

Damage incurred as a result of terrorist attacked to property of natural persons and legal entities shall be compensated at complete value by state budget funds, and then this amount is withdrawn from persons responsible.

Under social rehabilitation of victims of terrorist attack shall be meant the legal, psychological, medical and professional aid, provision of jobs or living space.

Social rehabilitation of victims of terrorist attacks, as well as persons stipulated under Article 14 of this

Law shall be implemented at the expense of state budget.

Procedure for social rehabilitation of victims of terrorist attacks shall be defined by the relevant executive authority of the Azerbaijan Republic.

#### **Article 14 Legal and social protection of persons involved in anti-terrorist activities**

Persons engaged in anti-terrorist activities shall be protected by state. Legal and social protection measures shall be applied to following persons:

- 1) associates of the relevant executive authority who directly involved in anti-terrorist activities;
- 2) persons permanently or temporarily assisting state authorities in prevention, identification of terrorist activities and minimization of damage, which may incur as a result of such activity;
- 3) persons engaged in items 1 and 2 of this article, in the event of damage to their health in the course of execution of their duties or property of their family members.

Damage incurred to health or property of persons engaged in anti-terrorist activities shall be compensated in accordance with procedures stipulated under the legislation of the Azerbaijan Republic.

In the event of death during anti-terrorist operations of the associate, his family and dependents are paid the lump sum amount of compensation at the amount of hundred times of mean monthly salary, then such amount is withheld from persons responsible.

If person involved in anti-terrorist activity was injured(wound, trauma, concussion),, which cannot allow him to carry on with his duties the compensation shall be paid from state budget at the amount of ninety times of his mean monthly salary, and later this amount is withheld from persons responsible.

#### **Article 15 Exempt from liability for damage incurred**

In accordance with procedures of legislation of the Azerbaijan Republic the damage to lives, health and property of terrorists is allowed during anti-terrorist operations. Persons engaged in anti-terrorist activities shall not be liable for damages incurred during the operations.

#### **Article 16 Privileged calculation of years of service**

In calculation of the amount of pension for the employees of relevant executive authorities, serving in antiterrorist groups, years of service are calculated as follows: one day of service as two days of service and term of participation in anti-terrorist operations as follows: one day of service as three days of service.

### **Chapter IV Liability for involvement in terrorist activities**

#### **Article 17 Liability for involvement in terrorist activities**

Persons involved in terrorist activities shall bear liability in accordance with procedures stipulated under the legislation of the Azerbaijan Republic.

With consideration of interests of provision of human rights and freedoms, state and international security, persons committing terrorist attacks or involved in such attacks, independent of the place of planning or



implementation of such acts, in accordance with legislation of the Azerbaijan Republic, as well as intergovernmental treaties to which the Azerbaijan Republic is a signatory, shall be brought to criminal justice and shall be punished or issued for bringing to justice to foreign state.

#### **Article 18 Processing of cases related to terrorist activities**

Crimes related to terrorist activities, as well as cases on compensation of damage caused by terrorist acts, in accordance with legislation of the Azerbaijan Republic may be processed as closed court hearings by the decision of court (judge).

#### **Article 19 Liabilities of organizations for terrorist activities**

For involvement in terrorist activities the organization (its affiliate, representation), operating on the territory of the Azerbaijan Republic in accordance with procedures established by the legislation of the Azerbaijan Republic, can be liquidated on the basis of court decision.

In liquidation of organization, the involvement of which in terrorist activities is established in accordance with legislation of the Azerbaijan Republic, its property in accordance with legislation of the Azerbaijan Republic shall be confiscated and retained by state.

### **Chapter V Final Provisions**

#### **Article 19 Control over legality of anti-terrorist activities**

Control over legality of anti-terrorist activities is performed by the General Prosecutor of the Azerbaijan Republic and subordinated prosecutors.

The application to court for bringing of organization to justice for terrorist activities shall be submitted by the General Prosecutor of the Azerbaijan Republic and subordinated prosecutors.

#### **Article 20 International cooperation in the area of struggle against terrorism**

On the basis of intergovernmental treaties to which the Azerbaijan Republic is a signatory, contacts shall be maintained with foreign states, their law-enforcement agencies in the area of struggle against terrorism, as well as international anti-terrorist organizations.

#### **Article 21 Liability for violation of this Law**

Officials and citizens shall be liable for violation of this Law in accordance with procedures established under the legislation of the Azerbaijan Republic.

**President of the Azerbaijan Republic**

**Heydar Aliyev**

**City of Baku, 18 June 1999**

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1 September 2005 N2 977-IIGD («VneshExpertService»).

## **ANNEX VIII Law on Banks**

### **Extracts**

#### **Article 1. Key Definitions**

The definitions applied in this Law shall have the following meanings:

- **Bank**—legal entity, that attracts deposits and other returnable funds from individuals and legal entities, issues loans on its behalf and from its own funds, as well as makes transfers and cash settlements in aggregate at a client’s request.
- **Bank Holding Company** — company, that has one or more subsidiary banks with a banking license, the activities of which are regulated and supervised by the bank regulatory authorities of the country where the headquarters is domiciled.
- **Subsidiary Bank**— bank, more than fifty percent of voting shares in the charter capital of which is owned by the founder bank or the bank holding company, or such a bank, in which, in accordance with an agreement, by and between itself and the founder bank or the bank holding company, the founder bank or the bank holding company are authorized to influence significantly the decision making process.
- **Bank branch** — separate unit of the bank, which is not the legal entity, located outside the bank location, for the liabilities of which the bank itself is responsible, enabled to implement all or partial banking operations scope allowed to the bank.
- **Bank affiliate**— separate unit, which is not the legal entity, located outside the bank, for the liabilities of which the bank itself is responsible, which attracts deposits and/or conducts transfers, and cash settlements in the territory of the Republic.
- **Bank representative office** — separate unit of the bank, which is not the legal entity, located outside the bank, not entitled to be engaged in banking activities, that solely represents and protects its interests.
- **Non-bank credit institution** — legal entity that has the status of a non-bank credit institution under the law.
- **Bank license** — special permit issued in accordance with procedures herein, that provides exclusive rights to attract deposits or other returnable funds from individuals or legal entities, issue loans on its behalf and at its own expenses, as well as make transfer operations and cash settlements at a client’s request.
- **Bank loan (hereinafter — loan)** — monetary asset, issued as a debt for a fixed amount with or without securitization, subject to repayment of interest (commissioning fees) at a predetermined time (with the right of prolongation of the term) in accordance with the signed contract. The term “loan” also includes another right, related to requirement of repayment of any undertaken liability on repayment of funds, guarantee, warranty, purchase of debt securities at discount or through interest repayment and repayment of funds, issued in any form or under the terms and conditions herein.
- **Deposit** — funds, deposited or transferred to current, savings (deposit) or other account on bank's balance, stipulating the repayment of or transfer to another account at the requirement of a client (depositor) with or without payment of interest or commissioning fees under terms and conditions of an appropriate contract.
- **Qualifying holding** — direct or indirect ownership of shares, containing 10 or more of shareholder capital or voting shares, or entitling to influence significantly the decision making of the legal entity, which is the party to the contract.

■ Administrator- members of Supervisory Board, Audit Committee and Management Board of a bank, as well as chief accountant of the bank (head of accounting service), employees of internal audit division, managers and chief accountants of branches, affiliates and representative offices of a bank.

■ Affiliated person — bank’s administrators, heads of structural units, other employees

participating in the decision making, and the persons they are closely related to (spouses, parents, including parents of spouse, grandparents, children, including those legally adopted, brother and sister); any person with qualifying holding in a bank, or a legal entity, in which the bank has qualifying holding, and any person that has the qualifying holding in the legal entity herein, as well as chief executive officers of the legal entities with such qualifying holding.

■ Persons acting on behalf of an affiliated person, entitled to act on behalf of the related party on the basis of an agreement made by and between them; legal entity, which can significantly be influenced by a related party; a representative of the person, related to the bank.

■ Clearing—process of reformation of claims and liabilities, formed on payment amounts, transferred to one or several participants of payment systems or received from them, into one net claim or net liability, representing their difference.

■ Word «local» with respect to a bank, branch or representative office means the bank, branch or representative office major operations of which are performed in the territory of the Republic of Azerbaijan.

■ Word «foreign» with respect to a bank, branch or representative office means a bank, branch or representative office, major operations of which are performed outside the territory of the Republic of Azerbaijan.

■ Credit institution—bank, local branch of foreign bank or non- bank credit institution.

■ Fit and proper person - individual, who is civilly impeccable, as well as who is found honest and trustful for his/her social position, whose qualifications, experience, business interests allow him/her to maintain a qualifying holding in the bank, to be an administrator, temporary administrator and liquidator;

■ Civil impeccability shall be defined as the absence of criminal conviction for deliberately performed crimes by the owners of qualifying holdings, if it is a legal entity, management of its executive authorities, as well as management of bank’s subsidiaries; for administrator, temporary administrator and liquidator- absence of conviction, absence of criminal records on grave crimes against property or for economic activities, absence of restrictions by the court order, for holding of the position or engagement in professional activities, absence of the fact on insolvency announcement by the court.

■ Prudential- method of deliberate behavior, management and control, which is based on norms, rules, requirements and instructions directed at bank’s safe performance.

■ Bank’s aggregate capital (own funds) —the capital used for the purposes of prudential reporting, difference between the amount of components (elements), included to Tier I capital (main) and Tier II (additional), established by regulatory acts of the Central Bank and deductions there from.

## **Article 5. Participation of foreign capital in the banking system of the Republic of Azerbaijan**

5.1. The limit of participation of the foreign capital in the banking system of the Republic of Azerbaijan shall be established by the Central Bank.

5.2. The limit of participation of foreign citizens and foreign legal entities in local banks, with the exception of foreign banks or foreign bank holding companies, shall be established by the Central Bank.

5.3. The Central Bank may receive the necessary information for implementation of its supervisory functions for regulation and supervision of local subsidiary banks, branches and representative offices of foreign banks and foreign bank holding companies, as well as foreign branches and representative offices

of local banks on the basis of cooperation with relevant foreign bank regulatory and supervisory authorities not contradicting the legislation of the Republic of Azerbaijan (including respective international treaties to which the Republic of Azerbaijan is a signatory). The Central Bank may exchange information with foreign banks' supervisory and regulatory authorities through maintenance of confidentiality of the data herein. For these purpose the Central Bank may enter into cooperative agreements with foreign banking regulatory and supervisory authorities.

5.4. Foreign citizens and foreign legal entities as well as foreign banks and foreign bank holding companies, registered in offshore zones, the list of which is established by the Central Bank, may not be founders or shareholders of local banks, as well as set local subsidiary banks, open local branches and representative offices.

#### **Article 10. Requirements for administrators**

10.1. Administrators of banks, their branches, divisions, representations and local branches and representations of foreign banks shall be fit and proper persons.

10.2. The following persons shall not be administrators of banks, their branches, representative offices and local branches and representative offices of foreign banks:

10.2.1. administrator, who participated in the process of setting the business strategy and decision making in the bank, that was liquidated or announced insolvent in a mandatory order due to deterioration of the financial position and violation of prudential requirements, within the previous year from the date of decision on liquidation or bankruptcy (such persons may not be administrators in other bank for the period of three years);

10.2.2. persons, dismissed from the position of administrator of any bank, branch, or division under the claim by the Central Bank for his/her replacement with other persons for the period of not less than three years (except for the persons, to whom a court decision on reinstatement of his/her position is put in force);

10.2.3. persons, who are deprived of the right to be bank administrators in accordance with the procedures of the legislation;

10.2.4. persons, who are the members of other management bodies of the bank (with the exception of the general meeting of shareholders);

10.2.5. persons, taking other positions in the bank, excluding members of the board;

10.2.6. for the member of Supervisory Board — persons, who are the members of more than three legal entities or management authorities of any other bank;

10.2.7. for the members of Management Board, chief accountants (head of accounting service), head of internal audit unit, manager and senior accountant of the branch, bank department - persons, holding positions in other banks, local branches of foreign banks, other legal entities, including legal entities, related to the bank (with the exception when they are the members of Supervisory Board in other banks and legal entities in which the bank has the owning share);

10.2.8. persons who are the relatives of the bank administrator, his/her spouse, parents, including the parents of spouse, grandparents, children, including adopted children, brother and sister (with the exception of bank branch administrators);

10.2.9. persons, serving in state authorities or municipal bodies (with the exceptions stipulated under the legislation).

10.3. The Administrator shall be appointed to the position upon compliance with the following requirements:

10.3.1. for the chairman and members of Supervisory Board, Audit Committee of the bank - higher education in economics or law, or work experience, which allows, irrespective the educational background, to participate in the process of defining the financial strategy and decision making in financial entities;

10.3.2. for the chairman and members of Management Board, as well as heads of internal audit units and bank branches —higher education in economics or law and minimum 2 years of work experience in the banking system, or higher education and minimum 4 years of work experience in the banking system;

10.3.3. for the chief accountant of the bank and bank branch (head of accounting service)

—higher education in economics and minimum 2-years of work experience as an accountant in the bank or special education and minimum 5 years of work experience as an accountant, including minimum 2 years of work experience in the banking system. These requirements shall also be applicable to the deputy chief accountant, who has the signature authority.

10.3.4. for the bank branch administrator- higher or secondary special education and 6 months of work experience in banking.

10.4. The bank or a foreign bank with a local branch, shall send a written notification to the Central Bank on all implied appointments and changes, to the position of the bank administrator or the local branch of the foreign bank. The notification shall be attached with the information and documents, stipulated under Articles 8.2.8, 9.3.10 and 11.3.5 herein in relevant cases. Central Bank shall issue its attitude with respect to the notification to the bank or the local branch of the foreign bank within 30 calendar days, and fix the time for qualification testing of administrators. If the applicant shall not receive a notification within this time, the incumbent of administrator shall be considered as approved.

If the appointments stipulated for the position of the administrator shall not be in harmony with the legislation, the Central Bank may require their replacement.

Bank's Board Members, head of internal audit department, chief accountant of the bank (head of accounting services) and his/her deputies, holding a signature authority, as well as heads and chief accountants (head of accounting service) of local branches of domestic and foreign banks and their deputies, holding a signature authority, shall be certified in the Central Bank. Upon approval by the Central Bank on these appointments, administrators may get down to implementing their duties.

The Central Bank shall determine the rules for certification.

10.5. Requirements implied in this article shall be applicable to the entire period of activities of the bank and local branches of foreign banks.

#### **Article 15. Registry of banking licenses and permits**

15.1. The Central Bank shall maintain the centralized registry of banks, branches, divisions and representative offices available to public. The Registry shall include the names, addresses of banks, branches, divisions and representative offices, information on administrators, registration numbers and dates of issue or revocation of licenses and permits, data on banks, branches, divisions and representative offices the activities of which are terminated.

15.2. Banks shall send a written notification to the Central Bank on changes to data, included to the registry within five calendar days.

#### **Article 22. Restriction of qualifying holdings in bank's charter capital**

22.1. Any person shall be entitled to obtain the majority of shares in the charter capital of the bank, including the shares in addition to those that he/she already holds, obtaining of pre-dominant shares, as well as increasing the majority of shares which would result in achievement or surpass of 20 percent, 33 percent, 50 percent of voting shares, or charter capital, or resulted in transformation of a bank into a subsidiary structure of this person in accordance with the procedures herein.

22.2. The bank, that received information that the person with qualifying holding in capital, has bought or increased qualifying share in the capital of another legal entity, shall immediately submit a written notification to the Central Bank.

22.3. The bank, that obtained information that any person has bought or increased qualifying holding in the capital of the legal entity with majority of shares in bank's capital, shall immediately notify the Central Bank in writing.

22.4. The competent authority of the bank, shall submit the following documents to the Central Bank in order to obtain a qualifying holding stipulated in article 22.1 herein, together with an application and a decision :

22.4.1. if this owner is a legal entity:

22.4.1.1. Name, address, type of commercial activity of the legal entity, audited financial statements, covering at the minimum past three fiscal years (if the age of the legal entity is less than three years, last fiscal years) and auditor opinions, as well as an approved copy of the decision of the competent management authority, allowing to purchase the implied participation share of this person;

22.4.1.2. the list of managers and executive managers of this legal entity and statement on civil impeccability, signed by each executive, and approved by a notary;

22.4.1.3. foreign legal entities, in addition to the above documents, shall submit the following documents, legalized in accordance with the legislation:

- Document verifying the registration in its home country, charter (statute), audited financial statements for the minimum period of previous three fiscal years and auditor's opinion;

- If the executive is a foreign citizen, a note on existence or absence of criminal conviction, issued by the executive authority of his/her home country;

22.4.1.4. if the person is a foreign bank, an additional note, issued by the regulatory and supervisory banking authority of its home country, verifying the existence of a bank license to conduct bank activities, related to attraction of deposits and other reimbursable assets from individuals and legal entities in this country, and its consent to purchase a participation share in the organization;

22.4.2. if the person is an individual:

22.4.2.1. first, middle and last name and citizenship, data on an identification document, and another document confirming his/her identity, data and documents reflecting the type of activity, legal entities under his/her ownership and control, and the type of their occupation, signed and notarized statement on his/her civil impeccability;

22.4.2.2. if an individual is a foreign citizen, in addition to the above data and documents, a note on existence or absence of his/her criminal conviction, issued by the relevant authorities of his/her home country, and references from one or more financial organizations and/or extracts from bank accounts;

22.4.3. data on the amount of qualifying holding of this person in the capital of banks or other legal entities;

22.4.4. data on the amount of qualifying holdings of banks' or other legal entities' in this person's capital;

22.4.5. key directions of activities of legal entities, specified in Articles 22.4.3 and 22.4. herein, and addresses of their headquarters.

22.5. The Central Bank, in accordance with Article 22.4 of this Law, shall review the submitted application within 90 calendar days. If within this period the Central Bank shall not provide a written notification to the bank, the application shall be deemed as approved. The Central Bank may reject the issuance of permits in following instances:

- 22.5.1. if the documents stipulated in Article 22.4 herein are not submitted completely;
- 22.5.2. if managers of executive authorities of the legal entity are not fit and proper persons;
- 22.5.3. if an individual is not a fit and proper person;
- 22.5.4. if the financial status of the legal entity is not satisfactory to purchase a qualifying holding;
- 22.5.5. if the bank is re-organized into a subsidiary structure of a foreign legal entity, which is not a bank or a bank holding company as a result of purchase of the participation share;
- 22.5.6. if the banking regulatory and supervisory authority of the foreign country shall not permit the foreign bank or the foreign bank holding company to re-organize the bank into their subsidiary structure;
- 22.5.7. if the Central Bank shall fail to fulfill supervisory functions, as a result of purchase of the participation share due to the fact, that the foreign bank or the foreign bank holding company to be related to the bank shall not be properly supervised in their home countries or supervisory authorities of that country refuse to cooperate.
- 22.6. The permit issued by the Central Bank, shall indicate the deadline for the qualifying holding to be purchased.
- 22.7. If any person shall purchase such participation share without a preliminary consent, the Central Bank shall issue a written instruction to that person on liquidation of his/her share purchased without permission until the established date.
- If the deadline, established for purchasing of majority of participation shares, shall not be complied with, the Central Bank, upon the expiry of this term, shall issue a written instruction to that person on liquidation of that share until the established date.
- The voting right of those persons in the part to be liquidated, shall not be considered at the meetings of the general meeting of shareholders.
- 22.8. Any person, with the majority participation shares in the bank's capital shall notify the Central Bank to that end in writing, before reduction of his/her voting shares or his/her share in charter capital to the level below 20 percent, 33 percent or 50 percent,.
- 22.9. Banks, as soon as they are notified on purchasing or cancellation of any shares, resulting in reduction or increase of shares in their capital, compared to what is indicated in Articles 22.1 or 22.8 herein, shall inform the Central Bank to that end. Banks also, not less than twice a year, shall inform the Central Bank in writing on their major shareholders, their addresses, and data on the size of these persons's shares.
- 22.10. The Central Bank shall apply to the court on alienation or re-call by the bank of shares of the person, that has the majority shares in bank's capital in the event of the following facts:
- 22.10.1. if any of the heads of executive authorities of the legal entity or an individual is not a fit and proper person;
- 22.10.2. in the event of influence on a bank to the extend, when it threatens financial soundness of the bank or its reliable management;
- 22.10.3. in the event of revocation of the bank license of the bank or the foreign bank holding company;
- 22.10.4. if the banking regulatory and supervisory authorities of the home country shall fail to ensure proper supervision of the foreign bank or the foreign bank holding company, or they refuse to cooperate with the Central Bank in this area.
- 22.11. The court shall review the application of the Central Bank, submitted under Article 22.10 herein, not later than 30 calendar days.

## **Article 25. Supervisory Board**



25.1. The authorities of the Supervisory Board of the Bank shall include:

25.1.1. oversee management and activities of the bank, including receive reports from Management Board;

25.1.2. issue recommendations for general meeting of shareholders and the Board;

25.1.3. call each general meeting of shareholders via sending notifications and approve an agenda for each meeting, with the exception of extraordinary meetings, held at the request of shareholders, as well as the Audit Committee and the Board under their agenda;

25.1.4. in the event of revealing violation of the existing legislation by the bank, notify the general meeting of shareholders, Audit Committee and Management Board to that end, and submit a notification to the Central Bank on violations of the requirements of the banking legislation and the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism;

25.1.5. in accordance with this Law dismiss Board members from their positions, temporarily replace them with other persons, complying with the requirements of Article 10 herein until approval of new members by the general meeting of shareholders,;

25.1.6. manage and represent the bank in the event of conflict of interests between the bank and one or more of the board members;

25.1.7. adopt regulations and internal statutes, necessary to ensure reliable and prudential bank management, as well as develop and apply an internal control system to fight legalization of criminally obtained funds or other property and the financing of terrorism;

25.1.8. take decisions on establishment of bank's capital reserves;

25.1.9. permit conduction of relevant transactions on behalf of the bank at the value exceeding 50 percent of bank's charter capital, and in the cases implied in the bank's charter;

25.1.10. approve the execution of transactions with related parties and persons acting on behalf of related parties;

25.1.11. take decisions on detailed or segmental inspection of bank operations;

25.1.12. review findings of internal and external audits, as well as examinations of the Central Bank and take measures with respect to findings of these examinations;

25.1.13. other authorities stipulated herein, in bank's charter and regulatory documents of the Central Bank.

Supervisory Board, before the execution of authorities stipulated in Article 25.1.6 herein, shall send a written notification to the Central Bank with indication of foundations and call an extraordinary meeting of the general meeting of shareholders. The Central Bank may express its attitude with respect to the decision of Supervisory Board.

Decisions of the Supervisory Board adopted on the basis of Articles 25.1.5, 25.1.6 and

25.1.8 herein, shall be included to the agenda of the general meeting of shareholders and discussed.

25.2. Supervisory Board of the bank shall consist of odd number members, with the minimum membership of three persons. Members of the Board are individuals, appointed by the general meeting of bank's shareholders for the period of not more than 4 years from among the shareholders and/or third parties. Board members may be re-elected for additional terms. The general meeting of shareholders shall appoint a chairman from among the members of Supervisory Board. Compensation for the members of

Supervisory Board may be fixed at the general meeting of shareholders in the form of interest from bank's retained earnings or in the form of salary.

25.3. Individuals, not complying with the requirements of Article 10 herein, may not be the members of Supervisory Board and at the decision of the general meeting of shareholders should be released from the duties of the members of Supervisory Board.

25.4. Supervisory Board shall be deemed competent when more than half of its members assemble. The procedure for calling meetings shall be established in bank's charter or Statute on the Supervisory Board.

25.5. Meetings of Supervisory Board shall be held at least once in three months. Protocol on results of meetings shall be developed under the Civil Code of the Republic of Azerbaijan.

25.6. Decisions of Supervisory Board shall be taken by a simple majority of votes of members, participating in the meeting. Each member shall enjoy the right for one vote. No abstaining by members shall be allowed. In the event of equal votes, the vote of Chairman of Supervisory Board shall be deemed decisive.

#### **Article 27. Audit Committee and internal audit**

27.1. Every bank shall have an independent Audit Committee and internal audit unit (department, division etc.).

27.2. The competence of Audit Committee shall include:

27.2.1. set auditing policy and strategy of the bank;

27.2.2. approve internal audit plans and oversee the audit unit;

27.2.3. issue proposals to bank's competent management authorities with respect to designation of external audit;

27.2.4. ensure joint operation with external auditors, assist in implementation of findings and recommendations of audit;

27.2.5. maintain contacts between bank's management authorities and external auditors, as well as supervisory authorities;

27.2.6. deliver proposals to the general meeting of shareholders and Supervisory Board on improvement of internal control systems;

27.2.7. other authorities, stipulated in regulatory documents of the Central Bank.

27.3. Bank's Audit Committee shall consist of odd number of members, not less than three persons. Members of the Committee shall be designated by the general meeting of shareholders of the bank for the period of not more than 4 years. Committee members can be re-elected for an additional term. A general meeting of shareholders shall appoint one of the members of the Committee as Chairman of the Committee. The general meeting of shareholders may fix compensation for the members of Audit Committee in the form of salary.

27.4. Individuals, who fail to meet the requirements of Article 10 herein may not be members of Audit Committee and at the decision of the general meeting of shareholders shall be released from the duties of members of Audit Committee.

27.5. An Audit Committee meeting shall be deemed competent when over half of its member shall assemble. The procedure for calling meetings shall be established in the Statute on Audit Committee.

27.6. Decisions of Audit Committee shall be taken with a simple majority of votes of the members, participating at a meeting. Each member shall be entitled to one vote, and no abstained voting shall be allowed. In the event of equal votes, the vote of Committee Chairman shall be decisive.

27.7. Internal Audit unit (department, division etc.) shall function under the control of Audit Committee and ensure ongoing oversight over efficiency of activities of the internal control and risk management systems jointly with executive authorities of the bank.

27.8. Manager and employees of Internal Audit Department shall be appointed and dismissed by bank's Supervisory Board upon representation from Audit Committee.

27.9. Performance standards and procedures of Bank's Audit Committee and internal audit unit shall be established by the Central Bank.

### **Article 31. Requirements for reliable bank operations**

31.1. Banks shall implement the management and current operations in a reliable and prudential manner in accordance with the requirements of the Constitution of the Republic of Azerbaijan, the Civil Code of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, other legislative acts, as well as this Law, regulatory acts of the Central Bank, bank's Charter, all limitations, specified in the banking license or permit.

31.2. Banks shall permanently maintain aggregate capital and liquid reserves in accordance with the established procedures, take necessary actions against price fluctuations of assets to implement their liabilities and avoid losses, maintain records and other accounting documentations in the statutory order, form and apply control mechanisms over the bank operations, provide the diversification (allocation) of assets for maximum reduction of loss risks.

### **Article 32. Types of banking activities**

32.1. Banks, unless it is restricted by the bank license obtained from the Central Bank, may be engaged in the following activities:

32.1.1. attract demand and term deposits (savings) and other reimbursable funds;

32.1.2. issue loans (secured and/or unsecured), including consumer and mortgage lending, factoring with and without the right of regress, forfeiting, lease services and other types of lending;

32.1.3. open and maintain accounts of individuals and legal entities, including correspondent accounts of banks;

32.1.4. clearing, cash paying and receiving services, transfer of funds, securities and payment instruments;

32.1.5. issue payment instruments (including credit and debit cards, traveler checks and bills of exchange);

32.1.6. purchase and sell financial assets (including checks, bills of exchange, debt liabilities and deposit certificates), foreign currency, precious metals and precious stones, currency and interest instruments, shares and other securities, as well as forward contracts, swap agreements, futures, options and other derivatives, related to currency, shares, bonds, precious metals or interest rates at its own expense or at the expense of its clients;

32.1.7. attract and allocate precious metals as deposits;

32.1.8. issue guarantees, including warranties to implement liabilities or open letters of credit at own expenses or at the expense of clients;

32.1.9. professional activities at securities market;

32.1.10. provide financial consulting, agent and advisory services;

32.1.11. provide information and services on loans and checking creditability;

32.1.12. accept documents and valuables, including monetary funds for storage (store in special rooms and safes);

32.1.13. collection and transportation of valuables, including banknotes and coins;

32.2. Banks, in addition to the activities enumerated in Article 32.1 herein, may also be involved in the activities in other laws, with the exception of activities stipulated in Article 33 herein.

32.3. If an additional special permit (license) shall be required for any type of activity, specified in Article 32.1 herein, in accordance with the legislation, banks may be engaged in such activities only upon obtaining a relevant special permit (license).

#### **Article 41. Bank secrecy**

41.1. In accordance with the Civil Code of the Republic of Azerbaijan, the bank shall ensure confidentiality of bank accounts, operations and residues on the account, as well as client information, including name, address and management. Bank shall maintain confidentiality of data on existence of client property in the bank's depository, data on owners of such property, its type and value.

41.2. In accordance with the Civil Code of the Republic of Azerbaijan, the data comprising bank secrecy shall be provided only to clients themselves or their representatives, as well as to inspectors of the Central Bank in performance of their duties

on banking supervision, external auditors, to insurance supervision authority with respect to state control over insurance activity of insurance companies, to financial monitoring service in the cases specified in the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, as well as to the credit registry in accordance with this Law. Such data may be delivered to public authorities and their officials may be provided only under the valid court decision related to prosecution of a criminal case, seizure on client's funds and property in the bank's depository, confiscation of property for compensation of client's liabilities. Due to direction of implementation documents to enforced execution, data on balance of client accounts shall be submitted to court officers on the basis of the data received from the sources determined under the legislation. In the event of occurrence of an insurance case implied in the Law of the Republic of Azerbaijan on Deposits Insurance, the data on depositors shall be delivered to the Deposits Insurance Fund in the order specified in the legislation.

Data on a bank account and bank operations of any legal entity or private entrepreneur, that are taxpayers serviced by the bank, shall be submitted to tax authorities only in the cases and in accordance with the procedures stipulated in the Tax Code of the Republic of Azerbaijan.

Data on funds inflown to and outflow from a special election account, shall be submitted to the Central Election Committee in accordance with the procedures stipulated in the Election Code of the Republic of Azerbaijan.

41.3. In the event of death of owners of accounts or deposits, notes on their accounts and deposits shall be submitted to notaries on heritage cases under their execution, as well as consular departments, implementing relevant notary actions.

41.4. In accordance with a contract between the Central Bank and a banking regulatory and supervisory authority of the foreign countries, if the object of data exchange is the data on subjects performing activities or getting prepared to perform activities in the territory of a relevant state, such data shall not be deemed disclosure of banking secrecy, provided that such data may not be submitted to third parties and may be used for banking supervision purposes only.

41.5. Bank's current and former administrators and other employees, as well as bank's shareholders shall bear civil, administrative and criminal liability in accordance with the procedures stipulated in the relevant legislation of the Republic of Azerbaijan with respect to illegal disclosure of data comprising banking secrecy made available to them in connection with administrative or employment duties in the bank.

41.6. In the event the data containing bank secrecy shall be illegally disclosed by the bank, the clients, whose rights have been violated, may require compensation for the losses incurred from the bank in accordance with the Civil Code of the Republic of Azerbaijan.

## **Article 42. Prevention of legalization of criminally obtained funds or other property and the financing of terrorism**

42.1. Credit institutions shall deliver data on funds and other transactions to be monitored with respect to legalization of criminally obtained funds or other property and the financing of terrorism to the financial monitoring service, develop and apply their internal control system, ensure other measures specified in the laws of the Republic of Azerbaijan and international pacts seconded by the Republic of Azerbaijan.

Credit institutions shall take measures on identification of a client, beneficiary and authorized representative, as well as verification of the identity data obtained thereon, and comply with the requirements on documentation and maintenance of the data in the cases and under the order specified in the legislation.

No anonymous accounts, including anonymous deposit accounts, may be opened, and anonymous deposit certificates issued.

42.2. Requirements other than those stipulated in Article 42.1 herein shall be established through the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds and the Financing of Terrorism and other normative acts of legal nature.

## **Article 46. Reports from banks and supervision of their activities**

46.1. In order to evaluate the bank's financial standing, the bank shall submit to the Central Bank prudential reports and statistical banking reports of its own and subsidiary economic unions separately and on a consolidated basis. Local branches of foreign banks shall also submit relevant reports to the Central Bank. The format, content and rules for submission of prudential reports and banking statistics reports shall be determined by the Central Bank.

46.2. Banks and local branches of a foreign bank shall be audited on site once a year only by examiners of the Central Bank or external auditors, appointed by the Central Bank. If there is a threat of loss of banking assets, as well as for the purposes of identification of facts of violation of the legislation, the Central Bank may conduct additional examinations in banks and local branches of foreign banks. The examination team may also include, on the basis of cooperation, employees of the banking regulation and supervision authorities of other banks, with which the Central Bank has entered into agreement on cooperation for auditing. Procedures for examinations shall be established by decisions of the Central Bank.

46.3. In accordance with Articles 46.1 and 46.2 herein, the Central Bank and its appointed auditors shall have the following authorities:

46.3.1. to have access to any bank, its branch, department, subsidiary economic units, as well as local branches of foreign banks and review their reports, accounting books, documentation and other records, and require explanations thereon;

46.3.2. require from administrators, employees and agents of the bank, its subsidiary economic units, persons with qualifying holdings, related parties and persons, acting on behalf of related parties, branch, department of the bank and a local branch of the foreign bank submission of all necessary data on any issue, related to management and current activities of these structures, including customer operations.

46.4. Local representative office of a foreign bank shall submit to the Central Bank reports on their management procedures and reports on current activities, to show that its activities are in harmony with the requirements of the legislation and its Charter. The format, content and procedure for reports' submission shall be established by the Central Bank.

In order to clarify report data, inspectors of the Central Bank may provide on-site examination of the representative office of the foreign bank.

46.5. The bank, its subsidiary economic units, branch and division, local branch and a representative of the foreign bank, shall provide necessary conditions and organizational and technical facilities for the Central Bank's examiners or their appointed auditors when implementing these duties.

46.6. The Central Bank shall not be authorized to conduct examinations in banks and local branches of foreign banks, receive their reporting or data at the request of other persons, with the exception of enquiries under the cooperation arrangements from foreign banking regulatory and supervisory authorities, as well as in cases of valid court orders.

46.7. The relevant executive authority implementing the tax control in the Republic of Azerbaijan may inspect the activities of the bank and local branches of foreign banks only as taxpayers. During examinations, data and documents may be received only in accordance with the rules established under the Tax Code of the Republic of Azerbaijan for disclosure of the data representing the bank secrecy.

## **Chapter VI. Enforcement measures and sanctions against banks**

### **Article 47. Enforcement measures applied to banks**

47.1. In the event the Central Bank shall detect that the bank violates prudential norms and requirements, implements its activities through violation of the requirements of this Law, the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism and legal documentation of the Central Bank, and violates limitations, included to the banking license or permit issued by the Central Bank, or other grounds, capable to result in such violations, depending on the nature of violation, the Central Bank shall be entitled to impose one of the following enforcement measures to banks depending on the nature of the violation:

47.1.1. Request a commitment letter from the bank on elimination of violations;

47.1.2. enter into an agreement with the bank;

47.1.3. issue instructions to the bank;

47.2. in the event the Central Bank shall request a commitment letter from the bank on elimination of violations or facts, to cause violations, the letter submitted by the bank to the Central Bank, shall contain measures, to be taken by the bank to eliminate deficiencies, and the term for their implementation.

47.3. The agreement made by and between the Central Bank and the bank, shall establish urgent measures for elimination of detected deficiencies and priority measures to be applied.

47.4. The instruction of the Central Bank, obligatory for the bank, shall contain a written instruction to the bank on execution of corrective measures, indicated in Article 48 herein, and terms for correction of deficiencies.

When imposing corrective measures, aimed at remediation of the financial standing of the bank, the bank shall submit a plan on implementation of measures in accordance with the issued instructions to the Central Bank within two weeks.

Court appeal on the obligatory instruction of the Central Bank shall not suspend execution of such an instruction.

47.5. Bank shall inform the Central Bank on execution of a relevant commitment letter, agreements and instructions, specified in Articles 47.2, 47.3 and 47.4 herein within the terms specified in those documents.

**Article 48. Corrective actions applied to banks**

48.1. The Central Bank may impose the following corrective actions to the bank in accordance with Article 47 herein:

48.1.1. Limit or suspend implementation of certain banking activities;

48.1.2. temporary removal of administrators;

48.1.3. terminate banking operations and transactions with related parties and persons acting on behalf of related parties;

48.1.4. limit receiving deposits;

48.1.5. limit or suspend attraction of funds from sources other than the funds attracted from founder banks, subsidiary banks or local branches of foreign banks;

48.1.6. limit, suspend or liquidate acquisition of shares in the capital of other legal entities;

48.1.7. stop opening new branches and departments or suspend activities of existing branches and departments, or terminate their activities;

48.1.8. suspend financial privileges;

48.1.9. tighten rules and terms and conditions to issue loans and attract deposits;

48.1.10. request increase in capital;

48.1.11. request establishment of capital reserves from profits;

48.1.12. depending on the quality of assets, request establishment of special reserves and/or reduction of charter capital to the volume of the bank's loss amount;

48.1.13. suspend issuance of guarantees (warranties) on liabilities of other persons;

48.1.14. limit or suspend payment of dividends;

48.1.15. introduce changes to bank's procedures for operations and internal control;

48.1.16. request calling an extraordinary general meeting of bank's shareholders.

48.2. Corrective actions, specified in Article 48.1 herein, may be applied separately or simultaneously.



## **Article 49. Sanctions**

49.1. The Central Bank, in cases stipulated in Article 47.1 herein, along with the corrective actions stipulated in Article 48.1 herein, may also impose the following sanctions on banks:

49.1.1. apply fines and penalties to the bank and bank administrators, as per the Code of Administrative Offences of the Republic of Azerbaijan;

49.1.2. dismiss administrators from their positions.

49.2. In the event the Central Bank shall impose the sanction, stipulated in Article

49.1.2. herein, the dismissal of the bank administrator from his/her position shall be executed immediately under the decision of the competent management authority of the bank.

49.3. The Central Bank may decide to revoke the banking license on the basis stipulated in Article 16 herein.

49.4. Imposing of sanctions shall not release the bank from fulfillment of liabilities before creditors, including bank customers, and bank administrators (with the exception of those dismissed from their duties) from implementation of their duties.

**ANNEX IX Regulation on determination of the list of countries (territories) that are suspected in either legalization of criminally obtained funds**

**Ordinance of the Cabinet of Ministers On adoption of the Regulation on determination of the list of countries (territories) that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal drug dealership and other psychotropic substances production or circulation thereof, or the countries (territories) that do not require disclosing identification information when conducting financial transactions**

**ORDINANCE № 123**

**Baku, 25 June 2010**

In order to provide the implementation of item 1.3 of the Decree # 241, dated March 17, 2010, of the President of the Republic of Azerbaijan «On application of the Law of the Republic of Azerbaijan «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism», **Cabinet of Ministers hereby order the following:**

«Regulation on determination of the list of countries (territories) that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal drug dealership and other psychotropic substances production or circulation thereof, or the countries (territories) that do not require disclosing identification information when conducting financial transactions» shall be approved (attached).

**A. Rasi-zade**

**Prime-minister of the Republic of Azerbaijan**

## REGULATION

### **on determination of the list of countries (territories) that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal drug dealership and other psychotropic substances production or circulation thereof, or the countries (territories) that do not require disclosing identification information when conducting financial transactions**

Current Regulations were elaborated in accordance with the Law of the Republic of Azerbaijan «On prevention of the legalization of criminally obtained funds or other property and financing of terrorism» and paragraph 1.3 of the Decree # 241, dated 17 March 2010, of the President of the Republic of Azerbaijan «On application of the Law of the Republic of Azerbaijan «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism».

Current Regulations envisage the rules of determination of the list of countries (territories) that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal drug dealership and other psychotropic substances production or circulation thereof, or the countries (territories) that do not require disclosing identification information when conducting financial transactions (hereinafter – list of countries).

The list of countries shall be determined by the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter – Financial Monitoring Service) in coordination with the Ministry of Foreign Affairs of the Republic of Azerbaijan (hereinafter – Ministry of Foreign Affairs) on the basis of one or more of following criterions:

implementation of sanction, embargo or any other relevant measure either by the United Nations or other specialized international or regional organizations in respect of a country (territory);

declaration by the FATF, MONEYVAL Committee of the Council of Europe, other FSRBs, other specialized international or regional organizations of lack of country's (territory's) AML/CFT legislation, either partly or fully non-correspondence of such legislation to international standards;

declaration by the OECD and IMF, other specialized international or regional organizations of not requiring to disclose identification information when conducting financial transactions by the country (territory);

declaration by the UN, or other specialized international or regional organizations of high risk of financing or maintenance of terrorist activity in the country (territory);

declaration by the UN, Council of Europe, OSCE or other specialized international or regional organizations of maintenance of transnational organized crime, armed separatism, extremism and mercenary by the country (territory);

declaration by the UNODC or other specialized international or regional organizations of high risk of drug or psychotropic substances trafficking in the country (territory).

Within the process of elaboration of the list of countries, criterions not envisaged in the paragraph 3 of current Regulations can be considered in exceptional circumstances, by taking into account state interests of the Republic of Azerbaijan or principle of reciprocity for relations with foreign states.

If there is no consent of the Ministry of Foreign Affairs for inclusion of any country into the list, the Ministry shall submit its reasonably founded opinion in writing to the Financial Monitoring Service within one month. If there is no feedback from the Ministry of Foreign Affairs within the above mentioned period, the list shall be considered as agreed.

The list of countries shall be published in the official newspaper after being approved, placed at the official websites of the Financial Monitoring Service and Ministry of Foreign Affairs and sent to monitoring entities and other persons involved in monitoring either directly or via relevant supervision authorities.

Monitoring entities and other persons involved in monitoring should examine the background and purpose of transactions with the countries envisaged in the list that have no apparent economic or visible lawful purpose and establish their findings in writing. These findings shall be available for the Financial Monitoring Service, supervision authorities and other competent agencies, whenever needed.

**ANNEX X Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions**

**Ordinance of the Cabinet of Ministers On adoption of the Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party**

**ORDINANCE № 124**

**Baku, 25 June 2010**

In order to provide the implementation of paragraph 1.3 of the Decree on 17 March 2010, # 241 of the President of the Republic of Azerbaijan «On application of the Law of the Republic of Azerbaijan «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism», **Cabinet of Ministers hereby order the following:**

«The Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party» shall be approved (attached).

**A. Rasi-zade**

**Prime-minister of the Republic of Azerbaijan**

## **REGULATION**

### **on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party**

#### **I. General provisions**

This Regulation has been developed in accordance with the Law of the Republic of Azerbaijan «On prevention of the legalization of criminally obtained funds or other property and the financing of terrorism»; Decree on 17 March 2010, # 241, of the President of the Republic of Azerbaijan «On application of the Law of the Republic of Azerbaijan «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism»; Decree on 11 May 2002, # 920, of the President of the Republic of Azerbaijan «On Action Plan to provide implementation of the UN Security Council Resolutions on 12 September 2001, #1368, on 28 September 2001, #1373, on 12 November 2001, #1377 and UN Security Council successor Resolutions targeted to counter terrorism.

This Regulation establishes the procedure of approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party (hereinafter – General List), amendments to the General List, as well as identify duties of state authorities of the Republic of Azerbaijan.

General List shall consist of the Domestic List of natural or legal persons designated on the basis of the legislation of the Republic of Azerbaijan and international instruments to which the Republic of Azerbaijan is a party (hereinafter – Domestic List), and International List (hereinafter – International List) determined according to the Consolidated List of natural or legal persons designated by the United Nations Security Council Committee established pursuant to UNSCR S/RES/1267 on 15 October 1999 (hereinafter – Sanctions Committee) in accordance with the UNSCR S/RES/1267 on 15 October 1999, and in the context of the UNSCR S/RES/1373 on 28 September 2001 (hereinafter – Consolidated List).

General List shall be confirmed by the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter – Financial Monitoring Service), published in the official newspaper, placed on the web-site of the Financial Monitoring Service, and according to the legislation of the Republic of Azerbaijan on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism sent to the supervision authorities, as well as to financial institutions and DNFBP either directly or through relevant supervision authorities.

This Regulation are intended to be preventive in nature, and in accordance with the presumption of innocence targets taking the following preventive measures:

freeze without delay the funds and other financial assets of the designated persons derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets are made available, directly or indirectly for such persons' benefit, or by their nationals or by persons within their territory;

prevent the direct or indirect supply, sale, or transfer, to the natural and legal persons designated in the General List, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

#### **II. The procedure of determination of Domestic List**

Domestic List shall be determined by the Ministry of National Security of the Republic of Azerbaijan (hereinafter – Ministry of National Security) either directly or under the reference of the General Prosecutor Office of the Republic of Azerbaijan, Ministry of Internal Affairs of the Republic of Azerbaijan, Ministry of Justice of the Republic of Azerbaijan and State Border Service of the Republic of Azerbaijan, and submitted to the Financial Monitoring Service for confirmation.

Following natural or legal persons shall be included to the Domestic List:

legal entities with regard to which there are legally binding court decisions on their liquidation for involvement in terrorist activities as duly defined by the legislation of the Republic of Azerbaijan;

persons sentenced on the basis of the legally binding court sentences as duly defined by the legislation of the Republic of Azerbaijan for preparation, organisation or carrying out the acts which constitutes a crime within the scope and as defined in the articles 102, 214, 214-1, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan;

persons with regard to whom there are decisions on initiating a criminal proceeding or involving them as the accused as duly defined by the legislation of the Republic of Azerbaijan for preparation, organisation or carrying out the acts which constitutes a crime within the scope and as defined in the articles 102, 214, 214-1, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan;

natural or legal persons with regard to whom there are legally binding court decisions of the foreign states on their involvement in terrorist activities recognized as duly defined by the legislation of the Republic of Azerbaijan and international instruments which the Republic of Azerbaijan is a party to.

For listing the natural or legal persons in the Domestic List, their identifying information envisaged in paragraph 14.4 of this Regulation shall be submitted to the Ministry of National Security by the state authorities defined in paragraph 6 of this Regulation.

Whether grounds specified in paragraph 7 of this Regulation were eliminated, i.e. the criminal case is terminated, the decision with regard to involving the person as the accused person is abolished, the acquittal verdict is issued, court decision (sentence) is annulled, imprisonment is served or removed, natural or legal persons should be delisted without delay from the Domestic List by the Ministry of National Security based on its own initiative, or through the request by the state authorities defined in paragraph 6 of this Regulation, or application by natural or legal persons listed in the Domestic List.

Domestic List, amendments to the Domestic List, and identifying information envisaged in paragraph 14.4 of this Regulation shall be sent without delay to the Financial Monitoring Service by the Ministry of National Security.

The Ministry of National Security is required to take all possible measures to inform in writing within 1 day the newly listed natural or legal persons on the Domestic List of grounds for their listing and measures imposed on them, as well as on the possibility of a review and the de-listing procedure from the Domestic List.

### **III. The procedure of determination of International List**

International List shall be determined by the Ministry of Foreign Affairs of the Republic of Azerbaijan (hereinafter – Ministry of Foreign Affairs) on the basis of Consolidated List designated by the Sanctions Committee, and submitted without delay to the Financial Monitoring Service for confirmation.

The Ministry of Foreign Affairs shall regularly review and update the International List and if there are any amendments to International List make the appropriate amendments to the International List and submit without delay to the Financial Monitoring Service for confirmation.

### **IV. The listing procedure of natural or legal persons into the Consolidated List**

Whether grounds specified in paragraph 15 of this Regulation exist for listing of the natural or legal persons into Consolidated List, the Ministry of National Security shall submit the following data and documents to the Ministry of Foreign Affairs for presentation of these data and documents to the Sanctions Committee:

data and documentation justifying the inclusion of the natural or legal persons to the Consolidated List;

specific findings demonstrating the relationship of the natural or legal persons with Al-Qaida, Taliban or other terrorist organisation, or with any person from the Consolidated List (intelligence, law enforcement, judicial, media, court decisions, etc);

necessary data to be disclosed in the summary of the Sanctions Committee justifying the annexation of the natural or legal persons to the Consolidated List;

sufficient identifying information to allow for the positive identification of the natural or legal persons, including:

for natural persons – family name/surname, given names, other relevant names, date of birth, place of birth, nationality/citizenship, gender, aliases, employment/occupation, residence, passport or travel document and national identification number, current and previous addresses, e–mail addresses, and current location;

for legal persons – name, acronyms, address, headquarters, subsidiaries, affiliates, fronts, nature of business or activity, leadership, tax or other identification number and other names by which it is known or was formerly known, and website addresses.

The grounds for reference of the name of the natural or legal persons to the Sanctions Committee for the inclusion to the Consolidated List include:

participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of;

supplying, selling or transferring arms and related materiel to;

recruiting for; or otherwise supporting acts or activities of;

Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof.

A standard form for the submission of listing requests to the Consolidated List and explanatory notes for the standard form for listing can be found in the listing section of the Sanctions Committee's website <[www.un.org/sc/committees/1267/docs/worddocs/sfl\\_ind\\_adv.doc](http://www.un.org/sc/committees/1267/docs/worddocs/sfl_ind_adv.doc)> as well as <[www.un.org/sc/committees/1267/pdf/sfl\\_explan\\_notes.pdf](http://www.un.org/sc/committees/1267/pdf/sfl_explan_notes.pdf)>. The relevant information shall be placed on the websites of the Financial Monitoring Service and Ministry of Foreign Affairs as well.

Under the reference of the Republic of Azerbaijan, the Ministry of Foreign Affairs is required to take all possible measures to inform in writing within 1 day the newly listed natural or legal persons on the Consolidated List and International List of grounds for their listing and the measures imposed on them, as well as on the possibility of a review and the de-listing procedure from the Consolidated List and International List.

## **V. The de-listing procedure of natural or legal persons from the Consolidated List**

The natural or legal persons included to the Consolidated List may submit a petition for de-listing from the Consolidated List to the Sanctions Committee either directly or through the Ministry of Foreign Affairs. A standard form for the submission of de-listing from the Consolidated List requests can be found in the de-listing section of the Sanctions Committee's website <[www.un.org/sc/committees/1267/delisting.shtml](http://www.un.org/sc/committees/1267/delisting.shtml)>. The relevant information shall be placed on the websites of the Financial Monitoring Service and Ministry of Foreign Affairs as well.

In the de-listing from the Consolidated List submission, the petitioner needs to provide justification for the de-listing request, offer relevant information demonstrating non-compliance with the criteria under paragraph 15 of this Regulation and request support for the de-listing.

In case of submission a petition for de-listing from the Consolidated List through the Ministry of Foreign Affairs, the Ministry of Foreign Affairs forwards simultaneously the delivered documents to the Ministry of National Security and Financial Monitoring Service for issuance of legal opinion. The Ministry of Foreign Affairs is also required to take measures to obtain additional information and conduct consultations for de-listing with the jurisdiction that initiated the person's inclusion to the Consolidated List, or with the jurisdiction of the person's citizenship or permanent residence if appropriate.

A petition for de-listing from the Consolidated List is reviewed by the Ministry of Foreign Affairs within 2 months, and during that period the submitted documents shall be sent to the Sanctions Committee in conjunction with the final legal opinion on petition for de-listing endorsed with the Ministry of National Security and Financial Monitoring Service.

A petition for de-listing from the Consolidated List of the deceased persons shall be made through direct application to the Sanctions Committee either by the Ministry of Foreign Affairs or the person's legal heir in



cases concerning the citizen of the Republic of Azerbaijan. In this case, the documents confirming the death of the person and information on his/her legal heirs, parents or trustee are attached to the petition.

The Ministry of Foreign Affairs is required to take all possible measures to notify or inform in writing without delay the petitioner on the decision of the Sanctions Committee.

The natural or legal persons de-listed from the Consolidated List shall be de-listed without delay from the International List by the Ministry of Foreign Affairs.

The funds and other financial assets of the de-listed from the Consolidated List and International List natural or legal persons shall be unfrozen, as well as sanctions shall be removed from these persons in the order stipulated in the legislation of the Republic of Azerbaijan and international instruments to which the Republic of Azerbaijan is a party. Persons whose funds or other financial assets have been frozen, as well as *bona fide third parties* can challenge that measure with a view to having it reviewed in court in the order stipulated in the legislation of the Republic of Azerbaijan.

#### **V. Sanctions imposed on the natural or legal persons on the General List and duties of government authorities**

Pursuant to the Law of the Republic of Azerbaijan «On prevention of legalisation of criminally obtained funds or other property and the financing of terrorism», financial institutions and DNFBP are obliged to freeze without delay terrorist funds or other assets of natural or legal persons on the General List, and without prior notification to the persons involved immediately make STR to the Financial Monitoring Service about it.

The freezing actions referred to in paragraph 26 of this Regulation should extend to funds or other financial assets wholly or jointly owned or controlled, directly or indirectly, by natural or legal persons, terrorists, those who finance terrorism or terrorist organisations; and funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorists, those who finance terrorism or terrorist organisations.

The Financial Monitoring Service is required to take appropriate measures to establish computerised data base on the terrorist funds or other assets of the natural or legal persons listed on the General List, and on the natural or legal persons listed on the General List. According to national legal principles and international instruments to which the Republic of Azerbaijan is a party, the Financial Monitoring Service within the framework of its competence, is required to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions as well as to ensure the prompt determination, whether reasonable grounds or a reasonable basis exists to initiate a freezing action and the subsequent freezing of funds or other assets without delay.

**ANNEX XI Regulation on submission of data by monitoring entities and other persons involved in monitoring**

**Regulation of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan on submission of data by monitoring entities and other persons involved in monitoring**

In order to provide the implementation of item 10.4 of the “Statute on the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan” approved by the Decree of the President of the Republic of Azerbaijan of July 16, 2009, number 122, Financial Monitoring Service **takes the decision:**

1. Regulations on submission of data by monitoring entities and other persons involved in monitoring to the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan shall be approved (attached).
2. The minimum threshold of total amount of the sum of transactions with funds or other property indicated in Article 7.1 of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or other Property and the Financing of Terrorism” shall be set to 20 000 manats or its equivalent in foreign currency.
3. It shall be determined that the reporting obligation of monitoring entities mentioned in Article 7.1 of the Law of the Republic of Azerbaijan “On the Prevention of the Legalization of Criminally Obtained Funds or other Property and the Financing of Terrorism” should be applied to the cash transactions of the funds or other property with the minimum threshold in total amount of 20 000 manats or its equivalent in foreign currency.
4. This Ordinance shall enter into force from the date of publication.

**Director**

**Adishirin Gasimov**

**REGULATIONS ON SUBMISSION OF DATA BY MONITORING ENTITIES AND  
OTHER PERSONS INVOLVED IN MONITORING TO THE  
FINANCIAL MONITORING SERVICE UNDER THE CENTRAL BANK  
OF THE REPUBLIC OF AZERBAIJAN**

**1. GENERAL PROVISIONS**

**1.1.** Current Regulations have been developed in accordance with Article 11 of the AML/CFT Law and Item 10.4 of the “Statute of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan” approved by the Decree of the President of the Republic of Azerbaijan of July 16, 2009, number 122.

**1.2.** Current Regulations determine the rules of submission of data on transactions with funds or other property (hereinafter – data) by monitoring entities and other persons involved in monitoring to the Financial Monitoring Service.

**1.3.** Data submitted to the Financial Monitoring Service shall be kept in secret by monitoring entities and other persons involved in monitoring. Mentioned data may be requested from monitoring entities and other persons involved in monitoring only by the bodies of criminal investigation, which conduct criminal proceeding in connection with criminal prosecution. In such a situation mentioned data shall be submitted only on the basis of enforceable court decision.

**1.4.** The Financial Monitoring Service shall take measures for ensuring the security of submitted data, as well as ensuring the secrecy of data and its use only for the purposes defined by the AML/CFT Law.

**2. MAIN DEFINITIONS**

**2.1.** Following definitions have been used in current Regulations:

**2.1.1. centralized electronic-information system of the Financial Monitoring Service (CEIS)** – special data-base system devised by the Financial Monitoring Service with the purpose of automatic registration, calculation, processing and further analysis of submitted data in the sphere of combating legalization of criminally obtained funds or other property and financing of terrorism;

**2.1.2. identification procedure** – the complex measures carried out in order to determine identity, legal capacity, representation competence and professional activity of customer, beneficiary and representative;

**2.1.3. verification procedure** – the complex of measures carried out in order to determine the veracity of identification data on customer, beneficiary and representative, obtained via reliable sources;

**2.1.4. currency transactions** – the transactions defined in the Item 3.1 of current Regulations;

**2.1.5. suspicious transactions** – the transactions defined in the Item 3.2 of current Regulations;

**2.1.6. compliance officer** – the person at the level of management or head of structural unit of monitoring entities and other persons involved in monitoring, which are legal persons, entitled for controlling the implementation of internal rules and procedures on the activity against the legalization of criminally obtained funds or other property and the financing of terrorism, for carrying out the exchange of information with the Financial Monitoring Service, as well as for preparing and submitting reports on the transactions, subject to monitoring.

**3. DATA TO BE SUBMITTED**

**3.1.** Cash transactions with funds or other property equivalent to or above 20`000 manats shall be considered as currency transactions.

**3.2.** Funds or other property, transactions with them and the attempts to carry out transactions involving the following features shall be considered as suspicious transactions regardless of their amount:

**3.2.1.** transactions that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing;

**3.2.2.** any transaction with the funds or other property associated with the citizens of countries that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, or the countries that do not require disclosing identification information when conducting financial transactions with the persons registered or that, who has a residency or permanent business in this country (territory), with the persons who has a bank account in banks registered in this country (territory);

**3.2.3.** any transactions with the funds or other property of the politically exposed persons of foreign country;

**3.2.4.** receipt of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan, as well as transfer of funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan.

**3.2.5.** the transactions related to the persons which are subject to sanctions according to the resolutions of United Nations Security Council, legislation of the Republic of Azerbaijan and international treaties

**3.3.** Monitoring entities shall submit following data to the Financial Monitoring Service:

**3.3.1.** currency transactions defined by the Item 3.1 of current Regulations;

**3.3.2.** suspicious transactions defined by the Item 3.2 of current Regulations;

**3.3.3.** if it is impossible to identify the parties according to the Law, or in case

of failure to provide identification information by the customer or beneficiary, if there are doubts about the veracity of previously obtained customer identification data

**3.4.** Other persons involved in monitoring shall submit data on following transactions to the Financial Monitoring Service in cases defined by the Items 3.2 and 3.3.3 of current Regulations:

**3.4.1.** transactions on buying and selling of real estate;

**3.4.2.** transactions on managing of customer funds, securities or other property;

**3.4.3.** transactions on managing of customer bank and securities accounts;

**3.4.4.** transactions on creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons.

**3.5.** Monitoring entities and other persons involved in monitoring shall submit following data to the Financial Monitoring Service in accordance with Item 3 of current Regulations:

**3.5.1.** type of transaction;

**3.5.2.** the date of transaction (is transaction processed or not, if yes the processing date should be indicated in DD/MM/YY format);

**3.5.3.** sum and currency type of transaction;

**3.5.4.** necessary information on identification of natural and legal persons obtained by monitoring entities and other persons involved in monitoring:

**3.5.4.1.** in respect of natural person – information reflected in the ID (surname, name and patronymic, nationality, place and date of birth, place of residence and registration, type, series and number, date of issue and validity date of the document, name of authority issued the document), person's bank account number and name of the bank, its branch, division or other separate unit serving the account

**3.5.4.2.** in respect of legal person – name, organizational-legal form, legal address and registration number, country of residence, Tax ID, legal person's bank account number and name of the bank, its branch, division or other separate unit serving the account;

**3.5.4.3.** in respect of individual entrepreneur – data indicated in the Item 3.5.4.1 of current Regulations and Tax ID;

**3.5.5.** information on beneficiary – data defined in the Items 3.5.4.1 and 3.5.4.2 of current Regulations depending on the beneficial owner to be legal or natural person;

**3.5.6.** in case of the transaction to be carried out by representative – data defined in the Items 3.5.4.1 of current Regulations (excluding Tax ID and data on bank account);

**3.5.7.** information on the nature and the purpose, as well as the information describing a chronological history of the transaction;

**3.5.8.** the grounds stipulating the suspiciousness of transaction.

**3.6.** In case of obtaining of other information additionally to information on identification and verification of natural or legal person indicated in the Item 3.5 of current Regulations by monitoring entities and other persons involved in monitoring, mentioned data shall be submitted to the Financial Monitoring Service as well. Additional information shall be submitted with the letter accompanying the form reflected in the Appendix 1 to current Regulations.

#### **4. FORM AND MEANS OF DATA SUBMISSION**

**4.1.** Data shall be entered into the form defined in the Annex 1 to current Regulations (hereinafter – form) by monitoring entities and other persons involved in monitoring and submitted by following means:

**4.1.1.** as a hard-copy being signed and sealed by the complaints officer of monitoring entity and other person involved in monitoring;

**4.1.2.** by software means affirmed by enhanced electronic signature bearer approved via electronic signature;

**4.2.** A hard-copy form may be prepared as follows:

**4.2.1.** by filling the electronic version of the form and printing;

**4.2.2.** by filling the form by using ball point pen by hand writing;

**4.3.** Paper reports should be submitted as follows:

**4.3.1.** The report should be put into non transparent well packed envelope with a stamp of monitoring entity on it;

**4.3.2.** The address of the monitoring entity or other person involved in monitoring should be indicated in the top left corner of the front side of the envelope together with the sufficient serial number of reports inside the envelope;

**4.3.3.** The name and the address of the Financial Monitoring Service should be indicated in the right bottom corner of the front side of the envelope;

**4.3.4.** On the top right corner of the front side envelope should be indicated the phrase “**REPORT**”;

**4.3.5.** The envelope should be sent to the Financial Monitoring Service via special or express post services with notification;

**4.4.** The software version of reporting form is uploaded to the web site of the Financial Monitoring Service.

**4.5.** It is not allowed to submit data to the Financial Monitoring Service in the form different from the form attached to current Regulations.

**4.6.** Until the electronic signature is implemented, monitoring entities and other persons involved in monitoring can submit data by electronic means via its official web sites or e-mail address registered at the Financial Monitoring Service;

**4.7.** data submitted by electronic means shall be forwarded to the Centralized Electronic–Information System and automatically registered via the system;

**4.8.** Taking into account the urgency of the situation, data on cases indicated in the Items 3.2 – 3.3.3 of current Regulations may be submitted to the Financial Monitoring Service orally. Urgent submission of mentioned data to the Financial Monitoring Service in writing shall be provided.

**4.9.** Branches, representatives or other separate units of monitoring entities and other persons involved in monitoring, which are legal persons shall submit the data defined by current Regulations to the Financial Monitoring Service by their head offices.

**4.10.** Form filled in paper or electronic version shall be copied and preserved at least for 5 years after closing the account of a customer or termination of legal relations along with following documents and mentioned documents shall be submitted to the Financial Monitoring Service if necessary:

**4.10.1.** identification documents of customer, beneficiary or competent representative;

**4.10.2.** documents on transactions with funds or other property carried out by customer (extracts from account, ground for conducting transaction, etc.).

**4.11.** Monitoring entity or other person involved in monitoring may apply to Financial Monitoring Service with a request to cancel the report, sent before

indicating significant reasons. The request should be reviewed by the Financial Monitoring Service within two working days. If the report is not be considered to be well-grounded it should be cancelled and official reply should be sent to the monitoring entity or other person involved in monitoring.

**4.12.** As soon as Financial Monitoring Service reveals that the mandatory fields of the reporting form (asterisked) were not filled, the data is wrong or the information was received in other form which is different than the one attached to these regulations, it sends the message back to the monitoring entity via the communication channel it was received.

**4.13.** The deficiencies indicated in the message should be solved and the refilled reporting form should be sent back to the Financial Monitoring Service by monitoring entities and other persons involved in monitoring within two working days.

**4.14.** Security measures on submission of data, as well as other communication means for submission of data shall be defined by the Financial Monitoring Service.

## **5. FILLING THE FORM**

**5.1.** Regardless of forwarding either by paper or by software means, data shall be submitted by filling the form.

**5.2.** In the case of forwarding several forms in paper means, the number of attachments shall be indicated in the accompanying letter.

**5.3.** The form consists of 2 pages, 6 sections and 26 items. The first section includes information on monitoring entity and other person involved in monitoring, the second section includes information on transaction, the third section includes identification data on customer, the fourth and fifth sections are respectively considered for the information on beneficiary and representative of customer. The sixth section is envisaged for supplementary notes.

**5.4.** Every page of the form shall reflect the number and date of the data. Along with that, it shall be indicated if the data is new one or correction to previous data and relevant boxes shall be ticked by symbol "x".

**5.5.** The number of the data shall be numbered by monitoring entities and other persons involved in monitoring starting from "1" in accordance with consistency of submission of data.

**5.6.** The date (day, month and year) of submission of data to the Financial Monitoring Service shall be indicated in the column "Date of data".

**5.7.** The number and the date of submission of the form shall be considered as its main identification means and request of documents defined by the Item 7 of current Regulations, as well as corrections to previously submitted form shall be carried out on the basis of mentioned entries.

**5.8.** In the 1st Item of the form the name of monitoring entity and other person involved in monitoring shall be indicated.

**5.9.** In the 2nd Item of the form the three symbol code of monitoring entity and other person involved in monitoring shall be entered by using the Appendix 2.

- 5.10.** In the 3rd Item the address of monitoring entity and other person involved in monitoring shall be indicated.
- 5.11.** In the 4th Item the Tax ID of monitoring entity or other person involved in monitoring shall be indicated.
- 5.12.** In the 5th Item the information on compliance officer of monitoring entity and other person involved in monitoring or, in case of absence of the compliance officer, other person who submits the form shall be entered.
- 5.13.** The Item 5.6 shall be signed by the responsible person of monitoring entity and other person involved in monitoring. In circumstances envisaged by the Item 4.6 of current Regulations the Item 5.6 shall be kept empty.
- 5.14.** The Item 5.7 shall be sealed by the head office of the monitoring entity and other person involved in monitoring. Sealing of the form submitted in electronic means is not required.
- 5.15.** In the 6th Item four symbol code corresponding to the type of transactions shall be entered by using Annex 3. If the code corresponding to the type of transaction is not defined in the Annex 3, code before the entry “other” shall be entered into the relevant Item and the type of the transaction shall be indicated in the 6th Item.
- 5.16.** If the transaction has already been performed, the date of the transaction shall be indicated in the 7th Item, and if not this Item shall be kept empty.
- 5.17.** In the 8th Item three symbol code corresponding to the circumstances envisaged in the Item 3.3 of current Regulations shall be entered by using Annex 4.
- 5.18.** In the 9th Item the grounds stipulating the suspiciousness of transaction shall be indicated.
- 5.19.** In the 10th Item the country of origin, in the 11th Item the country of destination of transaction shall be indicated.
- 5.20.** In the 12th Item the sum of the transaction shall be reflected in consistency of one number per one box, without indicating coins (cent, eurocent, etc.). Entry of the amount in wording is forbidden.
- 5.21.** In the 13th Item three symbol code corresponding to the type of currency, in which the transaction is carried out shall be entered by using Annex 5.
- 5.22.** If the customer is natural person relevant box in the 14th Item shall be clearly ticked by symbol “x” and relevant data according to the form shall be entered. In this case, 15th item shall not be filled in.
- 5.23.** If the customer is legal person relevant box in the 15th Item shall be clearly ticked by symbol “x” and relevant data according to the form shall be entered. In this case, 14th item shall not be filled in.
- 5.24.** If the beneficiary is natural person relevant box in the 16th Item shall be clearly ticked by symbol “x” and relevant data according to the form shall be entered. In this case, 17th item shall not be filled in.
- 5.25.** If the beneficiary is legal person relevant box in the 17th Item shall be clearly ticked by symbol “x” and relevant data according to the form shall be entered. In this case, 16th item shall not be filled in.
- 5.26.** The items 18-26 of form shall be filled only if the transaction has been performed by the representative.
- 5.27.** Data on the purpose and nature of the transaction shall be entered in the sixth section. In this section documents and information on the basis of which transaction has been carried out, its character, scheme, features shall be indicated. If several transactions are carried out on the basis of one order of a customer, data on every transaction shall be reflected in this Item.
- 5.28.** The relevant information should be entered with capital letters to the content of the form and there should be a space between words. The asterisked items (\*) are mandatory. Except asterisked items, if there is no concrete information, relevant item of the form shall not be filled in.
- 5.29.** If data is entered in hand writing, ballpoint pen (black or blue) shall be used. Corrections when filling in the form are not allowed.

**5.30.** If there is a need to correct the data in previously submitted form, monitoring entity and other person involved in monitoring shall forward newly infilled form to the Financial Monitoring Service (indicating the number and date of previously submitted form). Corrected form shall be accompanied with explanatory letter regarding the reasons of correction.

**5.31.** In case of occurring technical or other kind of problems when filling or sending the form, monitoring entity and other person involved in monitoring shall apply to the Financial Monitoring Service via “hotline” telephone communication or in written form.

## **6. TIMEFRAMES FOR THE SUBMISSION OF DATA**

**6.1.** The information on transactions carried out on the basis of Item 3.1 of current Regulations shall be submitted by monitoring entities and other persons involved in monitoring to the Financial Monitoring Service within 3 (three) days after receiving the order (commission) to execute the transaction.

**6.2.** The information on transactions mentioned in the Items 3.2 and 3.3.3 of current Regulations shall be submitted before the execution of the transaction. Where non–execution of a transaction is impossible or where it is known that non–execution of the transaction may cause impediments for identification of the beneficial owner, after execution of the transaction the monitoring entities and other persons involved in monitoring shall immediately inform the Financial Monitoring Service.

**6.3.** Since the time, when monitoring entity or other person involved in monitoring reports to the Financial Monitoring Service on the transactions specified in the Items 3.2 and 3.3.3 of current Regulations, transaction shall not be executed for two business days. If during that period, the Financial Monitoring Service does not order to suspend these transactions the monitoring entity and other person involved in monitoring may execute the transaction.

## **7. SUBMISSION OF INFORMATION ON THE BASIS OF THE REQUEST OF THE FINANCIAL MONITORING SERVICE**

**7.1.** With a view of checking authenticity and veracity of submitted data, as well as analyzing transactions, which have elements of connection with legalization of illegally obtained funds and financing of terrorism, the Financial Monitoring Service may request monitoring entities and other persons involved in monitoring to submit additional information and documents on conducted transactions.

**7.2.** Along with that, within its competences the Financial Monitoring Service may also request monitoring entities and other persons involved in monitoring to submit additional information on conducted transactions with the purpose of provision of mutual legal assistance and information exchange with competent authorities of foreign states in the sphere of combating money laundering and financing of terrorism in accordance with international agreements, which the Republic of Azerbaijan is party to.

**7.3.** On the basis of request of the Financial Monitoring Service, monitoring entities and other persons involved in monitoring shall submit information envisaged in the Items 7.1 and 7.2 of current Regulations within 1 day.

**7.4.** Monitoring entities and other persons involved in monitoring may submit information and documents, which are not indicated in the request, but can be useful for combating money laundering and financing of terrorism.

**7.5.** Requests on submission of information shall be signed by Director or Deputy Director of the Financial Monitoring Service and sent on the official headed note-paper of the Financial Monitoring Service.

**7.6.** The answer to written request of the Financial Monitoring Service shall be signed by the head of monitoring entity and other person involved in monitoring, put in fixed light-proof envelope and sealed, and forwarded to the Financial Monitoring Service by official submission or by post via registered notification letter.

**7.7.** In the answer to the request contact details of the person, who has executed the request shall be indicated.

## **8. FINAL PROVISIONS**



**8.1.** Monitoring entities and other persons involved in monitoring, who violate the requirements of the AML/CFT Law on submission of reports, shall bear responsibility in accordance with the legislation.

**8.2.** Where the monitoring entities and other persons involved in monitoring, its personnel, as well as the personnel of the supervision authorities submit the information on the transaction which is subject to monitoring to the Financial Monitoring Service in order as defined by the AML/CFT Law, they shall be exempt from any liability for breach of any restriction on disclosure of the bank or other legally protected secrecy, as well as causing the material and moral damage emerged as a result of the disclosure of information.

## **ANNEX XII Requirements on qualifications and experience of compliance officers**

Requirements on qualifications and experience of compliance officers responsible for the establishment of internal control systems of monitoring entities and other persons involved in monitoring, which are legal persons

### ***GENERAL PROVISIONS***

These requirements have been developed on the basis of Article 10.6 of the Statute of the Financial Monitoring Service under the Central Bank of the Azerbaijan Republic approved by Decree #122 of the President of the Republic of Azerbaijan dated 16 July 2009.

According to Articles 5 and 12 of the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, the monitoring participant, which is a legal person and other person involved in monitoring, should develop and implement internal control system against legalization of criminally obtained funds or other property and terrorist financing.

These Requirements govern requirements on qualifications and experience of the compliance officers responsible for the establishment of internal control system (hereinafter – compliance officer) created by the monitoring participant, which is a legal entity and other persons involved in monitoring identified by the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism.

Pursuant to Article 12.1.8 of the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, the compliance officer:

oversees implementation of internal regulations and procedures on activities to combat legalization of criminally obtained funds or other property and financing of terrorism on the level of senior management as well as heads of structural units at the monitoring entity which is a legal entity and other person involved in monitoring (hereinafter – monitoring entity);

provides exchange of information with Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter – Financial Monitoring Service);

develops and submits relevant reports on transactions subject to monitoring;

should only report to the management of the monitoring entity within the structure of monitoring entity.

### ***QUALIFICATION AND EXPERIENCE OF RESPONSIBLE PERSON***

The following requirements should be followed regarding the qualifications and experience of the compliance officer:

higher education and at least two-year experience in primary activity of the monitoring entity;

knowledge of the national legislation, international standards and requirements on combating legalisation of criminally obtained funds or other property and terrorist financing;

knowledge of separate key areas of activities of the monitoring entity;

fluent knowledge of the national language of the Republic of Azerbaijan;

absence of conviction for committed crime;

The following persons are not allowed to be a compliance officer:

persons involved in labor activity in another monitoring entity;

persons having close relationship with members of the monitoring entity management.

For the purposes of Article 7.2 of these Requirements close relationship shall be defined as “husband, wife, parents, children, adopters, adoptees, sisters, brothers, parents, sisters, brothers of the husband and wife”.

Appointment of a compliance officer within the monitoring entity shall be documented through a relevant order (decision, ordinance, etc). The decision in question should comprise the data indicating that the

compliance officer meets the requirements under Article 6. A copy of the decision signed by the management of monitoring entity shall be submitted to the Financial Monitoring Service within 2 (two) business days.

***FINAL PROVISIONS***

Supervising that the qualifications and experience of the compliance officer meets the requirements under Article 6 of these Requirements is implemented by the relevant supervision authorities.

## **ANNEX XIII Requirements on establishment of the internal control system**

### **Requirements on establishment of the internal control system by monitoring entities and other persons involved in monitoring which are legal persons for preventing the legalization of criminally obtained funds or other property and the financing of terrorism**

#### **GENERAL PROVISIONS**

The current Regulation is prepared on the basis of article 12 of the Law of the Republic of Azerbaijan «On Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism» (hereinafter - the Law) and paragraph 10.6 of the Statute on the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan approved by the Presidential Decree #122 dated 16 July 2009 of the Republic of Azerbaijan.

The current Regulation establishes the minimum requirements for the establishment and implementation of internal control system for fighting the legalization of criminally obtained funds or other property and the financing of terrorism by the monitoring entities and other persons involved in monitoring which are legal persons.

Monitoring entities and other persons involved in monitoring which are legal persons shall establish the internal control system in accordance with current Regulation. Besides the Regulation, monitoring entities and other persons involved in monitoring which are legal persons may determine additional measures on the internal control system.

The purpose of an internal control system is to decrease the risk of using monitoring entities and other persons involved in monitoring which are legal persons in the legalization of criminally obtained funds or other property and the financing of terrorism by introducing effective supervision measures and procedures.

The current Regulation applies to the branches and subsidiaries of monitoring entities who are legal persons that function outside the jurisdiction of the Republic of Azerbaijan.

Where the minimum AML/CFT requirements of the Republic of Azerbaijan and host countries differ, foreign branches and subsidiaries in host countries shall apply the higher standard, to the extent that host country laws and regulations permit.

#### **BASIC DEFINITIONS**

For the purposes of the current Regulation the following definitions are used:

**the monitoring subject** - the monitoring entities and other persons involved in monitoring which are legal persons as defined by the Law;

**AML/CFT** – combating the legalization of criminally obtained funds or other property and the financing of terrorism

**compliance officer** - A natural person at the monitoring entity at the level of general management or structural units management responsible for supervising the implementation of internal rules and procedures on activity against the legalization of criminally obtained funds or other property and the financing of terrorism, carrying out the exchange of information with the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter – Financial Monitoring Service) as well as for preparing and submitting reports on transactions subject to monitoring;

**management** - Supervisory board (board of directors) or executive body which is management body of the legal person acting on behalf of monitoring entities and other persons involved in monitoring which are legal persons;

**«shell-bank»** - a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial services group that is subject to effective consolidated supervision (physical presence means meaningful mind and management located within a country, and the existence simply of a local agent or low level staff does not constitute physical presence);

**internal audit mechanism** – internal control measure implemented for the purpose of observing the AML/CFT legislation requirements, assessing the efficiency of measures implemented within internal control

system and management of risks of legalization of criminally obtained funds or other property and the financing of terrorism at the monitoring subject.

### **AML/CFT PROGRAM**

A program shall be prepared on activities in the field of AML/CFT and an adequate control mechanism shall be established to ensure success of the program.

AML/CFT program shall be at least composed of the following elements:

internal rules and procedures;  
compliance officer;  
conducting training on AML/CFT;  
internal audit.

### **INTERNAL RULES AND PROCEDURES**

The following internal rules and procedures shall be prepared by the monitoring subject:

internal rules and procedures for the identification and verification of the customer and beneficial owner;  
criteria for detecting the transactions subject to monitoring (indicators);  
rules for detecting suspicious transactions, their prevention and submission of the information to the FMS;  
rules on the documentation and the confidentiality of information;  
rules for hiring and checking employees.

Rules and procedures shall be approved by senior management of monitoring subjects and periodically renewed to ensure it is up-to-date.

All of the employees of the monitoring subjects engaged in AML/CFT shall be acquainted with the rules and procedures and they must be involved in regular training courses concerning the application of these rules and procedures.

The senior management is responsible for preparation and approval of the rules and procedures specified in paragraph 4.1 of the current Requirements and the compliance officers are responsible for the implementation of these rules and procedures.

### **INTERNAL RULES AND PROCEDURES FOR THE IDENTIFICATION AND VERIFICATION OF CUSTOMERS AND BENEFICIAL OWNERS**

The monitoring subject shall take measures for identification and verification of the customers and beneficial owners pursuant to article 9 of the Law, as well as detect the purpose of business relations and beneficial owner in order to prevent the risk of using financial transactions for legalization of criminally obtained funds or other property and the financing of terrorism.

The monitoring subject shall conduct on-going due diligence on the identification data of customer with whom it has business relations.

For verification of identification data obtained about the customer and beneficial owner, the monitoring subject may apply one or more measures set forth in articles 9.9 and 9.10 of the AML/CFT Law for the verification of information. For verification of the submitted data, as a rule, information should be obtained from independent sources that do not cause doubts (obtaining information and documents from other sources, not the customer).

The monitoring subject may form an electronic database on documents mentioned in this Law within the internal control system. For this purpose, one or a number of those documents are obtained from the customer and copied and stored in electronic data carriers. The monitoring subjects may use electronic database for verification of identification data obtained about the customer and beneficial owner.

The monitoring subject shall take measures for identification and verification of the customer and beneficial owner in cases envisaged under article 9.2 of the Law.

Systematic procedures shall be prepared for identification and verification of new customers and until sufficient checking of the identity of the new customer is done, business relations shall not be established.

In relations to each new customer, all necessary information on the identity, purpose and nature of the business relation shall be obtained.

Taking into account the peculiarities of the customers' activities, the monitoring subject shall take measures for identification and verification of the customers with whom the business relationship was established before the Law coming into force and is currently ongoing.

If the monitoring entity is unable to conduct identification and verification of the customer and beneficial owner identity using reliable independent source documents, data or information (identification data) as defined by the Law or obtain information on the purpose and intended nature of the business relationships of the customer and beneficial owner with them, the monitoring entity shall not perform the transaction, open the account, commence business relationship, and if it is unable to carry out the mentioned identification and verification measures after the establishment of business relationship, it shall terminate the business relationship and to consider making a suspicious transaction report to the Financial Monitoring Service.

The following should be reflected in the internal rules and procedures on the identification and verification of the customer and beneficial owner:

identification and verification of the customer on the risk based approach;

identification and verification of high risk customers;

ongoing monitoring of the customers' accounts and transactions conducted by them.

#### **IDENTIFICATION AND VERIFICATION OF CUSTOMERS BASED ON RISK BASED APPROACH**

The rules and procedures that allow detecting types of risks shall be prepared and implemented at the monitoring subject.

In preparing such rules and procedures, the customer's profile, country of origin, position in the government and society, related accounts, business activity or factors defined as other risk indicators shall be taken into consideration.

The monitoring subject shall take all of the following types of risk into consideration when identifying and evaluating the risks related to the legalization of criminally obtained funds or other property and the financing of terrorism:

state risk;

customer risk.

The monitoring subject may designate additional risk types for identifying and assessing the risks related to the legalization of criminally obtained funds or other property and the financing of terrorism, along with risk types shown in paragraph 6.3 of the current Requirements.

#### **State Risk**

In evaluation of the risk of any country related to legalization of criminally obtained funds or other property and the financing of terrorism by the monitoring subject, the AML/CFT system and financial environment of that country should be assumed as a basis.

The transactions with the countries that do not or insufficiently comply with the international standards on prevention of the legalization of criminally obtained funds or other property, financing of terrorism, or suspected in support of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, the list of which were developed and published by the Financial Monitoring Service should be considered high risk transactions.

#### **Customer Risk**

Pursuant to article 9.13 of the Law, the monitoring entity shall evaluate the risks related to legalization of criminally obtained funds or other property and the financing of terrorism ensuing from the customer's peculiarities. In risk assessment the following factors such as occupation of the customer, type of operation and the rapidity of the transaction are taken into account. The monitoring subject shall consider each of the following high risk customers:

politically exposed persons of foreign states;

non-resident customers;

legal persons that were entrusted to manage funds, securities or other property;

legal persons that issue nominal bearer shares or shares payable to the bearer;

persons whose list were approved by the Financial Monitoring Service;

citizens of the countries (jurisdictions) listed by the Financial Monitoring Service, the persons registered or those who have a residency or permanent business in this country (jurisdiction) as well as persons who has a bank account in banks registered in this country (jurisdiction);

persons who conduct transactions with foreign banks through correspondent accounts.

### **IDENTIFICATION AND VERIFICATION OF HIGH-RISK CUSTOMERS**

Besides identification and verification measures envisaged in article 9 of the Law the monitoring subject shall apply enhanced due diligence on high risk customers.

#### **Politically exposed persons of foreign countries**

Politically exposed persons of foreign states means persons referred to in article 1.0.14 of the Law.

The monitoring subject shall obtain information from each new customer if the potential customer is a PEP of foreign state, as well as the information should be checked through open sources or special electronic databases (World Check, Factiva and etc.).

The citizen of a foreign state may be required to fill in Annex 1 to current Requirements to determine whether he/she is a PEP of foreign state

Where monitoring subject is in a business relationship with a PEP, monitoring subject shall conduct enhanced ongoing monitoring on that relationship.

The monitoring subject shall apply enhanced due diligence in relation to PEPs according to article 9.14 of the Law.

#### **Non-Resident Customers**

Monitoring subjects shall pay special attention to non-resident customers.

Opening of bank accounts by non-residents in the Republic of Azerbaijan and their transactions in funds or other property shall be investigated in every case.

#### **Establishment of Correspondent Relationships, «Shell-Banks»**

Local banks shall apply enhanced due diligence conduct transactions envisaged in article 9.14 of the Law in relation to transaction conducted through correspondent accounts with foreign banks.

When opening a correspondent account with a foreign bank, the foreign bank shall be required to fill in the self-evaluation survey table (Annex 2). A compliance officer of the local bank shall evaluate the self-evaluation survey and submit a written report on results to a senior manager of the bank (to the member of the Board of Directors).

Monitoring subject shall gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action and assess the respondent institution's AML/CFT control and ascertain that they are adequate and effective. Local banks may provide the information related to

refusal of opening correspondent accounts with foreign banks to the Financial Monitoring Service. Local banks may provide the information related to refusal of opening correspondent accounts with foreign banks to the Financial Monitoring Service.

Establishing of new correspondent relationship shall be based on the approval of the senior level management of the monitoring subject.

Monitoring subjects are not permitted to enter into, or continue correspondent banking relationships with shell banks and are required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

#### **Establishment of Non-Face to Face Business Relationships**

The monitoring subject is required to have rules and procedures in place to address any specific risks of legalization of criminally obtained funds or other property and financing of terrorism when establishing or conducting non-face to face business relationships or transactions.

The monitoring subjects shall implement the above-mentioned rules and procedures when establishing non-face to face business relationships or conducting identification and verification of those customers. Following minimum measures shall be taken:

to conduct verification measures to make sure about the veracity of the identity of the customer with whom the business relationship is established;

to conduct verification measures to make sure about the veracity of the actual address that the customer with whom the business relationship is established resides.

#### **ONGOING MONITORING OF CUSTOMER ACCOUNTS AND TRANSACTIONS CONDUCTED BY THEM**

The accounts of the customers and transactions by them should undergo ongoing monitoring.

The monitoring subject shall conduct monitoring on the conformity of the customer's transactions to the purposes of business relationships.

The monitoring subject shall determine the periodicity of the monitoring on the basis of risk level of customer's transactions.

Monitoring shall be conducted to detect unusual and suspicious transaction taking the risk as a basis. When conducting monitoring, the following minimum components that determine the probability of the customer's conducting unusual or suspicious transaction should be taken into account:

detecting the transactions exceeding the limits by establishing limits for certain account and transaction categories;

Checking the compatibility of transactions conducted by the customer with the customer's business activities;

The detection of transactions that have no economic or commercial purpose or of deposits into the account of large amounts of funds incompatible with the customer's normal and expected transactions.

Monitoring shall be conducted more intensively in relation to high risk customer. Special indicators shall be identified taking into consideration the source of the funds, their country of origin, the related types of transactions and other such risk factors.

Monitoring shall be continuously carried out for information concerning the purpose and essence of current customers' business relationships. For this purpose, the monitoring subject may use the automated systems. The most suitable time to take such measures is the time when a transaction significantly differing from other transactions takes place, when the customer submits documents of significantly differing or when there are important changes in the method of administration of the account.

#### **CRITERIA FOR THE DETECTION OF TRANSACTIONS SUBJECT TO MONITORING**

The criteria for the detection of transactions subject to monitoring shall be identified taking into consideration the peculiarities of the activity of the monitoring subject.



The monitoring subject may establish other criteria not considered in this document by establishing specific criteria regarding its activity or analyzing the criteria envisaged in the mentioned document based on activity risks through using the criteria (special indicators) for detection of transactions subject to monitoring as determined by the FMS.

The criteria established by the monitoring subject should not be of the restrictive nature for the monitoring subject and must be a basic guiding tool for the determination of suspicious cases or those giving rise to suspicion related to the legalization of criminally obtained funds or other property or the financing of terrorism.

If the criteria established by the monitoring subject formally exist in any transaction, the transactions or activity of the customer do not arise suspicion in relation to the legalization of criminally obtained funds and other property and the financing of terrorism, the monitoring subject must study the transaction more carefully.

### **DETECTION AND PREVENTION OF SUSPICIOUS TRANSACTIONS AND SUBMISSION OF INFORMATION**

Information specified by the Law shall be submitted by the monitoring subject to the Financial Monitoring Service in conformity with the Regulations for submission of information as determined by the Financial Monitoring Service.

The monitoring subject shall determine the procedures for detection and prevention of suspicious transactions and submission of information to the Financial Monitoring Service depending on the peculiarities of the activity. In these procedures, the following may be considered:

determining the suspicion criteria (indicators) of transactions;

regulation for use of criteria for detection of suspicious transactions;

analytical methods for transactions with application of suspicious transactions detection criteria;

means of obtaining information about the source of funds or other property for on suspicious transactions;

provisions related to the use of automated search systems for checking the suspicion about the transaction;

special procedures related to the analysis of business relationship with foreign PEPs and unusual transactions;

rapid measures to be taken if a suspicious transaction is detected;

if it is not possible to suspend the suspicious transaction, the provisions pertaining to the tracking and oversight of funds and transactions of the customer and the duties of the persons responsible for that;

measures to be taken to suspend the transaction and not informing the customer about it;

the regulations of performing inquiry of the Financial Monitoring Service concerning submission of information and documents about the transactions subject to monitoring;

rights and duties and mutual relations of compliance officers and personnel serving the customers directly on detection and prevention of suspicious transactions and submission of information to the Financial Monitoring Service;

other procedures envisaged in the legislation on detection and prevention of suspicious transactions and submission of information to the Financial Monitoring Service.

If as a result of the monitoring, as the result of monitoring, the transaction meets special indicators or the signs of the legalization of criminally obtained funds or other property or the financing of terrorism are revealed, the monitoring subject's staff shall write a report and inform the compliance officer and submit the information concerning the customer. The branch, representative office or other structural unit of the monitoring subject shall send such reports to head office through their heads in a centralized way.

When the compliance officer receives information on the suspicious transaction, he/she examines the information submitted about transaction together with the additional information on the customer and its activity and makes the decision to send these to the management of the monitoring subject.

## **DOCUMENTATION AND CONFIDENTIALITY OF INFORMATION**

The documentation of information is a system of measures to be carried out by the monitoring subject regarding the recording, copying and storing the information obtained regarding the observance of the requirements of the Law and submitted to the Financial Monitoring Service.

Monitoring subjects shall prepare regulations to ensure the documentation and confidentiality of information. The following shall be considered in the rules on the confidentiality of information and documentation:

the monitoring subject shall keep records and documents and ensure their confidentiality taking into account their peculiarities;

forms and tools of recording, storing and means of ensuring the maintenance of confidentiality;

responsible employees and their duties in recording information and ensuring the maintenance of confidentiality;

provisions on restricting the access of persons not connected with the procedures concerning direct acquisition analysis, storage and transfer of information on the transactions of the customers.

Information that is recorded in the text format in physical carrier and have necessary requisites to allow it to be identified is considered a documented information (hereinafter-document).

The information and documents below regarding observing the requirements of the Law shall be recorded and stored by the monitoring subject:

identification and verification documents of the customer, his beneficial owner or authorized representative as shown in article 9 of the Law, as well as account files and business correspondence;

documents concerning transactions conducted by the customer with funds and other property (withdrawals from its account, bases for conduct of transactions, etc.);

information and documents obtained concerning the transactions carried out by foreign PEPs;

all the information and documents obtained concerning unusual transactions as well as written analysis reports prepared by the monitoring subject in this regard;

information and documents submitted to the Financial Monitoring Service on current and suspicious transactions as well as information and documents obtained from analysis conducted to determine whether any transaction or business relationship is suspicious;

written inquiries made by the Financial Monitoring Service and the supervision authority and the replies to these inquiries;

correspondence and documents sent to the supervision authority concerning supervision measures carried out regarding the observance of requirements of the Law.

If the legislation does not provide for longer storage period of the information and documents considered in article 11.4 of current Requirements, they shall be stored through recording in paper or electronic data carriers for at least five years after closing of the account and termination of business relationship with the customer. The documents are stored in centralized archive in accordance with the requirements for storage of archive documents.

If necessary, the period shown in article 10.1 of the Law may be extended in each particular case by the supervision bodies or the Financial Monitoring Service.

Recording and storage of the documents are carried out by keeping the register of documents by the monitoring subject. The register of documents (hereinafter - the register) is the collection of information which documents and records the information stipulated under article 11.4 of the Requirements by the monitoring subject. Information recorded in the register are considered confidential and the list of authorized persons with access to the register is prepared and approved by the management.

The register may be stored in paper or electronic form.

The register creates a back-up copy of the information and it is stored in the electronic carrier which shall not be connected to any local or global network.

Information shall be entered into the register by the specially authorized operators.

The register shall be protected by information protection methods and systems for prevention of destruction, missing and falsification of the information as well as unsanctioned actions to destroy, modify, copy or isolate information.

The information on the relevant document in the register is stored until the storage period expires. It is prohibited to reduce the designated storage periods of the documents. Each monitoring entity may store documents upon its own judgment for a longer period taking into account their importance.

A number shall be assigned to each piece of information included in the registry and the documents reflecting this information shall be identified on the basis of this number.

The monitoring subject shall provide the safe storage of the information, its confidential storage and satisfy themselves that it will not be used by unauthorized persons.

In order to restrict the access of persons unrelated to directly obtaining, processing, analyzing, storing and passing over information regarding the transactions of the customers and ensure the protection of the documents, there shall be a special permission mechanism for giving the documents for use and it shall be controlled that they were used only for purposes stipulated in the Law.

The protection of the archive documents ensuing from the activity of the monitoring subject is carried out directly by them.

If necessary, the documents kept in the centralized archive may be taken out for temporary use only on the basis of signed request by the management. A list of the documents is shown in the request. The documents provided based on the request are recorded by the clerk of the archive and signed for in the special records journal by the person taking them.

### **RECRUITMENT AND CHECKING OF EMPLOYEES**

The monitoring subject shall establish the recruitment and checking mechanisms for employees in the field of AML/CFT within the internal control system and on the basis of Labor Code of the Republic of Azerbaijan and other normative legal acts, other documents reflecting the charters or legal status, human resources management strategy and progressive international experience existing in this sphere.

Procedures for the recruitment and checking of the staff shall be determined on the basis of the peculiarities of the activities, demand for employee and existing risks of the monitoring subject.

The monitoring subject may take the following measures to prevent the recruitment of persons connected with the legalization of criminally obtained funds and other property or the financing of terrorism and the hiring of the persons that meet high moral character and professional qualifications:

checking the knowledge of employees or candidates in AML/CFT;

checking the correctness of the information submitted by the candidates or employees.

obtaining information as to whether employees or candidates have been sentenced for committing a crime;

obtaining references of candidates from their previous work places;

obtaining other information about the personal or professional qualities of the candidates or employees.

### **COMPLIANCE OFFICER**

The compliance officer is appointed at the level of the management as well as management of structural units at monitoring subject to supervise the implementation of internal rules and procedures on activity in AML/CFT field, to exchange information with the Financial Monitoring Service and prepare and submit relevant reports on transaction subject to monitoring.

Qualification and experience of the compliance officers for organization of internal control systems of the monitoring subject shall conform to the requirements identified by the Financial Monitoring Service.

The duties of the compliance officers are the following:

to control the observance of the Law as well as requirements of rules and procedures adopted within the internal control system by the staff of the monitoring subject in accordance with activity direction;

to conduct daily monitoring of transactions carried out by the monitoring subject and to ensure that the relevant reports on current and suspicious transactions have been prepared and submitted to the FMS;

to provide responses to inquiries concerning the submission of information and documents on transactions conducted by the Financial Monitoring Service in cases stipulated by the legislation;

to arrange regular training for the staff involved in AML/CFT field;

to take measures to deal with the problems that may arise with regard to the suspension of the transactions;

to inform the management of the monitoring subject about legal infringements committed by the staff in AML/CFT field;

to carry out other duties as prescribed by the Law.

The compliance officer submits a written report in the form and within term determined by the internal procedure to the management of the monitoring subject on his/her activity, observance of the requirements of the internal control system by employees and general AML/CFT status. The compliance officer shall observe the following when exercising his/her special functions and powers:

to act within the requirements of the Law;

to carry out duly the duty assigned to him/her;

to observe requirements ensuing from internal rules and procedures approved by the monitoring subject;

to ensure secure storing of internal information and its use only for purposes as stipulated by the Law;

to protect confidential information known to him in relation to his/her exercising official authorities.

The compliance officer shall be represented at the management as well as the management of structural units, his/her activities shall not depend on any other structural units and shall only report to the management of the monitoring subject.

The compliance officer is not permitted to be the employee of the internal audit service or the customer service division within the monitoring subject.

The compliance officer and the other appropriate staff of the monitoring subject shall have timely access to customer identification data and other CDD information, transaction records, and other relevant information pursuant to the Law.

If for any reason the compliance officer cannot exercise his/her specific duties, it should be ensured that the/she is replaced by another employee as prescribed by the legislation.

### **CONDUCTING AML/CFT TRAINING**

The monitoring subject shall deliver regular training for staff in AML/CFT and ensure their participation in such trainings.

The purpose of the training is that the employees of the monitoring subject obtain necessary knowledge in combating legalization of criminally obtained funds and other property and financing of terrorism to observe AML/CFT legislation, as well as requirements of the internal control system of the monitoring subject, organizational – instructing documents adopted for the organization of internal control.

The monitoring subject shall arrange the following training courses depending on the job functions of the employees:

familiarity with normative legal base as well as normative acts adopted by the Financial Monitoring Service in AML/CFT field;

familiarity with the internal control system adopted by the monitoring subject on AML/CFT field;

programs related to the implementation of internal control system and practical workshops on these programs;

practical workshops on the criteria for detection of suspicious transactions in the AML/CFT field.

Besides the training courses described in article 14.3 of the Requirements, the monitoring subjects shall arrange the participation of their employees in seminars, conferences and training courses on AML/CFT held by the Financial Monitoring Service or supervision authorities;

The list of employees to pass preparation and training is approved by the management of the monitoring subject, taking the peculiarities of the activity into consideration. In all cases, the monitoring subject shall include the following employees in its list:

chiefs of relevant structural divisions;

compliance officer;

employees of legal and internal audit departments and employees of other departments that perform the same functions;

employees directly providing service to the clients of the monitoring subject;

other employees involved in operational management and participating in the decision-making process, taking into account the structure and peculiarities of the activity of the monitoring subject.

At the monitoring subject the training may be conducted in scheduled and unscheduled forms:

The compliance officer carries out the scheduled training at monitoring subject for relevant employees at the time designated by the program pursuant to the training program approved by the head of the monitoring subject every year.

The training program is prepared taking into account the requirement of the AML/CFT legislation as well as activity peculiarities of monitoring subject and its customers.

The employees described in article 14.5 of current Requirements shall be required to have scheduled training no less than once in two years. The form and rules of testing knowledge and skills of the monitoring subject employees are determined independently by the monitoring subject.

The training program shall be determined by the monitoring subject for each employee based on their jobs, qualifications, as well as the form of the training, its periodicity and length.

The training program shall be prepared for each next calendar year and approved by the head of the monitoring subject. If necessary, the additions and amendments approved by the head of the monitoring subject may be made to the training program during the year.

The training program shall be periodically analyzed by the compliance officer and be updated if additions and amendments were made to the AML/CFT legislation of the Republic of Azerbaijan as well as the internal rules and procedures.

The unscheduled training at the monitoring subject shall be conducted by a compliance officer in the following cases:

When additions and amendments are made to the AML/CFT legislation of the Republic of Azerbaijan, as well as new normative legal acts come into force;

when new rules and procedures on the internal control system in the field of AML/CFT are approved or existing rules and procedures are amended by the monitoring subject;

when it is determined that according to the results of the internal audit or the supervision measures conducted by supervision authorities, there is a high risk of the legalization of criminally obtained funds or other property and the financing of terrorism and the level of application of the legislation is low in this field.

## **INTERNAL AUDIT MECHANISM**

The monitoring subject shall possess an internal audit mechanism which tests the requirements of the Law, normative acts and the effectiveness of the implementation of the regulations and procedures (hereinafter - the regulations required by the Law) in the field of AML/CFT adopted within internal control system.

The internal audit mechanism at the monitoring subject aims at the timely detection of potential errors and deficiencies in the application of the regulations required by the Law and their prevention, as well as the reduction of the associated risks to minimum.

The monitoring subject's management carries the responsibility for conducting regular internal audit to test the effectiveness of the application of the regulations required by the Law.

The goals and duties of the internal audit, first of all, consist of the following:

to ensure that the transactions were conducted by individual employees of the monitoring subject and its structural units in conformity with the requirements of the Law and that the monitoring is carried out in appropriate cases;

to detect the violations of the requirements of the articles 9-12 of the Law and the internal control system and to investigate violations of the law;

working out recommendations to eliminate deficiencies and to take relevant measures;

to ensure the appropriate documentation of the results of the inspections and every detected fact;

to inform in time the management of the monitoring subject on the results of the inspections, newly detected risks, errors and deficiencies and their elimination;

to oversee the organization of studying of the AML/CFT legislation, normative acts and the requirements of the internal documentation by the employees of the monitoring subject;

to analyze the adequacy of the internal control system;

to evaluate the efficiency and effectiveness of the control mechanisms and regulations in the field of AML/CFT;

ensure the availability of control mechanisms in the field of AML/CFT in the process of planning new activity types and in various stages of their introduction.

Internal audit at the monitoring subject is carried out in accordance with the audit program.

The audit program shall meet the following requirements:

shall be approved by the management of the monitoring subject or in cases envisaged in the legislation by audit committee, and reviewed regularly;

shall in written form and reflect the goals and objectives as well as scope of the audit;

shall have sufficiently broad scope on the fields inspected to achieve the objectives of the audit;

audit implementation schedule and duration shall be reflected on each of the inspected fields;

shall envisage comprehensive work programs on each field or structural unit as well as in general branch or representative office;

there shall be a clear and accurate audit description, as well as depending on the audit volume, in various structural units of the monitoring subjects, specific transactions inspection procedures shall be reflected.

The audit inspections schedule and duration shall be determined depending on the risk level. Internal audit shall be carried out at least once a year at the monitoring subject.

The results of the internal audit shall be made official with the auditor opinion drafted within maximum 5 days after the completion of the internal audit, approve with the signature of the internal audit service head (when the internal auditing service of the monitoring subject consists of one auditor, only that auditor) and meeting the following requirements:

shall reflect the report on the audit objectives, scope, results and revealed errors and deficiencies and detailed recommendations on each field in which problems exist;

the recommendations shall reflect brief description of audit results, the measures for eliminating errors and deficiencies and those considered necessary with regard to relevant official(s) due to law violations as well as inefficient activity and timeframes for implementing those measures.

The opinions shall be submitted directly to the management of the monitoring subject or in cases stipulated by the legislation to the audit committee.

*Annex 1 to Requirements for the establishment of the internal control systems by monitoring entities and other persons involved in monitoring which are legal persons for preventing the legalization of criminally obtained funds or other property and the financing of terrorism*

**QUESTIONNAIRE FOR A POLITICALLY EXPOSED PERSON OF A FOREIGN STATE**

ACCOUNT № \_\_\_\_\_

"The Law of the Republic of Azerbaijan "On combating the legalization of criminally obtained funds or other property and the financing of terrorism" requires the introduction of enhanced due diligence measures besides identification and verification measures envisaged in the Law in relation to transactions with funds or other property of to politically exposed persons (PEPs) of the foreign states.

Pursuant to article 1.0.14 of the Law of the Republic of Azerbaijan "On combating the legalization of criminally obtained funds or other property and the financing of terrorism", the following persons are considered politically exposed persons of foreign states:

1. Any person who holds or previously held an important public posts – heads of state or government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials;

2. Family members and close relatives of any person who holds or previously held an important public posts."

Note: Close relatives refers to parents, grandparents, parents, step-parents, brothers and sisters, step brothers and sisters, husband and wife, children, adopted children, grandchildren.

**INSTRUCTION:**

**FILL IN ONLY ONE SECTION: "A" or "B"**

**Section A:** I personally certify that I am not a politically exposed person of a foreign state in accordance with the above-mentioned notion.

**First Name:** \_\_\_\_\_

**Last Name:** \_\_\_\_\_

**Patronymic:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Section B:** I personally certify that I am a politically exposed person of a foreign state in accordance with the above-mentioned notion.

**First Name:** \_\_\_\_\_

**Last Name:** \_\_\_\_\_

**Patronymic:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Foreign State:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

*Annex 2 to Requirements for the establishment of the internal control systems by monitoring entities and other persons involved in monitoring, which are legal persons for preventing the legalization of criminally obtained funds or other property and the financing of terrorism.*



<b>Self-Evaluation Questionnaire</b>		
If the answer “no” is given, at the end of the Self-Evaluation Questionnaire, more information can be provided		
<b>I. Primary Information</b>		
Full legal name		
Legal address		
Contact address		
Organizational - legal form		
Type of license for conducting banking operations		
Title of the body issuing the license for conducting banking operations		
Countries where branches are located		
Number of branches		
Registration number		
Registration date		
Ownership structure		
Management structure		
Politically exposed person working in the management structure		
Financial institution rating		
Number of employees		
Types of banking activities		
Title of the banking regulatory and supervision authority		
<b>II. Experience, rules and procedures on combating the legalization of criminally obtained funds or other property and the financing of terrorism (AML/CFT)</b>	<b>Yes</b>	<b>No</b>
Did the management structure of the bank approve the Internal Control System?	<input type="checkbox"/>	<input type="checkbox"/>
Was a compliance officer appointed to supervise the implementation of the rules and procedures on AML/CFT at the bank?	<input type="checkbox"/>	<input type="checkbox"/>

Has the bank approved regulation on detection and prevention of suspicious transactions and submission of relevant information to the financial monitoring organ?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank possess an internal audit system or other independent audit service which checks the efficiency of the implementation of AML/CFT rules and procedures regularly, besides supervision measures carried out by regulatory and supervision authorities?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank have rules and procedures that prohibit establishing or continuing business relations with shell-banks?	<input type="checkbox"/>	<input type="checkbox"/>
Is there rules and procedures ensuring that no transaction will be conducted with shell banks or on their behalf through any account or product at the bank?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank have rules and procedures that cover relations with politically exposed persons of foreign states?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank have rules and procedures on ensuring documentation and confidentiality of information in accordance with effective legislation for AML/CFT?	<input type="checkbox"/>	<input type="checkbox"/>
Are AML/CFT rules and procedures applied in all domestic and overseas branches and representative offices of the bank?	<input type="checkbox"/>	<input type="checkbox"/>
<b>III. Risk assessment</b>	<b>Yes</b>	<b>No</b>
Are the customers and operations they conduct evaluated in terms of "risk-based approach" principles?	<input type="checkbox"/>	<input type="checkbox"/>
Has the bank established enhanced due diligence measures for specific categories of high risk customers and operations in AML/CFT field?	<input type="checkbox"/>	<input type="checkbox"/>
<b>IV. Identification, verification and enhanced due diligence measures</b>	<b>Yes</b>	<b>No</b>
Does the bank possess procedures to reveal the real identities of the holders of the accounts managed by others or conducting transactions?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a requirement to collect detailed information about the business activities of the customers at the bank?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank evaluate AML/CFT experience, rules and procedures of its customers?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank have procedures to regularly review and update information concerning high risk customers?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank have procedures to record documents and maintain the register for each new customer including information on identification, verification and enhanced due diligence?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank use the principle of "risk-basis approach" to analyze normal and expected transactions of the customer?	<input type="checkbox"/>	<input type="checkbox"/>

<b>V. Detection and prevention of suspicious transactions and reporting</b>	<b>Yes</b>	<b>No</b>
Does the bank have a procedure and experience in detection and reporting of transactions to be submitted to financial monitoring organ?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank have procedures in cases of necessity to detect transactions attempting to block the transfer of information concerning cash transactions?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank check transactions and customers related to the list of persons and countries prepared by the financial monitoring organ?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank investigate whether the correspondent banks with which it is cooperating possess the appropriate license to function their own countries?	<input type="checkbox"/>	<input type="checkbox"/>
<b>VI. Monitoring of transactions</b>	<b>Yes</b>	<b>No</b>
Does the Bank have a monitoring program for unusual and suspicious transactions such as the transfer of funds, traveller's cheque, etc?	<input type="checkbox"/>	<input type="checkbox"/>
<b>VII. AML/CFT Training</b>	<b>Yes</b>	<b>No</b>
Does the Bank deliver training for its employees on the following components: Detecting and presenting transactions to be reported to financial monitoring organ; various AML/CFT typologies also covering product and services of the bank; internal AML/CFT regulations.	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank retain information on the seminars it held, including relevant seminar materials and notes on attendance?	<input type="checkbox"/>	<input type="checkbox"/>
Are the bank employees informed about amendments to existing AML/CFT legislation?	<input type="checkbox"/>	<input type="checkbox"/>
Does the bank involve any third person to its activity?	<input type="checkbox"/>	<input type="checkbox"/>
If the bank involves any third person to the activity, do those persons deliver trainings on the following subjects: Detecting and presenting transactions to be reported to financial monitoring organ; various AML/CFT typologies also covering product and services of the bank; internal AML/CFT regulations.	<input type="checkbox"/>	<input type="checkbox"/>
<b>VIII. Certification</b>	<b>Yes</b>	<b>No</b>
We affirm that we do not open the accounts for shell banks and do not conduct any transaction on the behalf of such banks directly or using any of their products.	<input type="checkbox"/>	<input type="checkbox"/>

**Space for additional information**

*(Please enter the question number the information is related to)*

.....  
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.....  
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.....  
.....

<b>Name:</b>
<b>Position:</b>
<b>Signature:</b>
<b>Date:</b>

**ANNEX XIV Decree On application of the Law on the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism**



**DECREE**

**OF THE PRESIDENT OF THE REPUBLIC OF AZERBAIJAN**

**On application of the Law of the Republic of Azerbaijan**

**«On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism»**

In order to provide the application of the Law of the Republic of Azerbaijan «On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism», **I hereby order the following:**

1. To establish the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan, in order to provide implementation of the state policy in the sphere of prevention of the legalization of criminally obtained funds or other property and the financing of terrorism, to improve the inspection system and to coordinate the activity of the relevant state authorities in this field.
2. The Central Bank of the Republic of Azerbaijan shall prepare and submit to the President of the Republic of Azerbaijan the draft of Statute of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan within one month.
3. To assign Cabinet of Ministers of the Republic of Azerbaijan, within 2 month:
  - 3.1. preparation and submission to the President of the Republic of Azerbaijan the proposals related to the conformity of the legislative acts being in the effect to the Law of the Republic of Azerbaijan «On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism»;
  - 3.2. ensuring the conformity of normative legal acts of the relevant central executive authorities and Cabinet of Ministers to this Law and informing the President of the Republic of Azerbaijan on these issues;
  - 3.3. determination of the form of the compiling of information submitted to the Financial Monitoring Service under the National Bank of the Republic of Azerbaijan envisaged in the articles 8.1 and 8.3 of the Law and informing the President of the Republic of Azerbaijan on these issues;
  - 3.4. preparation and submission to the President of the Republic of Azerbaijan the draft of the legislative act defining the types of responsibilities for violation of the Law;
  - 3.5. addressing other issues arising from the Law of the Republic of Azerbaijan «On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism».
4. To determine that:
  - 4.1. The President of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the articles 17.1 and 17.7 of the Law of the Republic of Azerbaijan «On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism»;
  - 4.2. The Cabinet of Ministers of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the articles 7.2.5, 7.3 and 8.3 of the Law;

- 4.3.** The State Committee for Securities of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the article 6.1.2 of the Law;
- 4.4.** The Ministry of Finance of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the article 6.1.3 of the Law;
- 4.5.** The Ministry of Communication and Information Technologies of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the article 6.1.4 of the Law;
- 4.6.** In relation to the non-governmental organizations the Ministry of Justice of the Republic of Azerbaijan and in relation to the religious organizations the State Committee of the Republic of Azerbaijan for the Works with Religious Associations carries out the authorities of the «relevant executive authority» envisaged in the article 6.1.5 of the Law;
- 4.7.** In relation to the notaries the Ministry of Justice of the Republic of Azerbaijan and in relation to other persons providing legal services the Ministry of Taxes of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the article 6.1.6 of the Law;
- 4.8.** The State Customs Committee of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the articles 8.1 and 8.2 of the Law;
- 4.9.** The Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan carries out the authorities of the «financial monitoring organ» envisaged in the article 17.1 of the Law;
- 4.10.** The Ministry of National Security of the Republic of Azerbaijan carries out the authorities of the «relevant executive authority» envisaged in the articles 17.5 and 18.1 of the Law.
- 5.** This Decree shall enter into force since the date of its publication.

**Ilham Aliyev**

**President of the Republic of Azerbaijan**

**Baku, «23» February 2009**

**№ 66**

**Published in «Azərbaycan» official newspaper, dated 25 February № 44.**

**ANNEX XV Decree On approval of the Statute of the Financial Monitoring Service**



**DECREE**

**OF THE PRESIDENT OF THE REPUBLIC OF AZERBAIJAN**

**On approval of the Statute of the Financial Monitoring**

**Service under the Central Bank of the Republic of Azerbaijan**

In order to provide the functioning of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan, **I hereby order the following:**

- 1.** «Statute of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan» shall be approved (attached).
- 2.** The Central Bank of the Republic of Azerbaijan shall be assigned:
  - 2.1.** within 15 days to approve the structure and the staff list of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan;
  - 2.2.** to solve other issues within its competence, arisen from this Decree.
- 3.** The Cabinet of Ministers of the Republic of Azerbaijan shall be assigned within 1 month:
  - 3.1.** to prepare and submit to the President of the Republic of Azerbaijan the proposals related to the conformity of the legislative acts being in the effect to this Decree;
  - 3.2.** to ensure the conformity of normative legal acts of the relevant central executive authorities and Cabinet of Ministers of the Republic of Azerbaijan to this Decree and inform the President of the Republic of Azerbaijan on this;
  - 3.3.** to solve issues on provision of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan with appropriate administrative building and its material–technical maintenance;
  - 3.4.** to solve other issues within its competence, arisen from this decree.

**Ilham ALIYEV**

**President of the Republic of Azerbaijan**

**Baku, July 16/2009**

**№ 122**

**Published in «Azərbaycan» official newspaper, dated 17 July, 2009 # 154**

**Approved by the Decree of the  
President of the Republic of Azerbaijan from  
July 16, 2009 # 122**

## **ANNEX XVI Statute of the Financial Monitoring Service**

### **STATUTE**

#### **of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan**

##### **I. GENERAL PROVISIONS**

1. The Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter referred to as the Financial Monitoring Service) was established by the Decree of the President of the Republic of Azerbaijan from February 23, 2009 # 66.
2. The Financial Monitoring Service is the state authority, which implements competences stipulated by the legislation and present Statute in the sphere of prevention of the legalisation of criminally obtained funds or other property and the financing of terrorism in the Republic of Azerbaijan (hereinafter referred to as the relevant sphere).
3. The Financial Monitoring Service is guided in its activity by the Constitution of the Republic of Azerbaijan, international agreements to which the Republic of Azerbaijan is a party, the Law of the Republic of Azerbaijan «On the prevention of the legalisation of criminally obtained funds or other property and the financing of terrorism» and other normative legal acts, relevant international standards, as well as the present Statute.
4. In order to execute the functions and responsibilities, the Financial Monitoring Service interacts with other state authorities.
5. The Financial Monitoring Service builds its activity on base of respects to human rights and fundamental freedoms, rule of law and humanism principles.
6. The Financial Monitoring Service possesses an independent balance sheet, state property being respectively under its disposal by law, accounts in banks, seal with the State Emblem of the Republic of Azerbaijan and its title engraved on it, respective stamps and letterheads.
7. Maintenance and functioning of the Financial Monitoring Service is financed by the Central Bank of the Republic of Azerbaijan and other sources stipulated by the existing legislation.
8. The Financial Monitoring Service is located in Baku city.

##### **II. SCOPE OF ACTIVITY OF THE FINANCIAL MONITORING SERVICE**

9. Scope of activity of the Financial Monitoring Service is as follows:
  - 9.1. implements state policy and ensures supervision in the relevant sphere;
  - 9.2. coordinates the activity in the relevant sphere of monitoring entities, other persons involved in monitoring, supervision authorities and other state authorities, collects and analyses the information received from them;
  - 9.3. provides application of unified information system in the relevant sphere;
  - 9.4. acts in other directions stipulated by the legislation.

##### **III. FUNCTIONS OF THE FINANCIAL MONITORING SERVICE**

10. The Financial Monitoring Service fulfils following functions in accordance with the scope of activity set forth by this Statute:
  - 10.1. carries out monitoring in the relevant sphere, scrutinizes received information, conducts examination and takes measures on the results;
    - 10.1-1. *within the scope of its competence implements normative regulation in the relevant sphere;*
  - 10.2. conducts efficiency analysis of the situation of combating legalisation of criminally obtained funds or other property and financing of terrorism, examines processes, develops proposals and recommendations;



- 10.3.** determines indicators for the detection of transactions subject to monitoring;
- 10.4.** determines regulation of submission of information stipulated by the Law of the Republic of Azerbaijan «On the prevention of the legalisation of criminally obtained funds or other property and the financing of terrorism» by monitoring entities and other persons involved in monitoring;
- 10.4–1. determines simplified due diligence measures pursuant to the Law of The Republic of Azerbaijan «On the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism»;*
- 10.4–2. determines the designated threshold and list of transactions with funds or other property to be reported to the Financial Monitoring Service by monitoring entities pursuant to the Law of The Republic of Azerbaijan «On the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism»;*
- 10.4–3. pursuant to relevant United Nations Security Council Resolutions as well as the legislation of the Republic of Azerbaijan and international agreements the Republic of Azerbaijan is a party to, confirms and publishes the list of persons in the manner identified by the Cabinet of Ministers of the Republic of Azerbaijan, as well as submits those lists directly or via supervision authorities to monitoring entities and other persons involved in monitoring;*
- 10.5.** determines and publishes in the manner identified by the Cabinet of Ministers of the Republic of Azerbaijan, as well as submits directly or via supervision authorities to monitoring entities and other persons involved in monitoring the list of countries that are suspected in either legalisation of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organised crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, as well as the list of countries that do not require disclosing identification information when conducting financial transactions;
- 10.6.** determines requirements on development of internal control systems established by monitoring entities and other persons involved in monitoring, which are legal persons, and establishes qualification requirements (professional specialisation and experience) for persons responsible for organisation of internal control systems;
- 10.6–1. determines the regulation on supervising the observance of requirements of the Law of the Republic of Azerbaijan «On the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» by pawnshops and natural or legal persons providing intermediary services on purchase and sale of real estate;*
- 10.7.** conducts supervision over *pawnshops and natural or legal persons providing intermediary services on purchase and sale of real estate;*
- 10.8.** defines the form of submission of statistical information on the offences related to the legalisation of criminally obtained funds or other property and the financing of terrorism, after being agreed with the relevant state authorities;
- 10.9.** when within the framework of analysis detecting the elements of a crime in transaction, submits information on legalisation of criminally obtained funds or other property to the General Prosecutor Office of the Republic of Azerbaijan, and information on the financing of terrorism to the Ministry of National Security of the Republic of Azerbaijan and gets feedback from them;
- 10.10.** when obtaining information on non-compliance of the monitoring entities and other persons involved in monitoring with the requirements of the Law of the Republic of Azerbaijan «On the prevention of the legalisation of criminally obtained funds or other property and the financing of terrorism», submits such information to the relevant supervision authorities for enforcement to these persons of administrative or stipulated by the national legislation other measures and gets feedback;
- 10.10–1. within the scope of its competence examines the relevant administrative infringement cases envisaged in the legislation;*
- 10.11.** provides application of centralised electronic-information systems for following purposes:

- 10.11.1.** for single collection of received information in the relevant sphere;
- 10.11.2.** for registration of legal and natural persons in relation to whom there are data on their participation in the legalisation of criminally obtained funds or other property and financing of terrorism;
- 10.11.3.** for detection of cases of legalisation of criminally obtained funds or other property and financing of terrorism based on special indicators;
- 10.12.** studies international experience in the relevant sphere and develops proposals on implementation of efficient methods and facilities, participates in implementation of international agreements to which the Republic of Azerbaijan is a party and ensures fulfilment of international obligations;
- 10.13.** prepares relevant statistic reports in accordance within the scope of its activity;
- 10.14.** publicly release periodic reports including statistics, typologies and trends as well as information regarding its activities;
- 10.15.** provides the monitoring entities and other persons involved in monitoring that are required to submit information, with adequate and appropriate feedback;
- 10.16.** ensures effective usage of allocated funds, grants and other financial resources, organizes their registration;
- 10.17.** securely protects information obtained as a result of its activity, as well as establishes the information protection system;
- 10.18.** stores and protects archive documents;
- 10.19.** taking into account international experience undertakes necessary measures for application of modern information and communication technologies in the activity of the Financial Monitoring Service;
- 10.20.** takes measures guaranteeing professional development of staff, provides their participation on necessary educational and training programmes;
- 10.21.** ensures timely consideration of and reply to applications of natural and legal persons;
- 10.22.** within the scope of its activity to implement other functions stipulated by the legislation.

#### **IV. RIGHTS OF THE FINANCIAL MONITORING SERVICE**

- 11.** The Financial Monitoring Service is entitled with the following rights for fulfilling its functions:
  - 11.1.** to participate in the processes of improvement of legislation in the relevant sphere and develops appropriate proposals;
  - 11.2.** to conduct researches in the relevant sphere, develops analytical and methodical materials;
  - 11.3.** to suspend the execution of transactions with funds or other property in the cases stipulated by the legislation, takes imperative decisions and gives imperative orders in the relevant sphere;
  - 11.4.** for the purposes of the Law of the Republic of Azerbaijan «On the prevention of the legalisation of criminally obtained funds or other property and the financing of terrorism» to receive, collect and analyse the information from monitoring entities, other persons involved in monitoring, supervision authorities, as well as to use databases of other state authorities in accordance with the legislation of the Republic of Azerbaijan;
  - 11.5.** with a view of examination of received information concerned with legalisation of criminally obtained funds or other property and financing of terrorism or when necessary to require from monitoring entities, other persons involved in monitoring, supervision authorities and other state authorities by sending relevant inquiry additional information, needed to properly undertake its functions;
  - 11.6.** within the scope of its competence to ensure relations of the Republic of Azerbaijan with foreign states and international organizations; to cooperate with relevant agencies of other states; in accordance with the legislation to conclude international instruments, as well as to apply for membership in the specialised international institutions;

- 11.7. to initiate joining of the Republic of Azerbaijan to international instruments regarding the issues connected with the scope of activity of the Financial Monitoring Service;
- 11.8. to organise conferences, seminars, forums, trainings and other events in the relevant sphere, takes part at such events;
- 11.9. to set up interagency cooperation and consultative bodies, working groups, involves experts and specialists in its activity, orders independent examinations;
- 11.10. to publish special bulletins and other editions, to establish periodicals in accordance with the legislation;
- 11.11. in accordance with the legislation of the Republic of Azerbaijan to realize rights on state property being at disposal;
- 11.13. within the scope of its activity to implement other rights stipulated by the legislation.

#### **V. ORGANISATION THE ACTIVITY OF THE FINANCIAL MONITORING SERVICE**

- 12. The Financial Monitoring Service is headed by the Director of Financial Monitoring Service is appointed and dismissed by the President of the Republic of Azerbaijan.
- 13. The Director of Financial Monitoring Service has Deputy is appointed and dismissed by the President of the Republic of Azerbaijan.
- 14. The Director of Financial Monitoring Service:
  - 14.1. manages the activity of the Financial Monitoring Service and organizes its current functioning;
  - 14.2. determines the official responsibilities of the Deputy Director of the Financial Monitoring Service;
  - 14.3. appoints and released from the position other employees of the Financial Monitoring Service;
  - 14.4. approves statutes on organisational divisions of the Financial Monitoring Service and its employees' job descriptions, supervises their activity;
  - 14.5. gives imperative orders and decrees regarding the activity of the Financial Monitoring Service, *as well as approves (signs) by-laws, organizes their implementation and carries out the supervision;*
  - 14.6. cancels unlawful orders and decisions of the Financial Monitoring Service's officials;
  - 14.7. without a power of attorney represents the Financial Monitoring Service in relations with state authorities and other persons of the Republic of Azerbaijan and foreign countries; within competences organizes negotiations with relevant state authorities of foreign states and international organisations; participates in international negotiations, and signs international instruments in a manner defined by legislation;
  - 14.8. ensures efficient utilisation of funds allocated for the Financial Monitoring Service;
  - 14.9. submits the report on the activity of the Financial Monitoring Service to the President of the Republic of Azerbaijan every three months;
  - 14.10. implements other responsibilities in accordance with the legislation of the Republic of Azerbaijan.
- 15. The Director of Financial Monitoring Service and Deputy Director bear responsibility for fulfillment the duties and implementation the functions entrusted to the Financial Monitoring Service.
- 16. In the absence of the Director of Financial Monitoring Service, his powers shall be delegated to the Deputy Director of Financial Monitoring Service. In the absence of the Deputy Director of Financial Monitoring Service, these powers shall be implemented by another official of the Financial Monitoring Service defined by the Director of Financial Monitoring Service.
- 17. The Chairman of the Central Bank approves the structure, staff list and estimate of expenditures of the Financial Monitoring Service.
- 18. The status of the Director of Financial Monitoring Service shall be equivalent to the status of the first Deputy Chairman of the Central Bank; the status of the Deputy Director of Financial Monitoring

Service shall be equivalent to the status of the Deputy Chairman of the Central Bank; the status of employees of the Financial Monitoring Service shall be equivalent to the status of the employees of the Central Bank.

## **ANNEX XVII Law on Regulation of Inspections**

### **The Law of the Republic of Azerbaijan on regulation of inspections in entrepreneurship field and protection of the rights of the entrepreneurs**

Pursuant to Paragraphs 1 and 17 of Part I of Article 94 of the Constitution of the Republic of Azerbaijan, the Law defines the purpose and principles, rules of organizing and conducting inspections related to entrepreneurship, rights and duties of inspecting authorities and their officials during inspections, requirements related to rights and interests of the entrepreneurs in the Republic of Azerbaijan.

#### **CHAPTER 1**

#### **GENERAL PROVISIONS**

##### **Article 1 Basic definitions**

The definitions used in this Law express the following meanings:

inspection related to entrepreneurship (hereafter - inspection) – a set of measures for the inspecting authorities to assess the fulfillment of compulsory requirements regarding the entrepreneurship activity of the entrepreneurs. The inspection provides for the opportunity to apply liability measures on the finding;

entrepreneur – legal and natural persons whose main purpose is to make profit from the use of property, production and (or) sale of goods, work execution or provision of services;

inspecting authority – government authority given the power to conduct inspection in entrepreneurship field lawfully;

inspector – the official of the inspecting authority given the power to conduct inspection in the field the inspecting agency is liable for;

scheduled (next) inspection – inspection conducted on the basis of inspection plan developed in advance based on the risk assessment system and periodicity for conducting inspections as defined by this Law;

unscheduled (extraordinary) inspection – inspection conducted based on the grounds identified in Article 16 of this Law without taking into account the inspection periodicity as defined by this Law;

risk – possibility of harming the human lives or health, environment and property interests of the state as a result of the entrepreneur's activity;

risk assessment system – application system of information collection and analysis conducted by the inspecting authority for planning and organizing inspections;

criteria for determining risk groups – a set of quantitative and (or) qualitative criteria connected with the peculiarities of the entrepreneurship activity and used to attach the entrepreneurs to different risk groups;

list of inspection questions – a component of that inspection report that reflects the detailed list of compulsory requirements regarding the entrepreneurship activity inspected by the inspecting authority during the inspection;

integrated information register of inspections – integrated information register of inspections kept in the field of entrepreneurship mentioned in Article 13 of this Law;

direct and serious threat or severe harm to human lives or health, environment, property interests of the state – threat or harm determined by the relevant executive authority.

The definitions provided in the other laws except for the Civil Code of the Republic of Azerbaijan shall be applied in the meaning provided in this Law if the definitions in the other laws render a different meaning.

##### **Article 2. Scope of application of the Law**

2.1. This Law applies to all types of inspection measures, as well as inquiries, examinations, monitorings, surveillance, inspections, controls, time-keeping, raids, surveys and others conducted through the visits of inspecting authorities to the places where the entrepreneurship activity occurs.

2.2. This Law (except for Articles 3.2, 7.1-7.3, 7.5- 7.10, 8, 11.1, 12, 13 and 34.1 of this Law) does not apply to tax inspections.

2.3. Articles 3.2, 13, 20.1, 20.2 and 34.1 of this Law apply to the activity of the representatives of state-owned legal persons that hold monopolistic position in providing certain services in relation to visiting the places where the entrepreneurship activity occurs and demanding that the contract terms are observed.

### **Article 3. Legality of the inspections**

3.1. Inspections are conducted only in cases stipulated and as defined in this Law.

3.2. The inspections conducted with the violation of requirements of this Law and other legal acts adopted on its basis as well as without registering in the integrated information register of the inspections do not have consequence in law. Liability measures cannot be applied in relation to the facts of violation revealed during such inspections of laws of the Republic of Azerbaijan and other bylaws which are adopted pursuant to them that determines compulsory requirements regarding the entrepreneurship activity (hereafter -violation).

### **Article 4. Purpose and principles of inspections**

4.1. The purpose of the inspections is to ensure that compulsory requirements regarding entrepreneurship are observed by the entrepreneurs as well as the security of the human life or health, environment and the state's property interests through the assistance to the entrepreneurs by the inspecting authority in the relevant field.

4.2. Inspections are based on the following principles:

4.2.1. legality, fairness, impartiality, transparency and accountability;

4.2.2. presumption of innocence of the entrepreneur;

4.2.3. state registration of inspections in integrated information register;

4.2.4. non-intervention to the activity of the entrepreneur that is not connected with the inspection;

4.2.5. conformity of the inspection with the power of the inspecting authority;

4.2.6. that the same inspecting object cannot be inspected by several inspecting authority;

4.2.7. openness of the bylaws and other information regarding the inspection and its organization for the entrepreneur;

4.2.8. the responsibility of the inspecting authority and its officials for the losses to the entrepreneur resulting from the violation of the requirements of the bylaws during the inspections;

4.2.9. preference of prevention of the offences over the punishment;

4.2.10. funding of the inspection by the inspecting authority;

4.2.11. high professionalism of the officials with inspecting authority;

4.2.12. application of risk assessment system and list of inspection questions in the field of inspections;

4.2.13. supervision (as well as internal control) over the operation of the inspecting authorities;

4.2.14. that the inspection is of preventive nature and serves to assist the entrepreneur in meeting compulsory requirements regarding the entrepreneurship;

4.2.15. equality of legal and lawful interests of all inspected entrepreneurs.

## **CHAPTER 2**

### **STATE REGULATION OF INSPECTIONS**

#### **Article 5. Compulsory requirements regarding the entrepreneurship**

5.1. Compulsory requirements regarding the entrepreneurship are determined by the laws of the Republic of Azerbaijan and other bylaws adopted on their basis. The subject of the inspection is to assess the compliance of the entrepreneur with compulsory requirements.

5.2. If the unclear or contradicting provisions of compulsory requirements regarding the entrepreneurship and bylaws regarding the inspections are revealed, the provision that is more advantageous to the entrepreneur is applied.

5.3. Liability measures for breach of compulsory requirements regarding the entrepreneurship are only determined by the law.

#### **Article 6. Powers of inspecting authorities**

6.1. The powers of the inspecting authority are determined by the laws of the Republic of Azerbaijan and other bylaws adopted pursuant to them. The duplication of the powers of inspecting authorities is not allowed.

6.2. It is not allowed for the inspecting authority to adopt bylaws regarding the organization and conduct of inspection.

6.3. The list of inspecting authorities and their supervision areas are decided by the relevant executive authority.

#### **Article 7. The powers of the inspector and requirements related to the inspector**

7.1. The powers of the inspector are limited with the powers of the inspecting authority. Any other power besides conducting inspections as well as restraining the activity of the entrepreneur, review of inspection materials and making decisions on the outcomes, application of liability measures, and collection of fines cannot be granted to inspectors.

7.2. The inspector cannot inspect the issues unrelated to the supervision area of the inspecting authority he/she represents and familiarize himself/herself with the materials related to those issues.

7.3. The inspector shall meet high professional requirements. The persons employed with the inspecting authority shall be trained in inspection procedures before allowing them to conduct inspections. The training shall be arranged by the inspecting authority at least once a year for increasing the professionalism of inspectors.

7.4. The activity of inspectors is assessed pursuant to the Law of the Republic of Azerbaijan On State Service and other laws of the Republic of Azerbaijan that govern the service in special types of the state service.

7.5. The inspectors shall follow the code of ethics applied in the inspecting authority they represent.

7.6. If not otherwise considered in the bylaws determining the powers of the inspecting authority, the direct supervision over the actions of the inspectors are carried out by the management of the inspecting authority and its internal control body.

7.7. The inspectors shall ensure the protection of information with limited access as determined by the Law of the Republic of Azerbaijan on Obtaining Information.

7.8. The inspector is not allowed to conduct the inspection in the following cases:

7.8.1. if he/she is the founder (member) of the inspected legal person;

7.8.2. . if he/she is a close relative of the inspected individual entrepreneur, the founder (member) of the legal person, members (head) of governing bodies. In this Article and Article 18.2.4 of this Law, a close relative means parents, grandfathers, grandmothers, brothers and sisters and stepbrothers and stepsisters, adoptive parents, spouses, children and grandchildren.

7.9. If the cases indicated in Article 7.8 of this Law have been detected, the head of the inspecting authority or his/her substitute shall make amendments to the decision on the inspection and that decision shall be presented to the entrepreneur or his/her authorized representative.

7.10. The number of violations detected during inspections and liability measures applied due to them, the amount of fines and other financial sanctions shall not serve as a criterion for assessing the efficiency of the inspecting authority, inspector and other employees.

#### **Article 8. Providing consultations to the entrepreneur**

8.1. The entrepreneurs shall be provided with free, unpaid and limitless access to the bylaws (as well as technical bylaws) governing the compulsory requirements on the entrepreneurship.

8.2. The bylaws (as well as technical bylaws) governing the compulsory requirements on the entrepreneurship, the regulations that govern each stage of the inspection as well as filing complaints on the decisions adopted by the inspecting authority, information on the powers of the inspecting authority, the list of inspection questions, explanations on application of compulsory requirements on entrepreneurship, answers to frequently asked questions, as well as information that will serve to increase the efficiency of the entrepreneurship are posted on the websites of the inspecting authorities and they are updated as the changes are made to such information.

8.3. The entrepreneur is entitled to turn to the inspecting authority for obtaining methodological assistance, consultation and assessing the situation and invite it to the address where it is located or actually operates.

8.4. The inspecting authority is obliged to provide written or oral explanations to the issues within its powers regarding the compulsory requirements as well as provide methodological assistance for resolving the challenges encountered.

8.5. The inspecting authority shall create unpaid telephone information service for more efficient notification of entrepreneurs on the issues provided for in Article 8.2 of this Law. To allow the entrepreneur acting in accordance with the explanation and methodological assistance received through telephone information service to refer to it, the inspecting authority shall record the information it provided by technical equipment. The entrepreneur is entitled to obtain the soft copy of the audio recording of the recorded explanation within three months of its date of recording.

8.6. The entrepreneur shall not be liable for the violations during the activity based on the explanations and methodological assistance received pursuant to Articles 8.4 and 8.5 of this Law.

8.7. If after the explanations or methodological assistance were provided by the inspecting authority the legal acts that those explanations or methodological assistance are based upon were amended, then Article 8.6 of this Law is not applied.

## **CHAPTER 3**

### **RISK ASSESSMENT SYSTEM**

#### **Article 9. Division of entrepreneurs into risk groups**

9.1. For organizing and conducting the scheduled (next) inspections, the entrepreneurs are divided into high, medium and low risk groups.

9.2. Division of entrepreneurs into risk groups is conducted by the inspecting authority in accordance with its supervision area based on the risk group determination criteria and are applied to all inspected entrepreneurs.

9.3. Risk group determination criteria are determined on the basis of qualitative and (or) quantitative indicators of the activity of the entrepreneurs and the following factors are taken into account in this:

9.3.1. scope of the entrepreneur's operation;

9.3.2. duration of the entrepreneur's operation in the relevant field;

9.3.3. features of the goods produced by the entrepreneur (work executed, service provided) and (or) his/her field of operation;

9.3.4. various statistical data (occurrence of negative cases in the field of the operation of the entrepreneur, the situation with the violations of compulsory requirements in the field of the operation of the entrepreneur, etc.);

9.3.5. outcomes of the earlier inspections with the entrepreneur;

9.3.6. unconformities and contradictions in the entrepreneur's compulsory accounting.

9.4. If it is possible to assign the entrepreneur to two or more risk groups, then he/she is assigned to a higher risk group.



9.5. Risk group determination criteria for supervision area of each inspecting authority are drawn up by the inspecting authority and confirmed by the relevant executive authority.

9.6. When dividing entrepreneurs into risk groups, the inspecting authority shall observe the following conditions:

9.6.1. no more than 10 percent of the inspected entrepreneurs shall be assigned to the high risk group;

9.6.2. no more than 30 percent of the inspected entrepreneurs shall be assigned to the medium risk group;

9.6.3. the entrepreneurs that are not assigned to high and medium risk groups shall be assigned to the low risk group.

9.7. Risk group determination criteria (their content and selection) shall be analyzed and reviewed at least once in three years.

9.8. If risk group determination criteria have not been confirmed for the supervision area of the inspecting authority, then the inspecting authority cannot undertake the scheduled (next) inspection.

#### **Article 10. Periodicity of the scheduled (next) inspections**

10.1. Periodicity of the scheduled (next) inspections with the entrepreneur depends on the risk group he/she belongs to and cannot be conducted with the periodicity greater than the periodicity determined in this article for each risk group.

10.2. Except for fields in Article 10.3 of this Law, the scheduled (next) inspections are undertaken with the following periodicity:

10.2.1. in relation to an entrepreneur belonging to high risk group – no more than once in a year;

10.2.2. in relation to an entrepreneur belonging to medium risk group – no more than once in two year;

10.2.3. in relation to an entrepreneur belonging to low risk group – no more than once in three years.

10.3. The scheduled (next) inspections are conducted with the following periodicity in the field of control over the security of food products:

10.3.1. in relation to entrepreneurs belonging to high risk group – no more than once in six months;

10.3.2. in relation to entrepreneurs belonging to medium risk group – no more than once in a year;

10.3.3. in relation to entrepreneurs belonging to low risk group – no more than once in two years.

10.4. If no violation of compulsory requirements was detected in the entrepreneur's activity in the last two inspections or the violation detected does not pose direct and serious threat or does not do grievous harm to the human life or health, environment and state's property interests, then the scheduled (next) inspection with the entrepreneur is appointed with the periodicity for the risk group he/she belongs to being increased by 1.5 times.

10.5. The periods indicated in Articles 10.2 and 10.3 of this Law are estimated from the date of completion of the last scheduled (next) inspection, in relation to the entrepreneur who has not subject to scheduled (next) inspection from the date of his/her state registration and in case of the change of the risk group from date of the change of the risk group.

10.6. Information concerning the assignment of the entrepreneur to a certain risk group shall be entered into the integrated information register of inspections by the inspecting authority and that information shall be open for the entrepreneurs registered in the intergrated information register of inspections.

### **CHAPTER 4**

#### **REGISTRATION OF INSPECTIONS**

##### **Article 11. Electronic registration of inspections**

11.1. The inspecting authority conducts electronic registration of information on the inspections undertaken (number of inspections, their peculiarities, outcomes, as well as detection of offences through inspections,

decision on the violations, the accused persons held liable and liability actions taken) and assignment of entrepreneurs to risk groups on its supervision area.

11.2. The information included in the electronic registration of inspections is used for establishment and improvement of risk assessment system, state control over entrepreneurship and providing consultations to entrepreneurs.

### **Article 12. Annual reports on inspections**

12.1. At the end of the calendar year, the inspecting authority prepares an annual report reflecting the following information on:

12.1.1. activities during the reporting period on consultations regarding the provisions of the bylaws that need to be explained, with the focus being on the more important issues for entrepreneurs;

12.1.2. the numbers (general and risk group-based), types, peculiarities, duration and outcomes of the inspections;

12.1.3. the scope of offences showing the reasons why the entrepreneurs committed them, provisions of the bylaws that are often violated and the decisions taken;

12.1.4. the number of decisions rescinded and changed based on the complaint from the entrepreneurs;

12.1.5. the bylaws proposed to be amended or adopted for eradicating the cases provided for in Article 5.2 of this Law, gaps in legislation, and efficiently organizing the supervision over the entrepreneurship and reducing their supervision burden.

12.2. Besides the annual reports on the activities of the state authorities, the information in Articles 12.1.1-12.1.4 of this Law are provided in the official website as well as other sources stipulated in the Law of the Republic of Azerbaijan on Obtaining Information.

### **Article 13. Integrated information registers of inspections**

13.1. The relevant executive authority keeps integrated information register of inspections to obtain complete and operational information on the periodicity, consecution, repetition and outcomes of inspections of entrepreneurs.

13.2. The form and rules for keeping integrated information register of inspections in the entrepreneurship field are confirmed by the relevant executive authority.

13.3. Inspecting authorities shall provide the information on each inspection they conduct to the relevant executive authority as defined in Article 13.2 of this Law.

## **CHAPTER 5**

### **ORGANIZATION AND CONDUCT OF INSPECTIONS**

#### **Article 14. Types and period of inspections**

14.1. Inspections are conducted as the scheduled (next) or unscheduled (extraordinary).

14.2. The scheduled (next) inspection covers from the date of completion of the last scheduled (next) inspection of the entrepreneur and, for the entrepreneur who has not been subject to scheduled (next) inspections, from the date of the state registration to the date of commencement of the scheduled (next) inspection, however in all cases, a period of no longer than three years.

#### **Article 15. The scheduled (next) inspection**

15.1. The scheduled (next) inspection is conducted on the basis of an annual plan drawn up by the inspecting authority and included into the integrated information register and on the dates indicated in the plan. The annual inspection plan is drawn up in accordance with the risk assessment system and inspection periodicity determined separately for each risk group.

15.2. The annual inspection plan reflects the following information:

15.2.1. the title of the inspecting authority (in case of joint inspections, the titles of the other inspecting authorities shall also be indicated);

15.2.2. the name of the entrepreneur to be inspected;

15.2.3. taxpayer's identification number of the entrepreneur to be inspected;

15.2.4. address of the enterprise of the entrepreneur to be inspected;

15.2.5. duration of the inspection (showing commencement and completion dates);

15.2.6. information on the last scheduled (next) inspection of the entrepreneur (completion date of the inspection, number of the inspection report, facts of offences).

15.3. Inspection plan for the next year is confirmed by the head of the inspecting authority or his/her substitute and submitted electronically to the relevant executive authority no later than 1 November of the current year. Relevant executive authorities place those plans in the integrated information register of inspections.

15.4. The entrepreneur can be subject to the inspection conducted by a number of inspecting authorities.

### **Article 16. Unscheduled (extraordinary) inspection**

16.1. Given the provisions of Article 16.8 of this Law, unscheduled (extraordinary) inspection is conducted in the following cases:

16.1.1. if the entrepreneur does not inform the inspecting authority of the implementation of the decision made on the basis of Articles 33.2.2-33.2.4 of this Law on the eradication of the violations detected at the last inspection or their outcomes within the determined period of time or if the information provided is determined to be false;

16.1.2. When examining the implementation status of the decision on application (re-application) of the constraining measures to the activity of the entrepreneur pursuant to Article 29.2 of this Law;

16.1.3. in cases when the inspecting authority receives from legal and natural persons, state and local self-government bodies official inquiries (information) based on the concrete facts regarding the direct and serious threat and grievous harm to human life and health, environment and state's property interests, as well as when information is spread in the mass media;

16.1.4. When the entrepreneur asks the inspecting authority to conduct unscheduled (extraordinary) inspection.

16.2. During the unscheduled (extraordinary) inspection conducted on the basis of Article 16.1.1 of this Law, only the implementation of the decision on the eradication of the violations detected at the last inspection is examined.

16.3. During the unscheduled (extraordinary) inspection conducted on the basis of Article 16.1.2 of this Law only the eradication of the circumstances that cause the (re-)limitation of the entrepreneur's activity and offences is examined.

16.4. During the unscheduled (extraordinary) inspection conducted on the basis of Article 16.1.3 of this Law only the facts of violation of compulsory requirements reflected in the official inquiries of the persons indicated in that Article or disclosed in mass media are examined.

16.5. During the unscheduled (extraordinary) inspection conducted on the basis of Article 16.1.4 of this Law only the issues revealed by the entrepreneur are examined.

16.6. In cases other than those indicated in Article 16.1 of this Law and for examining the issues other than those indicated in Articles 16.2-16.5 of this Law, the unscheduled (extraordinary) inspection cannot be conducted.

16.7. When making decision on the unscheduled (extraordinary) inspection in accordance with Article 16.1.3 of this Law, the following factors are comprehensively analyzed and taken into account:

16.7.1. mental health and correctness of the previous inquiries of the person who files the inquiry;

16.7.2. the inquiries about the same entrepreneur from different persons;

16.7.3. the extent to which the facts indicated in the inquiries cause direct and serious threat and do serious harm to human life and health, environment and state's property interests;

16.7.4. status of the compliance of the entrepreneur whose inspection is demanded with the compulsory requirements indicated in Article 5.1 of this Law.

16.8. if in result of the analysis of the factors indicated in Article 16.7 of this Law, the inspecting authority comes to the conclusion that there is no direct and serious threat and serious harm to human life and health, environment and state's property interests, it makes the decision stating that there is no valid justification for the unscheduled (extraordinary) inspection pursuant to Article 16.1.3 of this Law. This decision has to be justified, the head of the inspecting authority or his/her substitute shall sign it and shall be sent to the person (body) that inquired and the mass media that disclosed the information.

16.9. Unscheduled (extraordinary) inspection cannot be conducted on the basis of anonymous inquiries (information) with reference to Article 16.1.3 of this Law.

16.10. In the case stipulated in Article 16.1.4 of this Law, unscheduled (extraordinary) inspection cannot be conducted by the inspectors who conducted the last inspection.

16.11. The decision on unscheduled (extraordinary) inspection shall be submitted electronically to the inspecting authority for including in the integrated information register of inspections and prior to the commencement of the inspection, the excerpt shall be taken from the register.

#### **Article 17. Making decisions on conducting inspections**

17.1. The inspection is conducted on the basis of the decision signed by the head of the inspecting authority or his/her substitute.

17.2. The decision on conducting inspection reflect the following:

17.2.1. number and date of the decision;

17.2.2. title of the inspecting authority (in case of joint inspection, the titles of other inspecting authorities shall be indicated);

17.2.3. the name of the entrepreneur to be inspected and taxpayer's identification number;

17.2.4. in case the inspection is conducted in the enterprise(s) of the entrepreneur, their address (addresses);

17.2.5. type of inspection;

17.2.6. type and completion date of the last inspection;

17.2.7. inspection duration ( indicating commencement and completion dates);

17.2.8. surname, name, patronymic name and the position of the inspector(s);

17.2.9. in case of unscheduled (extraordinary) inspection, reference to the relevant case reflected in Article 16.1 of this Law and the numbers of the questions to be checked from the list of inspection questions.

17.3. A copy of the decision on inspection, as well as explanation of rights and duties of the entrepreneur and inspecting authority during the inspection are sent to the entrepreneur at least five workdays prior to the commencement of scheduled (next) inspection by the inspecting authority.

The decision on the unscheduled (extraordinary) inspection is presented to the entrepreneur at the moment of the commencement of the inspection.

17.4. The inspection is conducted by the inspector(s) indicated in the decision on the inspection.

#### **Article 18. Duration of the inspection**

18.1. The duration of the scheduled (next) inspection shall not exceed ten workdays for large entrepreneurs and five workdays for small and medium entrepreneurs. The duration of the unscheduled (extraordinary) inspection shall not exceed five workdays for large entrepreneurs and three workdays for small and medium entrepreneurs. The criteria for large, medium and small entrepreneurs are confirmed by the relevant executive authorities.

18.2. The inspection is stopped once by the head of the inspecting authority or his/her substitute in following cases and durations:

18.2.1. if the documents required for conducting inspection are restored by the inspected entrepreneur - for no more than thirty days;

18.2.2. when inquiries are sent to state and local self-government bodies, legal and natural persons for obtaining documents and information - for no more than thirty days (in those bodies or persons are abroad - for no more than fifty days);

18.2.3. in case of a decision on the study (testing) of the product – for a period no more than the period provided for in Article 25.1 of this Law;

18.2.4. when it is not possible to proceed with the inspection because of the absence of the entrepreneur due to temporary loss of labor ability of the authorized representative of the inspected entrepreneur, his/her own or close relative's illness, or death and other legitimate reason - for no more than twenty days.

18.3. A validated decision regarding the suspension of inspection is made by the head of the inspecting authority or his/her substitute and relevant information is entered into the integrated information system of inspections.

18.4. The period of suspension of the inspection is not included into the overall inspection period.

18.5. The inspected entrepreneur should be notified of the decision to suspend the inspection and the relevant notes shall be made in the inspection report.

#### **Article 19. List of inspection questions**

19.1. To ensure systemacy in the collection of information on the inspected entrepreneur, analysis and assessment of inspection results, inspection effectiveness and transparency, simplification of inspection process, the inspecting authority shall use the list of inspection questions during inspections.

19.2. The list of inspection questions forms part of the inspection report.

19.3. The list of inspection questions reflects the compulsory requirements inspected during the inspection.

19.4. Significant compulsory requirements shall be incorporated into the list of inspection questions. Significant requirements are those requirements that their violation pose direct and serious threat or does grievous harm to the human life or health, environment and state's property interests.

19.5. Relevant notes on the implementation status of the requirements reflected in the list of inspection questions are incorporated during the inspection by the inspector (head of inspection) to the list of inspection questions.

19.6. During the inspection, only implementation status of compulsory requirements included in the list of inspection questions are examined. If during the inspection, a violation of the requirements not included in the list of inspection questions is detected, then no liability measure shall be applied on the basis of that fact.

19.7. The list of inspection questions is prepared on the basis of the supervision area by each inspecting authority, is confirmed by its head and placed in the integrated information register of inspections. The issues unrelated to the supervision area of the inspecting authority cannot be incorporated into the list of inspection questions drawn up and implemented by the inspecting authority.

19.8. The form and rules of applying the list of inspection questions is confirmed by the relevant executive authority.

19.9. The list of inspection questions is posted on the official website of the inspecting authority.

#### **Article 20. Conducting the inspection**

20.1. Before starting the inspection, the inspector produces to the entrepreneur or his/her authorized representative his/her service certificate, a copy of the decision to conduct the inspection and excerpt about the inspection being registered at the integrated information register of inspections, provides information on the legal grounds, subject, duration, Parties' rights and duties during the inspection.

20.2. In case the documents mentioned in Article 20.1 of this Law or inspection duration in the decision on the inspection and excerpt from the integrated information register of inspections is not observed, the entrepreneur may refuse to allow the inspector to conduct the inspection.

20.3. During the inspection, the entrepreneur shall present the documents related to inspection to the inspector and provide oral and (or) written explanations to the questions that arise during the course of the inspection. The originals of the documents taken shall be returned to the entrepreneur during the inspection or immediately after the inspection with a copy of the inspection report.

20.4. For clarifying the issues related to the inspection subject, the inspection authority may send inquiries to state and local self-government bodies, legal and natural persons to obtain documents and information regarding the inspection. Pursuant to the Law of the Republic of Azerbaijan on Obtaining information, the inquiry shall be responded in the shortest period, yet no later than seven workdays.

20.5. The inspection is carried out only during the working hours and workdays of the entrepreneur at the address where the entrepreneur is located or actually operates (the address where the inspection is carried out is indicated in the decision on the inspection and the excerpt from the integrated information register of inspections). Inspection measures shall not break the normal working regime of the entrepreneur.

20.6. During the inspection, to make a valid decision, the inspectors shall clarify all facts and issues as well as cases which are advantageous for the entrepreneur.

20.7. To fully carry out inspection measures and determine the conformity of the relevant factual information with the information on the documents presented by the inspected entrepreneur, the inspectors shall conduct examination of the place the inspected entrepreneur uses for operations (except for living area), production and processing enterprises, warehouses, sales areas and service vehicles. The inspector draws up a protocol on the examination.

20.8. The examination of the place used for entrepreneurship (except for living area), production and processing enterprises, warehouses, sales areas and service vehicles is conducted with the inspected entrepreneur or his/her representative participating. If the inspector is allowed into those places, the relevant notes are taken in the inspection report.

20.9. If the inspector decides to use technical equipment (audio, video and photo equipment, copy machine and scanner), he/she notifies the inspected entrepreneur or his/her representative by obtaining his/her signature. In case the inspected entrepreneur or his/her representative refuse to confirm the fact of notification through his/her signature, the refusal report is drawn up by the inspector and relevant notes are taken in the inspection report.

20.10. The photos, audio and video recordings, computer data and other data carriers are added to the inspection materials and stored during its storage duration. The photos, audio and video recordings shall not be presented to mass media without written consent of the entrepreneur.

20.11. The inspected entrepreneur may carry out photo, video and audio recording of inspection measures.

20.12. The inspected entrepreneur, at his/her own discretion, may invite representatives of different organizations or any third persons to assist in the inspection.

Central Bank of the  
Republic of Azerbaijan

Order # 19/1

17 September 2013

# **ANNEX XVIII Guidelines on Cashless Settlements and Money Remittances**

## **Guidelines on Cashless Settlements and Money Remittances in the Republic of Azerbaijan**

### **1. General provisions**

1.1. These Guidelines have been developed in accordance with the Civil Code and the Tax Code of the Republic of Azerbaijan, the Laws of the Republic of Azerbaijan on Social Insurance, on Execution, and other acts of legal nature as per paragraph 44.3 of the Law of the Republic of Azerbaijan on the Central Bank of the Republic of Azerbaijan, and Para 38.1 of the Law of the Republic of Azerbaijan on Banks. .

1.2. These Guidelines determine maintenance of cashless settlements in the territory of the Republic of Azerbaijan, including the form, content, development and circulation procedures of payment instructions used, as well as terms and conditions for managing money remittances.

1.3. Cashless settlements and money remittances shall be conducted by banks, local branches of foreign banks, and the national postal operator (hereinafter – banks).

1.4. When conducting cashless settlements and money remittances the identification and verification of the payer and payee, as well as beneficiaries, and other related issues shall be implemented in line with the requirements of the Law of the Republic of Azerbaijan on Prevention of Legalisation of Criminally Obtained Funds or Other Property and the Financing of Terrorism.

1.5. Foreign currency-denominated cashless settlements and money remittances shall be conducted in compliance with these Guidelines and the currency legislation.

### **2. Definitions**

2.1. Definitions used herein shall have the following meanings:

2.1.1. cashless settlement – payment made through bank accounts based on payment instructions without using cash;

2.1.2. payment instruction – prescription submitted by the payer or the payee in a hard or soft copy for conducting cashless settlements;

2.1.3 payment transaction – irrespective of any obligations between the payer and the payee, order, crediting to or debiting from the bank account of funds at the initiative of either party;

2.1.4. transaction day – time period set for reception of payment instructions, and execution of payment transactions or money remittances by the bank within a business day;

2.1.5. payer – person disposing of cashless settlements and money remittances on behalf of the payee;

2.1.6. payee – person on whose behalf cashless settlements or money remittances are conducted;

2.1.7. money remittance – transfer of funds on behalf of the payee without opening a bank account in the name of the payer and/or the payee;

2.1.8. money remittance system (hereinafter – the system) – system enabling transfer of funds within a country or overseas by individuals without opening a bank account or reception of funds transferred on behalf of them;

2.1.9. name – first, middle and last names of the individual or name of the legal entity;

2.1.10. TIN – taxpayer’s tax identification number;

2.1.11. budget classification code – description in figures of grouping of revenues, expenditures and financial sources of the state budget of the Republic of Azerbaijan, Nakhchivan AR’s budget, local budgets and off-budget public funds under functional, economic, administrative, and other principles;

2.1.12. budget level code – description of the state budget of the Republic of Azerbaijan, Nakhchivan AR’s budget, local budgets and off-budget public funds in figures as defined by the Ministry of Finance of the Republic of Azerbaijan;

2.1.13. payment terminal – equipment, enabling payment transactions in cash or through a bank account, and a payment card, and provided with relevant software that supply the payer with a supporting document on payment transactions.

### **3. Types of cashless settlements**

3.1. These Guidelines regulate the following types of cashless settlements:

3.1.1. settlements with payment orders;

3.1.2. settlements with direct debits;

3.1.3. settlements with encashment orders;

3.1.4. settlements with prescriptions of the State Social Protection Fund of the Republic of Azerbaijan (hereinafter – the State Social Protection Fund), tax and customs authorities.

3.2. settlements on encashment and letters of credit shall be regulated by the Civil Code of the Republic of Azerbaijan and business circulation practices applied in banking.

3.3. Settlements with payment cards shall be regulated by the Regulations on Issue and Usage of Payment Cards of the Central Bank of the Republic of Azerbaijan.

3.4. Cashless settlements can be conducted in other forms implied by business turnover practices applied in banking, in compliance with Para 972.1 of the Civil Code of the Republic of Azerbaijan.

3.5. The form of cashless settlements shall be defined by civil turnover subjects under an agreement reached between parties.

### **4. General requirements on payment instructions and their execution**

4.1. Bank account payment transaction shall be conducted based on a payment instruction.

4.2. Payment instructions in hard copies shall be filled out using technical facilities or a ballpoint pen.

4.3. Payment instruction shall be compiled in the payment transaction currency.

4.4. Payment instructions submitted for execution by one payer or payee on the same transaction day shall have non-reiterated number.

4.5. Withdrawal of payment instructions submitted in hard or soft copies shall be regulated by a bank account agreement, taking payment system rules into account.

4.6. The following payment instructions shall be used when conducting cashless settlements as defined in Item 3.1. herein:

4.6.1. payment orders;

4.6.2. direct debits;

4.6.3. encashment orders;

4.6.4. prescriptions of the State Social Protection Fund, tax and customs authorities;



4.7. Payment instructions shall be submitted to the bank within 3 (three) business days from the day of writing (ignoring the day of writing). Payment instructions submitted after this date shall not be received for execution. If the payment instruction is delivered to the bank via postal service the time-period shall be determined according to the postal stamp specifying the submission date of the payment instruction to the post office.

4.8. Copies of payment instructions in hard copies shall be filled out in the same way and, unless otherwise defined herein, shall be submitted to the bank in the number of payment transaction participants.

4.9. Payment instructions shall be signed by a person(s) authorized to dispose of a bank account and certified by stamp where appropriate.

4.10. Defective payment instructions shall not be received for execution.

4.11. The payment instruction shall be deemed defective when:

4.11.1. the period specified in Item 4.7 herein expires;

4.11.2. requisites of the payment instruction mismatches;

4.11.3. purpose and substantiation of the payment are not indicated;

4.11.4. amount in numbers and in letters mismatch;

4.11.5. corrections or erasures are made on it;

4.11.6. copies are not the same;

4.11.7. signatures on the payment instruction and on the signature specimen sheet mismatch;

4.11.8. there is no stamp or the stamp is not appropriate (if specified in the signature and stamp specimen sheet). This requirement shall not apply if payment instructions are documented temporarily without a stamp.

4.12. Payment instructions shall be executed in compliance with the sequence of funds write-off specified in Para 965 of the Civil Code of the Republic of Azerbaijan.

4.13. Time-periods of payment transactions with Payment instructions shall be regulated by Para 959 of the Civil Code of the Republic of Azerbaijan.

4.14. The bank shall provide the customer with a bank account statement(s) on the bank account payment transaction consistent with the bank account agreement or business turnover practices. This bank account statement shall contain at least:

4.14.1. name of the bank;

4.14.2. name of the account holder;

4.14.3. number of the payment transaction account;

4.14.4. date of the statement;

4.14.5. period covered by the statement;

4.14.6. input and output balance of the account;

4.14.7. amount per account transaction;

4.14.8. total of circulations (date of the account debit and credit if the account statement is provided periodically);

4.14.9. account currency (code).

4.15. The bank account statement in a hard copy shall be certified by the signature and stamp of the bank's responsible person. The bank statement shall, at customer's request, be attached with bank documents accompanying the payment transaction, being certified by signature and stamp of the bank's responsible person.

4.16. For the purposes of these Guidelines the stamp on payment instructions shall reflect the name of the bank (branch or affiliate) and the date of seal at a minimum.

4.17. Reception and execution of electronic payment instructions, submission of bank account statements and other bank documents shall be implemented in line with the bank's internal procedures given the requirements herein.

4.18. Use of electronic signature and verification of electronic signature in payment instructions shall be regulated by legal acts in line with the Law of the Republic of Azerbaijan on Electronic Signature and Electronic Document and this law.

### **5. Settlements with payment orders**

5.1. When settling with a payment order the bank (payer bank), at the payer's request, shall transfer the amount of funds specified in the payment order to the bank account of the person (payee) determined by the payer in this or another bank (beneficiary bank) at the expense of his/her bank account funds.

5.2. The payment order (Annex # 1) shall be filled out by the payer.

5.3. Settlements with payment orders shall be made as follows:

5.3.1. the payment order shall be submitted to the payer bank in 2 (two) copies (if submitted in a hard copy) at a minimum;

5.3.2. the payer bank's responsible person shall verify whether the payment order submitted is impeccable and the payer's bank account contains the amount required for the payment transaction;

5.3.3. if the payment order is impeccable and the payer's bank account has sufficient funds for the payment or the payer's bank account is credited as per the bank account agreement, the payer bank's responsible person shall certify reception of the payment order in "Bank note on execution" side with "received for execution" stamp and his/her signature and return a copy to the payer;

5.3.4. if the payer bank rejects to receive the payment order for execution it shall notify reasons and return the payment order to the payer;

5.3.5. the payer bank's responsible person shall send funds to the beneficiary bank in line with the payment order received for execution;

5.3.6. if both the payer and the payee are customers of the same bank the settlement between parties shall be made based on the intrabank accounting entry;

5.3.7. if requisites of the payment order received from the payer bank is appropriate, the beneficiary bank's responsible person shall verify the payment order with his/her stamp and signature and submit to the payee;

5.3.8. if requisites of the payment order is appropriate the beneficiary bank shall credit funds to the payee's bank account;

5.3.9. if requisites of the payment order are not appropriate, the beneficiary bank shall send a request to the payer bank no later than the next business day. If this request is not responded by the bank within 5 (five) business days the beneficiary bank shall return the payment order funds to the payer bank the next business day specifying reasons;

5.3.10. the payer bank shall debit the payment order funds returned to the payer's bank account.

5.4. If the payer intends to execute the payment order in a time-period different from the one specified in Item 4.7 herein the date of the payment transaction shall be included to the additional info section of the payment order.

5.5. If specified in the bank account agreement the payer bank shall make payments periodically on behalf of the payee based on the payment order. In this case the following information shall be noted down in the additional info section of the payment order:

5.5.1. date of the payment;

5.5.2. end date of periodical payments.

5.6. The duration of periodical payments shall not exceed one year. After this period the payer may submit a new payment order for periodic payments.

5.7. The payer may submit a written order to the payer bank on suspension of periodical payments. In this case the payer bank's responsible person shall verify suspension with his/her signature and stamp noting down the words "execution suspended" on the copy of the payment order in the bank.

5.8. If the payer makes any changes to the payment order on periodical payments a new payment order shall be submitted to the bank.

5.9. The payer bank shall immediately provide the payer with a written notification (confirmation of transfer of funds from the bank's correspondent account on behalf of the payee) on the execution of the payment order at his/her request in compliance with Para 975.3 of the Civil Code of the Republic of Azerbaijan.

5.10. If the intermediary is a bank, when making foreign currency denominated payments, bank's name and/or SWIFT BIC code shall be included in the "Intermediary bank" sub-section of section B1.

5.11. The payer shall specify requisities of the State Treasury Agency of the Finance Ministry of the Republic of Azerbaijan in section B1, requisities of the recipient budget organization or the off-budget state fund, the budget classification code in section D3, and the budget level code in section D4 in order to make payments of budget and off-budget state funds.

## **6. Settlements with direct debits**

6.1. When settling with direct debits the payer bank shall, on the basis of the payer's advance order, make a payment on the direct debit submitted by the payee on his/her behalf.

6.2. The payer bank shall receive the order on funds write-off from the payer's bank account if necessary information enabling identification of the payee eligible to make this claim is specified in that order.

6.3. The payer's order shall be signed by person(s) eligible to dispose of a bank account and verified with a stamp when appropriate.

6.4. The payer shall note in the advance order submitted to the payer bank whether payments on direct debits submitted by the payee are made one-off or periodically, as well as the payment amount.

6.5. The payer shall submit the order on execution of the direct debit to the payer bank no later than 2 (two) business days prior to the payment date specified in the agreement signed with the payee.

6.6. The payer may withdraw the order on execution of direct debit payments no later than the end of the business day prior to the day he/she decided for funds write-off from the bank account.

6.7. The payee shall submit the direct debit to the payer bank via a beneficiary bank or directly.

6.8. The direct debit (Annex #2) shall be filled out by the payee.

6.9. If the direct debit is submitted to the payer bank via a beneficiary bank, settlements shall be conducted as follows:

- 6.9.1. the payee shall submit the direct debit to the beneficiary bank in 3 (three) copies (if submitted in a hard copy) at a minimum;
- 6.9.2. the beneficiary bank's responsible person shall verify the impeccability of the submitted direct debit;
- 6.9.3. if the direct debit is impeccable, the beneficiary bank's responsible person shall verify reception of the direct debit in "Bank note on execution" side with "received for execution" stamp and his/her signature and return a copy to the payee. A copy of the direct debit shall be sent to the payer bank, another copy kept with the beneficiary bank;
- 6.9.4. if the direct debit is not impeccable, the beneficiary bank shall return it to the payee specifying reasons;
- 6.9.5. the payer bank shall return the direct debit to the beneficiary bank within the next operation day due to the lack or withdrawal of the payer's order on execution of the direct debit obtained from the beneficiary bank, or defectiveness of the direct debit, specifying grounds;
- 6.9.6. the payer bank shall make a payment if there are sufficient funds in the payer's bank account on the direct debit received for execution;
- 6.9.7. the beneficiary bank shall debit funds received from the payer bank to the payee's bank account;
- 6.9.8. in the event there are no funds in the payer's bank account the payer bank shall notify the payer no later than the business day, following the day, the direct debit is received for execution. If the required funds are not credited to the bank account within the next transaction day, the payer bank shall return the direct debit to the beneficiary bank specifying reasons;
- 6.9.9. the beneficiary bank shall no later than the next business day notify the payee on returned funds as per Item 6.9.5 herein and make a relevant note on the copy of the direct debit it holds.
- 6.10. In case the direct debit is submitted directly to the payer bank by the payee, settlements shall be conducted as follows:
- 6.10.1. the direct debit shall be submitted to the payer bank by the payee in 2 (two) copies (if submitted in a hard copy) at a minimum. In this case the section for the stamp and signature of the beneficiary bank's responsible person shall be left empty;
- 6.10.2. the payer bank's responsible person shall verify impeccability of the submitted direct debit;
- 6.10.3. if the direct debit is impeccable, the payer bank's responsible person shall verify reception of the direct debit in "Bank note on execution" side with "received for execution" stamp and his/her signature and return a copy to the payee. Another copy of the direct debit shall be kept with the payer bank for execution;
- 6.10.4. the payer bank shall return the direct debit to the payee within the next operation day due to the lack or withdrawal of the payer's order, or defectiveness of the direct debit, specifying grounds;
- 6.10.5. Items 6.9.6-6.9.8 herein shall apply accordingly.
- 6.11. The payer bank's responsible person shall, at the payer's request, submit a copy of the direct debit certified by his/her signature and stamp to the payer.

## **7. Settlements with encashment orders**

- 7.1. When settling with encashment orders the bank (executing bank), servicing the bank account of the debtor (payer), shall make payment from the payer's bank account unconditionally (without the payer's order) in line with execution documents added mandatorily to encashment orders by executive bodies.
- 7.2. Encashment documents on forced execution of orders of judiciary or other authorities shall be submitted to the bank by executive officers.
- 7.3. Execution documents providing grounds for undisputed write-off of funds from the payer's bank account at execution officers' requests shall be defined under Para 6 of the Law of the Republic of Azerbaijan on Execution.

7.4. The encashment order (Annex #3) shall be prepared in 3 (three) copies (if in a hard copy), each copy shall be signed and stamped. The name of the entity taking a decision on undisputed write-off of funds, the name, date and number of the attached execution documents shall be included in the “Purpose of Payment” section of the encashment order.

7.5. The execution officer shall attach a copy of the execution verified by head of the execution entity with the encashment document.

7.6. If the encashment order is impeccable, the bank’s responsible person shall receive it for execution immediately, if not and/or if a copy of the execution document is not attached, he/she shall return the order to the execution officers specifying grounds in the “Executing bank’s notes” section. One of the copies shall constitute grounds for write-off of funds from the payer’s bank account and kept with the bank. The second shall be verified with the signature and stamp of the executing bank’s responsible person as an undertaking on reception of the encashment order for execution and returned to the execution officer. The third copy shall be submitted to the payer upon execution of the order.

7.7. The claim on the execution document, the execution officer submits along with the encashment order, as well as on execution documents forwarded to the payer’s foreign currency-denominated bank account shall be met within the period and order set by Paras 5 and 46 of the Law of the Republic of Azerbaijan on Execution.

7.8. In the event of the lack or shortage of funds in the payer’s bank account, the encashment order shall be kept with the executing bank within 2 (two) months from the day it is received for execution. The executing bank shall no later than the next 2 (two) business days provide the execution officer with a relevant written notification. Unless the encashment order is executed fully or in part within this period the executing bank’s responsible person shall note this down on the execution document and submit it to the execution officer no later than 2 (two) business days upon the end of the period, verifying with his/her signature and stamp.

7.9. If the encashment order is executed partly, executing bank’s responsible person shall note down the date and amount of the partial payment, and the payment balance on relevant sections of its copy in the bank, and verify with his/her signature and stamp.

7.10. If the encashment order is executed fully, the executing bank’s responsible person shall note this down on the execution document, verify with his/her signature and stamp and return the document to the execution officer, leaving a copy in the bank.

## **8. Settlements with orders of the State Social Protection Fund, tax and customs authorities**

8.1. When settling with orders of the State Social Protection Fund, the bank (executing bank) servicing the debtor’s (payer’s) bank account shall collect debts on compulsory public social security charges and financial sanctions on behalf of the Fund in line with the execution document – prescription of the State Social Protection Fund as defined in Para 14 of the Law of the Republic of Azerbaijan on Social Insurance.

8.2. The order shall be submitted to the executing bank in line with the form confirmed by the State Social Protection Fund.

8.3. The order shall be prepared in 4 (four) copies (if in a hard copy), each copy being verified by the signature and stamp of the State Social Protection Fund’s authorized official. If the order is impeccable, the bank’s responsible person shall immediately receive it for execution, if not, return to the State Social Protection Fund indicating reasons on the relevant field of the document.

8.4. One of the copies shall constitute grounds to write off the funds of the payer’s bank account and kept with the executing bank. The second copy shall be returned to the State Social Protection Fund being verified

with the signature and stamp of the executing bank's responsible person as an undertaking on reception of the order for execution. The bank's responsible person shall submit a copy of the order with relevant notes to the State Social Protection Fund as defined in Item 8.6 herein. The fourth copy shall be kept with the payer.

8.5. In the event of the lack or shortage of funds in the payer's bank account the order of the State Social Protection Fund shall be kept with the bank within 90 (ninety) days upon being received for execution. The executing bank shall within the next 2 (two) business days notify the Fund in writing.

8.6. Executed, non-executed or partially executed orders shall be submitted to the State Social Protection Fund no later than 2 (two) business days upon the end of the period specified in Item 8.5 herein with relevant notes on it, made by the bank's responsible person, being verified with his/her signature and stamp.

8.7. If withdrawn by the State Social Protection Fund, a copy of the order shall be kept with the bank with a relevant note made on it. In the event of closure of the payer's bank account, a relevant note shall be made on the order as specified in Item 8.6 herein and the order shall be submitted to the State Social Protection Fund no later than 2 (two) business days.

8.8. When settling with orders of tax authorities, the bank (executor) servicing the debtor's (payer's) bank account, in line with the tax authority's execution (payment) instruction, shall freeze the payer's funds in the national and foreign currencies in his/her bank account on taxes, interests and imposed financial sanctions or direct his/her debts on taxes, interests and imposed sanctions from his/her account to the public budget in harmony with Para 65 of the Tax Code of the Republic of Azerbaijan.

8.9. The order shall be submitted to the executing bank in compliance with the form confirmed by the Ministry of Taxes of the Republic of Azerbaijan.

8.10. The order shall be prepared in 4 (four) copies (if in a hard copy), each copy being verified with the signature and stamp of the tax authority's authorized official. If the order is impeccable, the bank's responsible person shall immediately receive it for execution, or return to the tax authority specifying reasons on the relevant section of the order.

8.11. One of the copies shall constitute grounds to write off funds of the payer's bank account and be kept with the bank. The second copy shall be returned to the tax authority being verified with the signature and stamp of the executing bank's responsible person as an undertaking on reception of the order for execution. Upon full execution of the order the bank's responsible person shall make relevant notes on the third copy of the order, certify with his/her signature and stamp and submit to the tax authority. The fourth copy shall be kept with the payer.

8.12. If the order is withdrawn by the tax authority or the payer's bank account is closed, the document partially executed up to that time shall be submitted to the tax authority as specified in Item 8.11 herein.

8.13. Customs debts not paid in due course in compliance with Para 249.3 of the Customs Code of the Republic of Azerbaijan shall be deducted from the payer's bank accounts as per the execution (payment) instruction, in line with procedures on receiving tax debts to the state budget.

8.14. Other issues on electronic submission, reception for execution and execution of orders of the State Social Protection Fund, tax and customs authorities shall be determined by mutual agreement between relevant public authorities and banks.

## **9. Money remittances**

9.1. Money remittances shall be conducted in national and foreign currencies.

9.2. Money remittances should not be related to any entrepreneurial activities, except for the case specified in Item 9.5 herein. In the event of other exceptions to the procedures of the system, money remittances shall be made taking the exceptions into account.

9.3. When conducting money remittances, the bank shall inform the payer on the following at a minimum:

9.3.1. name of the system;

9.3.2. maximum period for the money remittance;

9.3.3. amount to be received by the payee;

9.3.4. if applied, the service fee;

9.3.5. exchange rate applied when conducting an exchange operation via the system;

9.3.6. procedure for redemption of the money remittances (by notifying the necessity for submission of contacts in order to ensure awareness specified in Items 11.3 and 11.4 herein).

9.4. When the bank makes a money remittances the bank's responsible person shall verify the document, confirming the money remittances with his/her signature and stamp and submit to the payer. A copy of that document signed by the payer shall be kept with the bank. Except for the money remittances shown in Item 10.1 herein the document shall contain the following information:

9.4.1. money remittances code provided by the system;

9.4.2. date of the money remittances;

9.4.3. name of the bank conducting the money remittances;

9.4.4. name of the payer;

9.4.5. address of the payer;

9.4.6. name, series and number of the payer's ID;

9.4.7. name of the payee;

9.4.8. if used, number of the bank account opened in the name of the payer or payee;

9.4.9. purpose of the money remittances;

9.4.10. country/city or other administrative-territorial unit, money is transferred to;

9.4.11. amount of the money remittances;

9.4.12. currency of the money remittances;

9.4.13. exchange rate when conducting an exchange operation via the system.

9.5. When paying money remittances funds to the budget and off-budget public funds, the following data shall be specified on the money remittances document along with the data shown in sub-items 9.4.1-9.4.5 and 9.4.5 herein:

9.5.1. budget classification code;

9.5.2. budget level code;

9.5.3. budget organization's code;

9.5.4. if the payer is a legal entity or individual entrepreneur:

9.5.4.1. name;

9.5.4.2. TIN.

9.6. The money remittances shall be deemed completed when:

9.6.1. funds are credited to the payer's bank account;

9.6.2. the payee without a bank account is provided with cash.

9.7. Cash funds on money remittances shall be presented to the payee without a bank account based on his/her ID.

9.8. The responsible person of recipient bank, who receives money remittances shall submit the document confirming completion of the money remittances to the payee, verifying with his/her signature and stamp. A copy of the document signed by the payee shall be kept with the bank. The following data shall also be specified on the document along with the data shown in sub-items 9.4.1-9.4.4, 9.4.7-9.4.8 and 9.4.10-9.4.13 herein:

9.8.1. name, series and number of the payee's ID;

9.8.2. address of the payee;

9.8.3. name of the bank receiving the money remittances.

9.9. The bank shall specify additional data identifying the payer, payee and money remittances on money remittances documents along with the data defined herein in compliance with the requirements of the system.

#### **10. Money remittances via payment terminals**

10.1. Banks shall submit the following information confirming money remittances conducted through payment terminals to the payer in hard and soft copies:

10.1.1. number and date of the document;

10.1.2. name of the bank conducting the money remittances;

10.1.3. name of the system (if made by the system);

10.1.4. payer's identification data (subscriber code or ID series and number, and full name of the payer, or number of the bank account money transferred to or requisites of the payment card used in line with the security requirements);

10.1.5. purpose of the money remittances;

10.1.6. date of the money remittances;

10.1.7. amount of the money remittances;

10.1.8. currency of the money remittances;

10.1.9. if imposed, the service fee;

10.1.10. country/city or other administrative-territorial unit the money remittances is made to;

10.1.11. name of the payee.

10.2. When making payments to the budget and off-budget public funds, requisites of the budget organization or off budget public fund, classification of budget revenues, the budget level code shall be indicated on the document confirming the money remittances.



10.3. Banks may set additional payer identification requirements on money remittances conducted through payment terminals.

**11. Redemption of money remittances**

11.1. If the data in the money remittances document are found to be erroneous, the payee’s bank shall return the money remittances to the payer’s bank no later than the next operation day, reasons being specified.

11.2. If the payee without a bank account does not acquire cash funds on the money remittances conducted within 30 (thirty) calendar days from the day of remittances, the money remittances shall be returned to the payer’s bank within the next operation day, unless another period is specified in the system procedures.

11.3. In the event of redemption of the money remittance in line with Items 11.1 and 11.2 herein the bank shall notify the payer within 3 (three) business days.

11.4. The payer shall be notified through the contacts he/she submitted to the bank in advance.

11.5. In the event of redemption of the money remittance made from the payer’s bank account the bank shall debit those funds to the payer’s bank account.

Annex 1 to the Guidelines on Cashless Settlements and Money Remittances in the Republic of Azerbaijan

**Payment order #**

\_\_\_\_\_20

**(date)**

<p><b>A1. Payer bank</b></p> <p>Name.....</p> <p>Code.....</p> <p>TIN.....</p> <p>.....</p> <p>Correspondent account.....</p> <p>S.W.I.F.T BIC.....</p>	<p><b>B1. Beneficiary (payee) bank</b></p> <p>Name.....</p> <p>Code.....</p> <p>TIN.....</p> <p>Correspondent account.....</p> <p>S.W.I.F.T BIC .....</p> <p>Intermediary bank .....</p>
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<b>A2. Payer</b> Name..... ..... ..... Account № ..... TIN.....		<b>B2. Payee</b> Name..... ..... ..... Account №..... TIN.....	
<b>C1. Currency type</b>			
<b>C2. Amount transferred</b> In figures..... In writing..... .....			
<b>D1. Payment purpose and grounds.....</b> ..... .....			
<b>D2. Additional info on payment.....</b> ..... .....			
<b>D3. Budget classification code:.....</b>		<b>D4. Budget level code: .....</b>	
<b>Signature(s) of the customer 1.</b> 2. <b>Stamp</b>			
<b>Signature of the bank's responsible person: 1.</b> 2. <b>Stamp</b> <b>Bank note on execution:</b>			

Annex 2 to the Guidelines on Cashless Settlements and Money Remittances in the Republic of Azerbaijan

Direct debit №\_  
\_\_\_\_\_20

(date)

<b>A2. Payee</b> Name..... ..... ..... Account № ..... TIN.....	<b>A2. Payer</b> Name..... ..... ..... Account № ..... TIN.....
<b>B1. Beneficiary (payee) bank</b> Name..... Code..... TIN..... ..... Correspondent account..... S.W.I.F.T BIC .....	<b>B1. Payer bank</b> Name..... Code..... TIN..... Correspondent account..... S.W.I.F.T BIC ..... Intermediary bank .....
<i>Currency type</i>	
<b>Amount transferred</b> In figures..... In writing..... .....	
<b>Payment purpose and grounds</b> ..... ..... .....	
<b>Additional info on payment</b> ..... ..... .....	
<b>Budget classification code:</b> .....	<b>Budget level code:</b> .....
<b>Signature(s) of the payee</b> 1. 2. <b>Stamp</b>	

**Signature of the beneficiary bank's responsible person: 1.**

**2.**

**Stamp**

**Bank note on execution:**

Annex 3 to the Guidelines on Cashless Settlements and Money Remittances in the Republic of Azerbaijan

**ENCASHMENT ORDER №**

«\_\_» \_\_\_\_\_ 20\_\_

(date)

<b>Payee's bank</b> Name..... Code..... TIN..... ..... Correspondent account..... S.W.I.F.T BIC.....	<b>Executing bank</b> Name..... Code..... TIN..... Correspondent account..... S.W.I.F.T BIC.....
<b>Payee</b> Name..... ..... Account № ..... TIN.....	<b>Payer</b> Name..... ..... Account № ..... TIN.....
<b>Currency type</b>	
<b>Amount transferred</b> In figures..... In writing.....	

**“Registered with the Ministry of Justice”**  
Of Azerbaijan Republic

Registration number № 2859

**13 June 2002**

**Minister**

\_\_\_\_\_ **F.F.Məmmədov**

**“Approved by the Board of the  
Central Bank of Azerbaijan  
Republic”**

Approved by the decision of the  
Board

**27 may 2002**

Protocol № 12

**Chairman of the Board**

\_\_\_\_\_ **E.S.Rustamov**

**Payment  
purpose**.....

.....  
.....  
.....  
.....  
.....  
.....  
.....

**Signature(s) of execution officer 1.**

**2.**

**Stamp**

**Executing bank's notes**

Date of partial payment	Amount of partial payment	Amount of payment balance	Signature
-------------------------	---------------------------	---------------------------	-----------

# **ANNEX XIX Regulations on the currency transaction regime of residents and non-residents**

## **REGULATIONS**

### **On the currency transaction regime of residents and non-residents in the Republic of Azerbaijan**

(Amendments and additions dated 28.06.2004, 03.11.2004, 21.06.2007, 28.09.2008, 20.11.2009 and 15.12.2010)

#### **1. General Provisions**

**1.1.** These Regulations are prepared in accordance with the laws of “On the currency regulation” and “On the amendments and additions to the Law of the Republic of Azerbaijan on the currency regulation” and regulates the currency transactions’ regime of residents and non-residents of the Republic of Azerbaijan via the credit organizations. The conditions explained in the regulations are not applied to the banking activities of the credit organizations of the Republic of Azerbaijan, but only applied to transactions related with their economic activities.

**1.2.** The definitions such as “foreign currency”, “residents”, “non-residents”, “currency transactions” and “authorized banks” used for the aim of these regulations are assumed as explained in the Law of the Republic of Azerbaijan “On the currency regulation”.

**1.3.** The transactions shown in these regulations, as a rule, are conducted via the credit organizations operating in the Republic of Azerbaijan and can be carried out via the bank accounts of residents and non-residents, except the conditions considered in Regulations.

#### **2. The foreign currency transactions of residents of the Republic of Azerbaijan**

**2.1. Receipts to Residents Accounts.** The proceeds can be freely received to the foreign currency accounts of the residents of the Republic of Azerbaijan in authorized banks.

Special conditions should be obeyed to receive proceeds from the following sources:

**2.1.1.** The proceeds gained from services and sale of goods in the territory of the Republic of Azerbaijan;

In these cases, relevant license is required to conduct services and sell goods in foreign currency in the territory of the Republic of Azerbaijan. If the proceeds paid for the sold goods or conducted services are transferred from out of the country, these transfers are allowed.

**2.1.2.** Cash payments to residents by the non-residents for services, works, goods (afterwards, “goods”) exported by the residents;

In these cases the following requirements should be fulfilled:

- the conduction of the payment in the form of cash, should be considered in agreement, contract or in another agreement document approving this act (afterwards, “agreement”);
- the proceeds should be received from the non-resident or the physical person authorized by the non-resident purchasing the goods;
- the proceeds in foreign currency brought to the country by the non-residents (physical persons authorized by the non-residents) in advance should be declared in customs bodies.
- the proceeds in 10 days after bringing to the country and declaring in the customs body should be received to resident’s cash office;
- during 2 working days after receiving proceeds to their cash office, the residents should receive it in an account in the bank.

Banks should require the following documents while receiving proceeds:

the original export contract;  
the copy of the cash receipt;  
the custom's document confirming the bringing of proceeds to the Republic in the cash form;  
the power of attorney confirming the authorities of physical persons authorized by the non-residents;  
the document by the relevant bank or other credit organization, of a country where they are bringing proceeds from, approving that this proceeds were given in cash (when the amount of the proceeds is more than 50 thousand USD equivalent).

After checking the correctness of documents, the bank accepts proceeds from the resident and keeps the copies of those documents. The originals of documents, proving the bringing of proceeds to the Republic, from the customs body and document given by the relevant bank or other credit organization approving that this proceeds were given in cash, should be kept in a last bank executing these documents. If the customs declaration and certificate is not executed completely, the bank makes some notes on the original documents and keeps their copies.

**2.2. Transfers from residents accounts.** Amounts from the accounts of residents of the Republic of Azerbaijan may be transferred to different directions:

**2.2.1. Within the republic:**

transactions addressed on behalf of residents' and non-residents' branches, representatives, other separate divisions within the Republic of Azerbaijan or any person authorized by non-resident, instead of goods imported to republic and sold in republic, also services rendered in republic or imported to republic (rendered abroad country on behalf of the resident);

- b) Participation in the equity of other resident of the Republic of Azerbaijan;
- c) for repayment of credits and credit interests;
- d) for allocating deposits in authorized banks;
- e) for being converted to manat or other currencies;
- f) transfers addressed to branches and representatives within the republic of non-residents, to their other separate divisions, institutions or proposed for head offices of those institutions (in case of relevant decision's existence); If these remittance will be implemented against sale of goods (works, services), then they will be concerned to regulation circle of 2.2.1.a. sub-item of these Regulations.
- g) for payment of dividends to founders;
- h) remittances to non-resident's currency accounts in authorized banks;

**3.2.2. Out of Republic:**

a) funds transferred against goods (works, services) those were brought on import contracts, also on services rendered within or imported to republic. These transaction can be proceeded as below:

- **advance payments;** goods must be entered to country, works must be done or services must be rendered within 365 calendar days against amount of the advance payment. If during that period goods are not imported, works are not done, services are not rendered or amount of the advance payment is not repayed, then authorized bank must inform Central Bank through attaching all related documents (contract, invoice, payment documents, based explanation of banks and non-residents.

- **after importing goods and rendering services;** In this case and when remittances given in sub-item 2.2.1.a, 2.2.2.a of these Regulations, record keeping about payment's implementation on original (cover) import contracts and custom declaration is held, record is confirmed by signature, seal of the bank's responsible person and copies of those document are remained in bank. In case, of implementing payments are related with rendering services, document confirming that work has been done and service has been rendered against import customs declaration must be submitted to bank.

Only recipient company can pay cost of goods under the import agreements. The cost of the import agreements can be reimbursed by third person with the private permission of Central Bank. If in agreement is intended to pay allocations for goods sender to the bank-book of third person, then such reimbursement can be carried out.

*In case of imported goods (works and services) would be considered for defense and national security needs and in case, there is a special order (decision, decree, application and instruction) of the Cabinet of Ministers of the Republic of Azerbaijan, regarding the processing the money transfers stated in the sub-clause 2.2.2a in this Regulations, the transfers should be executed without requiring the documents related to the import contracts, customs declaration and other documents regarding the advance payments. In this case, the special order of the Cabinet of Ministers of the Republic of Azerbaijan should be kept with bank.*

b) re export and mediation transferring; If such transferring is carried out until allocations to be entered from goods recipient and rendering country, in this case the regime of advance payment is used according to “a” half- paragraph of 2.2.2 paragraph of the orders;

c) allocations to be given back under unexecuted export agreements;

ch) transferring on purpose to the outside branch and representations of residents, also to the reproductive and subordinated institutions; If such transferring is carried out instead of goods selling or rendering services, then it is concerned to the balancing part of “a” half- paragraph of 2.2.2 paragraph of the orders;

d) Transferring under condition of observing the tax laws, with the object of dividends payment to the foreign founders of the residents;

e) Transferring to be directed for payment of credits and credit percents which were carried away from the foreign banks; in these case residents can carry out the transferring with presentation of original documents to the bank which confirm credit agreement and inside use of the same allocation or the importation of goods and services on these allocations account. After the transferring the copies of the documents must be kept in the bank. If the credit has been used abroad, then the private permission of the Central Bank is demanded for the payment of that credit or credit percents;

ə) Transferring to be directed for payment of the financial aides of foreign institution and companies, other borrowings and their percents. In these case residents can carry out the transferring with the presentation of documents to the bank which are noted in “e” half- paragraph of 2.2. paragraph of the orders. After the transferring the copies of the documents must be kept in the bank. If the financial aides and other borrowings have been used abroad, then the private permission of the Central Bank is demanded for the payment of those debts or their percents;

f) Foreign currency allocations which were transferred to Republic of Azerbaijan before; in this case the transferring can carried out without obstacles with the presentation of extract from the bank-book which proves the transferring of money allocation to the same resident’s bank-book. If the transferring aim of the allocations to the resident’s bank-book from outside and on the contrary is the balancing object of “a,b,c,ch,e,ə” half- paragraphes of 2.2. paragraph of these orders, then the payments must be carried out under conforming the demands of those half- paragraphes.

g) Foreign currency allocations which were carried in cash to Azerbaijan Republic before; If the sum of foreign currency allocation to be carried in cash to the authorized bank for fulfilment of payment is in the equivalent of 10 000 (ten thousand ) USA dollar, then “Passenger customs declaration” must be presented. If it is up to the equivalent of 10 000 (ten thousand ) USA dollar, then “Passenger customs declaration” and “Customs card”, at the same time physical person’s entry visa registration passport to Azerbaijan Republic (if it is country with visa regime) must be presented. If the sum of foreign currency allocation is up to the equivalent of 50 000 (five thousand ) USA dollar which was carried in cash before, in addition must be presented documents(extract from bank-book, cash-receipt and etc.) which confirm delivery of this allocation in cash to him by appropriate bank or other credit company of country to be carried currency. After the confirming registration with the signature and stamp of senior official of bank in original(on the surface ) of presented documents about fulfilment of payment, the copy of those and visa registration are kept in the bank.



If the transferring aim of the allocations is the balancing object of “a,b,c,ç,e,ə” half- paragraphs of 2.2. paragraph of these orders, then the payments must be carried out under conforming the demands of those half- paragraphs.

ğ) Small transferring for the personal purposes; Every resident physical person can freely transfer abroad authorized bank accounts in the equivalent of 500 (five hundred) USA dollar foreign currency during an operation day by showing payment object.

Big transferring for the personal purposes; Every resident physical person can freely transfer authorized bank accounts up to the equivalent of 500 (five hundred) USA dollar foreign currency to relatives who live in foreign countries or temporary stay there (as relatives father, mother, husband, wife, son, daughter, brother, sister, children in-law) by showing affirmative documents. Such big transferring can carried out in the equivalent of 10 000 ( ten thousand) USA dollar in a year. During the execution of big transferring for personal purposes of resident physical persons by banks must be filled application form of these orders which was shown in the addition number one and must be kept in the bank with the copies of affirmative documents.

The Central Bank may allow transfers more than indicative limit amount fixed by petition of banks if there is no doubt about strong features of the transfers.

h) pensions, expenses of the courts, arbitration, notary and of other administrative entities, alimonies and other analogous transfers paid in accordance with the decisions of judicial authorities;

x) transfers in regard of capital export: residents may carry out such transfers to the member states of the organization for Economical Cooperation and Development, to the countries signed bilateral contracts with the Republic of Azerbaijan about mutual encouragement and protection of investments and Russian Federation for the following reasons and within below conditions:

- direct investments, i.e. transfer of capital included in the Chartered Capital of the Organization in order to get the right to get profit and take part in management of the Company;
- transfers to obtain securities;
- transfers to cover payments for getting right property on land, buildings, works, and also other property that is considered real estate;
- transfers to bank account of a resident for deposit.

Residents submit originals of documents (as well as contracts and other sustaining documents) proving purpose, amount and conditions of such operation to authorized bank. The authorized bank may make payment if documents substantiate declared purpose of operation and if there is no about strong features of the transfers. After implementation of bank operation submitted documents are being registered by bank and copy of the documents are kept with the bank.

Such operations to other countries can be carried out by the individual permission of the Central Bank.

While making the capital transfer out of the country, state authorities, joint stock companies, control envelope of which belong to the government, as well as other state institutions and organizations shall submit the above mentioned documents together with special permit to the bank given from the Central Bank on the basis of the agreement from authoritative state authority.

i) with other purposes::

participation rights at international organizations, conferences, exhibitions, fair;

writing rights in periodic publication of foreign countries, rights of announcement ;

taxes, duties and penalties paid abroad the republic in compliance with existing legislation;

payment of education and medical fee and transfer for pecuniary for citizens of the republic for these purposes;

transfer for paying fees franchise and copyrights

In such cases, original of contracts, reference letters, invoices or other confirming documents are submitted to bank, payment can be carried out, if authorized bank is sure that submitted documents are ground for announced purpose of transaction, considers them as satisfactory and in general there is no doubt for health feature of transaction. After making records of bank on submitted documents, their copies are remained in bank.

**2.2.3.** When other transactions not mentioned above have healthy features, then they can be carried out according to individual permission of the Central Bank.

**2.3.** Rezidentlər müvəkkil banklardakı hesablarından xarici valyuta vəsaitlərini məhdudiyət qoyulmadan nağd şəkildə çıxara bilərlər.

### **3. Azerbaijan Republic non-residents foreign currency operations**

#### **3.1 Non-residents entries into accounts**

Funds might be easily entered into Azerbaijan Republic non-residents foreign currency account of authorised banks

For the funds from the following sources to be received specified conditions should be met:

##### **3.1.1** Incomes from trading of goods and services within Azerbaijan Republic.

In such cases, license is required for trading goods and services in foreign currency within Azerbaijan Republic.

If the payments from trading goods and services within country are being transferred abroad the country such fund entrances are allowed.

##### **3.1.2** Cash payments by the other non-residents for exporting goods and services;

In such cases following demands must be met:

Payments in cash should be considered on the contract

The funds are allowed to be received by non-residents or accordingly authorized banks

Foreign currency brought into the country should be passed through customs declaration

Funds must be received to cash office within 10 days after customs declaration

Non-residents should make transfers into bank account within 2 days after cash entrance

Banks should require the following documents for accepting the funds

Original of export contract

Copy of receipts

Copy of customs documents confirming cash entrance into the country

Letter of attorney confirming non-resident authorized physical persons authorities

Reference confirming cash receipt of funds by cash-received country's bank or credit institutions (if amount of funds USD equivalent exceeds 50 000)

A bank receives funds from non-residents and keeps their copy itself after checking documents.

Original of customs documents confirming the entrance of cash into country and documents confirming cash supply by according bank or other credit institutions of the cash-received country and the latest executer should keep documents itself.

If customs declaration and reference are not fully implemented, bank makes appropriate notes on original of documents and keeps copies itself.

#### **3.2. Remittances from accounts of non-residents of the Republic of Azerbaijan**

##### **3.2.1. Within the Republic:**

- a) transactions addressed to the branches, representatives of other residents and non-residents operating in the Republic of Azerbaijan and to any individual authorized by non-residents instead of goods imported to republic and sold within the republic, also services rendered within the republic or imported (rendered abroad the country on behalf of the non-residents engaged in household with the Republic of Azerbaijan) to republic;
- b) participation of residents of the Republic of Azerbaijan in authorized capital;
- c) grant, contribution, social assistance and sponsorship;
- ç) for repayment of credits and credit interests;
- d) for allocating deposits in authorized banks;
- e) for being converted to manat or other currencies;
- ə) remittances addressed to branches and representatives within the republic of non-residents, to their other separate divisions, institutions or proposed for head offices of those institutions (in case of relevant decision's existence); If these remittance will be implemented against sale of goods (works, services), then they will be concerned to regulation circle of 3.2.1.a. sub-item of these Regulations.
- f) for payment of dividends to founders;
- g) remittances to non-resident's currency accounts in authorized banks;

### **3.2.2. Out of Republic:**

a) funds transferred against goods (works, services) those were brought on import contracts, also on services rendered within or imported to republic. These transaction can be proceeded as below:

- **advance payments**; goods must be entered to country, works must be done or services must be rendered within 365 calendar days against amount of the advance payment. If during that period goods are not imported, works are not done, services are not rendered or amount of the advance payment is not repayed, then authorized bank must inform Central Bank through attaching all related documents (contract, invoice, payment documents, based explanation of banks and non-residents.

- **after importing goods and rendering services**; In this case and when remittances given in sub-item 3.2.1.a. of these Regulations, record keeping about payment's implementation on original (cover) import contracts and custom declaration is held, record is confirmed by signature, seal of the bank's responsible person and copies of those document are remained in bank. In case, of implementing payments are related with rendering services, document confirming that work has been done and service has been rendered against import customs declaration must be submitted to bank.

According to import contracts, good's price only can be paid by purchasing (doing work, rendering service) organization. Payment of import contracts' price by third party is only allowed by permission of the Central Bank. If in contract payment to bank of the third party of the funds which have to be paid to good supplier will be considered, such payments can be carried out;

*b) transactions directed for payment of credits involved from foreign banks and credit interests; In such cases, non-residents can carry out payments through submitting to bank credit contract, original version of documents confirming usage of those funds within the country or import of goods and services purchased by these funds. After the transaction, copies of documents must be remained in bank. If the credit is used outside the country, then individual permission of Central Bank for payment of those credits or credit interests is not required.*

c) transactions directed for payment of financial assistances involved from institutions and organizations, other borrowings and their interests; In such cases, residents can carry out payments through submitting documents indicated in sub-item 3.2.2. of Regulations. After the transaction, copies documents have to be remained in bank. If involved financial assistances and other borrowings are used out of the country, then Central Bank's individual permission is required for payment of those debts and their interests.

ç) funds which were transferred to Republic of Azerbaijan before; In such case, payment can be carried out without any problem through submitting extract from bank account, which is confirming former remittances

to account of that non-resident. If the purpose of remittance that is carried out between non-resident account and abroad is object of regulating sub-items 3.2.2. a, b, c, e of these Regulations, then payments have to be carried out through meeting the requirements of those sub-items.

d) foreign currency funds formerly brought to Republic of Azerbaijan in cash; if the amount of foreign currency funds brought in cash to authorized bank for implementation of payment is less than the equivalent of 10 thousand USD, then "Passenger customs declaration" has to be submitted, if the mentioned amount is more than the equivalent of 10 thousand USD, then "Passenger customs declaration" and "Customs certificate", besides passport with visa registration (if is brought from country with visa regime) that confirms entry of physical body to the Republic of Azerbaijan have to be submitted. If the amount of foreign currency funds those were formerly brought in cash are more than equivalent of 50 thousand USD, then documents (bank account extract, cash receipts and etc.) confirming that indicated funds were given in cash to relevant bank or other credit agency of the country from which currency was brought have to be submitted additionally. After confirmed registration with signature and seal of the responsible person of the bank on original (cover page) of confirmed documents is proceeded, copy of them and visa registration are remained in bank.

If the purpose of remittance is object of regulating sub-items 3.2.2. a, b, c, e of these Regulations, then payments have to be carried out through meeting the requirements of those sub-items.

e) Repatriation of foreign investment made to the economy of the republic; Under the understanding of foreign investment activity considered in laws of the Republic of Azerbaijan "About investment activity" and "About the protection of foreign investment" is deemed.

Foreign investments can be freely repatriated on condition of confirming documents (customs documents confirming bringing of funds to republic in cash, reference from relevant bank or other credit agencies of country from which currency was brought confirming that funds were sent in cash (if its more than equivalent of 50 thousand USD) or extract from personal account that confirms funds transfer to republic and confirming document about investing those funds to several types of operation). Besides, after paying relevant taxes and dues, revenues and other amounts related to the investments obtained by foreign investors on legal bases, including compensations and amounts for paying losses were permitted to be transferred out of the country. Fact of paying taxes have to be confirmed by relevant references of tax bodies and agencies.

ə) Remittances of salaries, dividends and other revenues obtained in the Republic of Azerbaijan; In this case, following documents have to be submitted:

- reference on imposing taxes from payment source when physical body is transferring non-resident dividends, interest incomes, salary and other revenues equivalent to it.

- *reference of tax bodies or agencies on payment of taxes in all other cases.*

f) other purposes:

Fee for participation in international organizations, conferences, exhibitions and fairs;

Fee for registration to periodic publications of foreign countries; fees for giving announcements;

Taxes, duties and fines paid to abroad according the valid legislation;

Remittances for given technical assistance to citizens of the republic with the purpose of paying the educational and medical fees;

Remittances for paying using the copyrights and franchising.

In such cases, originals of contracts, invoices or other confirming documents confirming the purpose and amount of the payment are submitted to authorized bank, if the authorized bank will be sure that submitted documents bases announced purpose of transactions, considers them satisfactory and in general, if healthy features will not be reason for doubt, payment can be executed. After the registration of bank on submitted documents, their copies are remained in bank.

g) small transfers for personal purposes; Every non-resident physical body can freely transfer abroad the amount in foreign currency less than an equivalent of 500 USD in an operational day through their accounts in authorized banks, by indicating the payments purpose.

**3.2.3.** When other transactions not mentioned above have healthy features, then they can be carried out according to individual permission of the Central Bank.

**3.3. Non-residents** can withdraw foreign currency funds in cash without any problem from their accounts in authorized banks.

#### **4. Processing of foreign currency transactions by physical bodies through authorized banks before opening of account**

**4.1. On behalf of physical bodies,** transactions in foreign currencies from out of the country (from other sources) can be accepted in unlimited amount without opening of the bank account:

- a) By physical body;
- b) By non-resident physical body;
- c) Other resident physical body.

**4.1.1.** resident physical bodies can transfer abroad the foreign currency funds less than the equivalent of 1000 USD without opening account. Within the framework of defined limit, during the one operational day one such remittance can be executed by each of the resident and non-resident physical bodies.

**4.2. On behalf of non-resident physical bodies,** transactions in foreign currencies from out of the country (from other sources) can be accepted in unlimited amount without opening of the bank account:

**4.3.** In case of not meeting the terms of these Regulations, without opening bank account, currency funds transferred to republic on behalf of physical bodies:

- can be given in cash;
- transfer can be accepted at the authorized bank account of addressed person with his order.

**4.4.** In application letter for transferring foreign currency to Republic of Azerbaijan without opening account in authorized bank (Annexure 2), also in application letter for cash withdrawal or transfer to bank account of foreign currency transferred to territory of the Republic of Azerbaijan, following information has to be reflected:

- a) name, patronymic, surname, ID card name of the person who is paying, serial and number of his/her ID card and information about by whom and when it was given (in case if funds were transferred to Republic of Azerbaijan from abroad);
- b) name, patronymic, surname, ID card information of person to whom payment was addressed (in case if funds entered to Republic of Azerbaijan are withdrawn in cash or transferred to bank account);
- c) amount and purpose of remittance;
- d) date and signature the physical body;

**4.5.** Physical bodies have to submit their passport or ID card to authorized bank for transferring foreign currency from the Republic of Azerbaijan without opening account in authorized bank, also for cash withdrawal of foreign currency transferred to the Republic of Azerbaijan (or transfer to bank account).

In case if transaction are executed by the representative of physical body, relevant legal warrant together with ID card have to be submitted to the authorized bank.

**4.6.** According to internal procedures, authorized banks can require from physical bodies additional information on healthy features of transfers.

**4.7.** In case if there are submitted documents not meeting abovementioned requirements, if the document meeting these Regulations are not submitted, authorized bank not executes the transactions.

**4.8.** There must be notes in application letter (in payment order) on transfer of foreign currency from Republic of Azerbaijan without opening account at authorized bank and in order for cash withdrawal of foreign currency transferred to Republic of Azerbaijan, indicating that transactions made by physical bodies are not related to activity of entrepreneurship. For making transactions without opening account, copies of all submitted documents have to be remained in authorized bank.

## **5. Regime of convertation transactions**

**5.1.** Residents and non-residents can convert all funds at their accounts through authorized banks without any limitation.

**5.2.** Residents and non-residents can convert cash foreign currency funds through exchange points operating attached to authorized banks.

**5.3.** Residents and non-residents must submit order (Annexure 3) by declaring the purpose of buying currency to bank for getting foreign currency through authorized banks.

**5.4.** Commissions for convertation transactions are defined according to mutual agreement between client and bank.

## **6. Obtaining individual permission of the Central Bank.**

**6.1.** In cases when individual permissions of the Central Bank are required according to these Regulations, then following procedures must be obeyed:

a) residents and non-residents applying to authorized bank by submitting all confirming documents, which explain features of transactions;

b) in its terms, authorized bank investigates the healthy feature of transactions and after being sure petitions for the Central Bank of Azerbaijan through submitting all confirming documents.

c) After reviewing the petition of the authorized bank within 10 work days, the Central Bank of Azerbaijan can give permission for its implementation, in case if the operation has a healthy feature. If submitted documents do not fully ground the health of transaction, then Central Bank can require the submission of additional documents. Within 10 days of submission of the additional documents, Central Bank gives its opinion to petition of authorized bank.

## **7. Implementation of the function of the currency control agent in the authorized banks.**

**7.1.** The currency control agent of the authorized banks of the Republic of Azerbaijan controls the process of meeting requirements of currency transactions implemented by residents and non-residents of the Azerbaijan Republic with the existing legislation and also normative acts of the Central Bank.

**7.2.** According to this regulation, the minimum requirements are defined by the documents for the approval of sound foreign currency transactions conducted by residents and non-residents of the Republic of Azerbaijan. In necessary cases based on own internal procedure rules and own conclusions authorized banks can require other documents for the approval of sound transactions from clients.

**7.3.** According to international practice authorized banks should develop the general mechanism for the prevention of the usage of the bank system in legalization of income, acquired by crime and also define basic directions of bank policy in this field.

**7.4.** Authorized banks should ensure sound transactions conducted by clients to prevent the usage of transnational transactions in money-laundry.

**7.5.** Authorized banks should make the resident and non-resident clients familiar with requirements of these Regulations and inform persons conducted legal disorder about legislative enactment.

## **8. Final provisions.**

**8.1.** Authorized banks, also residents and non-residents who conduct currency transactions via authorized banks and also their officials bear responsibility according to the legislation of Republic of Azerbaijan.

The Central Bank as the country main currency control institution controls the observation of requirements of the Regulations by authorized banks and also residents and non-residents and implements legislative enactment for discovered legal disorder.

**8.2.** This Regulations shall be put in force on June 20, 2002.

**8.3.** By the date of putting in force of this Regulation, the Regulation of the Central Bank of Azerbaijan Republic on residents' and non-residents' foreign currency accounts' regime in authorized banks of the Republic of Azerbaijan dated July 25, 1997 (Register # 98) and all its additions and changes lose their force.

## **ANNEX XX Law on state registration and state registry of legal entities**



### **Law of the Republic of Azerbaijan**

#### **On state registration and state registry of legal entities**

##### **Chapter I. General provisions**

###### ***Article 1. Scope of Law***

This law established legal and organizational basis for maintenance of state registration and state registry of legal entities on the territory of the Azerbaijan Republic.

###### ***Article 2. Definitions***

2.0. Following definitions are applied for the purposes of this Law:

2.0.1. legal entity- structure defined under the Civil Code of the Azerbaijan Republic;

2.0.2. foreign legal entity — legal entity established outside of the Azerbaijan Republic;

2.0.3. structure, which desired to obtain the status of legal entity, — person or group of persons, applied in accordance with legislation to the relevant executive authority of the Azerbaijan Republic for state registry and introduction to the state registry as a legal entity;

2.0.4. representation- structure, defined as such under the Civil Code of the Azerbaijan Republic;

2.0.5. branch — structure defined as such under the Civil Code of the Azerbaijan Republic;

2.0.6. foundation documents — documents that form legal basis for establishment and activities of the legal entity and other structures stipulated under this Law;

2.0.7. state registration of legal entities — approval of competence of parties desiring to obtain the status of legal entity of structures on the territory of the Azerbaijan, as well as representation and branched founded on the territory of the Azerbaijan Republic by foreign legal entities, establishment of their legal status and inclusion their records into the state registry of legal entities;

2.0.8. state registry of legal entities — collection of information (records) on registered on the territory of the Azerbaijan Republic of legal entities, representations and branches of foreign legal entities, as well as representations and branches, as well as other structures of legal entities, undergone the state registry on the territory of the Azerbaijan Republic;

2.0.9. commercial and non-commercial legal entities- structures defined as such under the Civil Code of the Azerbaijan Republic.

###### ***Article 3. Legislation on state registration and state registry of legal entities***

Legislation on state registration and state registry of legal entities in the Azerbaijan Republic comprised of the Constitution of the Azerbaijan Republic, this Law, Civil Code of the Azerbaijan Republic, as well as other legislative acts of the Azerbaijan Republic and international treaties, to which the Azerbaijan Republic is a signatory.



***Article 4. General rules for maintenance of state registration and state registry of legal entities***

4.1. Parties desiring to obtain the status of legal entity on the territory of the Azerbaijan Republic, as well as representations or branches of foreign legal entities, shall undergo the state registration and shall be included into the state registry. Commercial entities, as well as representations or affiliates of foreign legal entities may implement activities only upon the state registration.

4.2. Representations or branches, other structures of legal entities, which undergone the state registration in the Azerbaijan Republic, shall be included into the state register.

4.3. The state duty for registration of parties desiring to obtain the status of legal entity, representations or branches of foreign legal entities is paid in accordance with procedures stipulated under the legislation of the Azerbaijan Republic, at these peculiarities of commercial and non-commercial legal entities shall be considered.

4.4. Legal entities, representations and branches of foreign legal entities, as well as representations and branches of legal entities registered on the territory of the Azerbaijan Republic, shall be included into the state registry without payment of duty. Changes to the state register are performed without payment of duty.

*4.5. Only working days shall be taken into consideration when calculating the terms, stipulated by this Law.*

## Chapter II. State Registration of Legal Entities

### *Article 5. The application for the state registration of the structure for obtaining of the legal entity status*

5.1. For state registration, the structure wishing to obtain the status of legal entity, shall apply to the relevant executive authority of the Azerbaijan Republic.

5.2. The application is signed by the founder (in the event of many founders, — with all of them) or his (their) appointed trustee on the basis of power of attorney approved by notary.

5.3. The application shall include:

5.3.1. if the founder (founders) is a natural person- his (their) surname, first name, middle name, place of residence, number and date of identification document;

5.3.2. if founder (founders) is a legal entity— its (their) name, location and registration number;

5.3.3. in the event of signing of application by authorized representative— in addition, its surname, first name, middle name, place of residence, number and date of identification document issuance, and power of attorney.

*5.3.4. other information, set in form statement, ratified by the proper authority of executive power.*

5.4. Following documents are attached to application:

5.4.1. foundation documents— the charter of the legal entity approved by the founder (founders) of the structure wishing to obtain the status of legal entity, or his (their) authorized representative, decision on establishment of subject structure and approval of its charter (the decision shall be include the purpose of the establishment of the structure, wishing to obtain the status of legal entity, its founders, conditions of reorganization at establishment of new legal entity during merger, separation and division, approval of the charter, legal representative in the event of his appointment and his authority, as well as other issues considered necessary by the founders), such decision shall be signed by all founders;

5.4.2. document on payment of state duty;

5.4.3. if the founder is the legal entity — the notary approved copy of state registration document (extract from state registry) and the charter;

*5.4.4. if the founder is a physical person — copy of the document certifying his personality;*

5.4.5. document verifying the legal address of the structure, wishing to obtain the status of legal entity;

5.4.6. *at setting of legal representative copy of the document certifying his personality;*

5.4.7. *for foundations – a document verifying the payment of charter capital;*

5.4.8. *document on appointment of head or deputy head of the branch or representative offices of non-governmental organizations founded by foreigners of foreign legal entities*

5.5. To the application on state registry of structures established as a result of reorganization, also shall be attached:

5.5.1. decision on reorganization;

5.5.2. transfer act and separation balance;

5.5.3. information on publication in media.

5.6. The application is submitted along with the copy. Original of the application is kept by relevant executive authority of the Azerbaijan Republic, and copy is returned to applicant with note indicating the date of acceptance by the relevant executive authority of the Azerbaijan Republic of the original. The acceptance of application can be verified in any other form.

5.7. In the event of reorganization of the legal entity under court decisions in cases stipulated under the legislation of the Azerbaijan Republic, the enforced court decision with compliance of requirements of Article 5.5 of this Code shall serve as basis for state registration of this legal entity. In this case the state registration is implemented within term specified in Article 8 of this Law.

***Article 6. Specifics of state registration of representations or branches of foreign legal entities***

6.1. For state registration of the representation or branch of the foreign legal entity in addition to documents specified in Article 5 of this Law, shall be also submitted:

6.1.1. status, approved by foreign legal entity, establishing the representation or branch, or its authorized representative (the status of representation or branch shall include the name, location of the establishing legal entity, registration number and date of registration, rights and responsibilities of the representation or branch, its management and liquidation procedure, other issues, recognized necessary by the founder);

6.1.2. decision of foreign legal entity, establishing the representation or branch, on its establishment;

*6.1.2.-1. Agreement on state registration of the branch or representative offices of foreign states non-governmental organizations in the Republic of Azerbaijan.*

6.1.3. document, verifying the registration of legal entity, which founds the representation or branch — extract from trade registry (registration evidence etc.). This document shall be verified and approved by the diplomatic representation of the Azerbaijan Republic in the country of residence of the legal entity, or diplomatic representation of other country, representing the interests of the Azerbaijan Republic in this country (in the event of absence of such, as an exception — by relevant executive authority of the Azerbaijan Republic);

6.1.4. the original or notary approved copy of the power of attorney issued by foreign legal entity establishing the representation or branch;

6.1.5. the original or notary approved cope the decision of foreign legal entity, establishing the representation or branch, on appointment of the head of such representation or branch.

6.2. In the event of approval of documents that require the notary approval by the notary of foreign state, the procedure specified under article 6.13 of this Law shall be complied with.

***Article 7. Specifics of state registration of structures with foreign investment, wishing to obtain the status of legal entity***

7.1. For state registration of structures with foreign investment, wishing to obtain the status of legal entity, in addition to documents, specified under Article 3 of this Code shall be submitted:

7.1.1. if the founder is the foreign legal entity- document, verifying its registration,

— extract from the trade registry, registration testimony etc. (at this each document in accordance with procedures stipulated under the legislation can be legalized by the diplomatic representation of the Azerbaijan Republic in the country of residence of legal entity, or diplomatic representation of other country, representing the interests of the Azerbaijan Republic in this country (in the event of absence of such, as an exception — by relevant executive authority of the Azerbaijan Republic);

7.1.2. document, approved in accordance with Article 7.1.1 of this Law, verifying his engagement in entrepreneurship in the country of citizenship or permanent residence, or any third country.

7.2. For state registration of structures with foreign investments founded by foreign citizens, who obtained the right for permanent residence on the territory of the Azerbaijan Republic, or persons without citizenship, they shall submit documents in accordance with procedures stipulated under Article 5 of this Law to the relevant executive authority of the Azerbaijan Republic.

**Article 7-1. Procedure for state registration of business corporations, wishing to obtain the status of legal entity**

*The state registration of the business corporation, wishing to obtain the status of legal entity, including representative and branch offices of the foreign business legal entity shall be performed not later than within 5 days.*

**Article 8. Procedure for state registration of non-profit structures, wishing to obtain the status of legal entity**

8.1. State registration of *non-profit structures* wishing to obtain the status of legal entity, as well as representations or branches of foreign *non-profit* legal entities is performed as a rule no later than within 40 days.

8.2. The application for state registration and attached documents are accepted by the relevant executive authority of the Azerbaijan Republic for review, and within 30 days their compliance with the Constitution of the Azerbaijan Republic, this Law and other legislative acts of the Azerbaijan Republic is checked. In exceptional cases, if during the checking there is a necessity for additional check, this term can be extended for no more than 30 days.

8.3. In the event of findings of deficiencies in documents, which do not form basis for refusal in state registration, the relevant executive authority of the Azerbaijan Republic returns these documents to the applicant and sets the period of additional 20 days for resolution of these deficiencies. All deficiencies not providing basis for refusal shall be identified at once and submitted to the applicant for resolution.

8.4. No later than 10 days upon the document check or resolution of deficiencies found in documents, relevant executive authority shall issue to the applicant the certificate of state registration or notifies him on refusal for state registration (with indications or explanations of the provisions of legislation that formed basis for refusal).

8.5. In the event if within the term established *under this clause*, no refusal will be submitted on state registration, these structures shall be deemed as registered by the state. In this the relevant executive authority of the Azerbaijan Republic no later than within 10 days shall issues the certificate on state registration to the applicant.

**Article 9. Registration of changed, introduced into charter documents and following change of registered facts**

9.1. Each change to the charter documentation of legal entities, representations and braches of foreign legal entity, as well as each following change of registered facts shall be subject to registration.

9.2. For registration of change no later than within 40 days from the date of change, it is necessary to apply with application to the relevant executive authority of the Azerbaijan Republic. The application shall indicate the change and submit documents, verifying such

change. In the event of compliance of the change with requirements of Article 11.3 of this Law, relevant executive authority shall register such change within 5 days.

**Article 10. Re-registration. Deleted**

**Article 11. Provision of lawfulness in application of the Law**

11.1. With exception of basis stipulated under the legislation of the Azerbaijan Republic, not on any other basis is allowed refusal for state registration and inclusion into the state register of persons wishing to obtain the status of legal entities, as well as representations or branches of foreign legal entities, or introduction of changes to the state registry.

11.2. Refusal in state registration and inclusion into the state registry of structures wishing to obtain the status of foreign legal entity, as well as representations and branches of legal entity registered by the state in the Azerbaijan Republic on the basis on inexpediency is not allowed.

11.3. Refusal for state registration of structures wishing to obtain the status of legal entities, as well as representations or branches of the foreign legal entity, inclusion into the state register of the representation of branch undergone the state registration in the Azerbaijan Republic, as well as state registration of changes introduced into charter documents, and further changes of facts indicated in the register may be implemented in following instances:

11.3.1. in the event of conflict of the documents submitted to the relevant executive authority of the Azerbaijan Republic to the Constitution of the Azerbaijan Republic, this law and other legislative acts;

11.3.2. in the event of conflict of goals, objective and forms of activities of the structures wishing to obtain the status of legal entity with legislation;

*11.3.2-1. if the appropriation of authorities of state and local self-government, as well as state control and examination functions is considered in the charters of non- governmental organizations*

11.3.3. in the event of violation of law on protection trade marks or in the event of registration of non-commercial organization under the same name, *in the event of usage the names of state authorities as well as names prominent personalities (without permission of their close relatives or inheritances) of Azerbaijan in the name of non-governmental organizations;*

11.3.4. in the event, if deficiencies founded by the relevant executive authority of the Azerbaijan Republic, are not resolved within the period established under Article 8.3 of this Law.

11.4. Requirement for submission of documents not specified under this law for the purposes of state registration of structures wishing to obtain the status of legal entities, as well as representations or branches of the foreign legal entity, inclusion into the state register of the representation of branch undergone the state registration in the Azerbaijan Republic, as well

as state registration of changes introduced into charter documents, and further changes of facts indicated in the register is allowed only in cases, when submission of such documents is stipulated under other legislative acts of the Azerbaijan Republic.

11.5. Unlawful refusal or evasion from state registration of structures wishing to obtain the status of legal entities, as well as representations or branches of the foreign legal entity, inclusion into the state register of the representation of branch undergone the state registration in the Azerbaijan Republic, as well as state registration of changes introduced into charter documents, and further changes of facts indicated in the register can be appealed in the superior organization or court in accordance with procedures established under the legislation of the Azerbaijan Republic.

### **Chapter III. State registry of legal entities**

#### ***Article 12. Main principles of state registry of legal entities***

12.1. State register of legal entities is maintained by the relevant executive authority of the Azerbaijan Republic.

12.2. State register of legal entities shall be uniform and based on the same methods and principles.

12.3. State register of legal entities is a information source of the Azerbaijan Republic, rules for its protection and operations are established by the relevant executive authority of the Azerbaijan Republic.

12.3-1. There is no demand on registration of branch and representative office of the non- governmental organization. The organization within 10 days informs appropriate authority on establishment of branch and (or) representative office.

12.4. State register of legal entities is performed on hard copy and electronic carriers.

12.5. In the event of contradiction of records between hard copies and electronic carriers, hard copy information shall be deemed dominant, unless otherwise is stipulated under the legislation.

12.6. The maintenance of the state register on electronic carriers is performed in compliance with application of unified organizational, program and technical principles, which provide links and consistence with state information systems and networks.

12.7. deleted

12.8. The state register comprised of:

12.8.1. information on organization, registration, liquidation of legal entities, representations or branches of foreign legal entities;

12.8.2. information on introduction of changes to charter documents;

12.8.3. information on representation or branch, as well as other structures of the legal entity registered on the territory of the Azerbaijan Republic;

12.8.4. document packages established under the legislation, submitted to the registration authority for storage.

12.9. The state register of the Azerbaijan Republic is maintained by years and by each territorial and administrative unit (region or city) of the Azerbaijan Republic. By the decision of relevant executive authority of the Azerbaijan Republic the state registry may be maintained also by other criteria.

12.10. Territorial classification of state registry is maintained on the basis of legal address of the legal person, representation or branch of foreign legal entity.

12.11. Procedure for maintenance of state registry forms of state registry book *for noncommercial legal entities*, certificates of state registration and extracts from the state registry, and *form* of application are established by the relevant executive authority of the Azerbaijan Republic.

*12.12. Forms of testimonies of state registration of business corporations, extracts from the state register and statements-appeals, related to registration, become firmly established by the proper authority of the Republic of Azerbaijan, and replaced at its internet site*

**Article 13. Document verifying the state registration and inclusion into the state register**

13.1. Relevant executive authority issues to the legal entity, as well as representation or branch of the foreign legal entity the state registration certificate, which verifies its state registration.

13.2. Information on state registered legal entity, as well as representation or branch of foreign legal entity included into the register is verified with extract from the state registry.

*13.3. In the certificate, given out to the passed state registration commercial legal entities, and also to the branches or representative offices of foreign commercial legal entities, and to the extract from the state register for the subjects of entrepreneurial activity, the identification number of taxpayer, having a single code in the Republic of Azerbaijan, is specified;*

13.4. Certificate of state registration or extract from the state registry shall be the main document and for preparation of seal, stamp, letterhead, trademark, no additional document is required.



**Article 14. Information included into the state register**

14.1. Into the record made to the state registry following information on structures included into the state register is provided:

14.1.1. name of structure (firm);

14.1.2. legal address of structure;

14.1.3. organization and legal form;

14.1.4. fiscal year;

14.1.5. *identification number of taxpayer (for commercial structures), registration number of noncommercial structures;*

14.1.6. surname, first name, middle name, citizenship and resident address of each founder of the structure, if the founder is the legal entity— his name, legal address and registration information;

14.1.7. surname, first name, middle name, citizenship and residence of the legal representative of the structure;

14.1.8. information on location, organizational and legal form and registration of structures established by the legal entity on the territory of the Azerbaijan Republic or outside of the Azerbaijan Republic.

14.2. In additional to information stipulated under article 14.1 of this Code for legal entities, representation or branches of foreign legal entities, in the state register dependent of the organizational and legal form of legal entity following information shall be provided:

14.2.1. for special partnerships— amount of investments of each participant;

14.2.2. limited liability company or joint-stock company — amount of charter capital, amount of investment of each founder, in the event of establishment of controller’s board— surname, first name, middle name and resident address of each member;

14.2.3. in non-commercial organizations— scope of activities and objectives, area of activity, in foundations — information on members of the board of trustees, charter capital of the foundations and volume of property share of founders.

**Article 15. Extracts from the state register**

15.1. Upon inclusion into the state register of information on legal entities, as well as representations or branches of the foreign legal entity, inclusion into the state register of the representation of branch undergone the state registration in the Azerbaijan Republic, documents submitted for state registration and inclusion into the state register are submitted to the archive.

15.2. Each structure, which has undergone the state registration and (or) was included into the state register *must give an extract from the state register at the moment* of state registration or inclusion into the state registry shall be issued the extract from the state registry by the relevant executive authority of the Azerbaijan Republic.

15.3. The extract from the state register is issued to the applicant no later than within 3 days from the time of state registration of changes, introduced into the charter documents, and following changes of facts included into the registry.

15.4. The amount of information specified in the extract from the state registry shall be established by the relevant executive authority of the Azerbaijan Republic.

15.5. Person, who received the extract from the state registry, shall check its accuracy and in the event of found mistakes- within 3 weeks from the date of issuance of extract inform about it the relevant executive authority of the Azerbaijan Republic. The relevant executive authority shall review the information on detection of such mistake and introduce relevant changes into the state registry.

15.6. In the event, if within the term specified in Article 15.5 of this Law, there will be no notification on any mistake in the extract from state register, the record in the state register shall be published in the

official newspaper of the Azerbaijan Republic.

15.7. Extracts from state registry may also be provided to third parties on the basis of enquiry.

15.8. Extracts from state registry may also be provided in copies of documents. Copy of the documents is issued to individuals upon the payment of duty, with exception of state authorities and founders.

***Article 16. Exclusion of legal entity, representation or branch of foreign legal entity from the registry***

16.1. In the event of liquidation of the legal entity, representation or branch of the foreign legal entity in accordance with established procedures, and upon performance of liquidation activities the application may be submitted to relevant executive authority of the Azerbaijan Republic for exclusion from the registry.

16.2. Following documents are attached to the application:

16.2.1. decision on liquidation;

16.2.2. balance and tax returns, acceptance of which is verified by the relevant executive authority of the Azerbaijan Republic;

16.2.3. information on results of last tax audit of the relevant executive authority of the Azerbaijan Republic;

16.2.4. original of certificate of state registration and charter (provision) of the structure and its seal;

16.2.5. document, verifying the publication in media of information on liquidation of structure;

16.2.6. in the event of liquidation of legal entity due to reorganization — the act of transfer or copy of the balance account, with exception of documents stipulated under Articles 16.2.2 and 16.2.3 of this Law;

16.2.7. in events stipulated under the legislation- other documents.

16.3. The application shall be signed and submitted by the founders or authorized representatives of liquidation commission.

16.4. The application is submitted along with the copy. The original is kept by relevant executive authority of the Azerbaijan Republic, and copy with note indicating the time of acceptance of application by the relevant executive authority of the Azerbaijan Republic shall be returned to applicant. The acceptance of application can be verified also in any other form.

16.5. Upon submission of necessary documents on liquidation, relevant executive authority of the Azerbaijan Republic checks the compliance of these documents to requirements of legislation and in the event of lack of deficiencies, within 7 days from the date of receiving of application shall take the decision on exclusion of the structure from the registry.

16.6. In the event of found deficiencies in submitted documents the applicant shall be provided with written notification on such, with requirement for resolution of deficiency.

16.7. Upon resolution of deficiencies the relevant executive authority of the Azerbaijan Republic no later than the term specified in Article 16.5 of this Law makes the decision on exclusion of structure from the registry, for which he provides the notification to applicants. Relevant records are made to the structure liquidation registry.

16.8. In the event of lack of information on resolution of deficiencies the structure can not be excluded from the registry within 60 days.

#### ***Article 17. Notification on state registration***

17.1. Relevant executive authority of the Azerbaijan Republic:

17.1. upon the state registration and inclusion into the state register of legal entity, representation or branch of foreign legal entity every month in accordance with established from shall inform about it relevant executive authorities of the Azerbaijan Republic *conducting state registration of noncommercial legal entities, and also branches or representative offices of foreign noncommercial legal entities;*

17.1.2. in cases stipulated under legislation during liquidation of legal entities, which have undergone the state registration or in the event of annulled records in the state registry shall inform relevant executive authorities of the Azerbaijan Republic.

17.2. *proper authority of the executive power of the Republic of Azerbaijan, conducting state registration of commercial legal entities, and also branches or representative offices of foreign commercial legal entities:*

17.2.1. *daily sends data on state registration of commercial legal entities, and also branches or representative offices of foreign commercial legal entities in an electronic form and (or) on paper transmitters on jurisdiction to the proper authorities of executive power of the Republic of Azerbaijan;*

17.2.2. *at liquidation in the cases set by the legislation, of commercial legal entities passed state registration, and also branches or representative offices of foreign commercial legal entities or at liquidation of records in the state register, during one day informs the proper authorities of executive power of the Republic of Azerbaijan about it.*

#### ***Article 18. Publicity of state register***

18.1. Every person has the right to review records in the state register, enquire the extract from the state

register and copies of documents submitted for registration. Relevant executive authority of the Azerbaijan Republic by the requirement of any interested persons shall provide the information on state registration or refusal of state registration of legal entity.

18.2. Information on state registration and inclusion into the state registry of legal entities, as well as representations or branches of the foreign legal entity as well as other information related to organization and activities of legal entities, publication of which is stipulated under the legislation, is published in the official state newspaper for general information.

#### **Chapter IV. Final provisions**

##### ***Article 19. Liability for violation of this Law***

The violation of requirements of this Law shall propose the liability in the order stipulated under the legislation of the Azerbaijan Republic.

##### ***Article 20. Enforcement of the law***

20.1. This law is entered into force from the date of publishing.

20.2. Requirements of this Law are not applicable for legal entities, the procedure for state registration and inclusion into the state register of which is regulated under special legislative act.

20.3. Registration documents of legal entities, which have undergone the state registration in other state authorities before the enforcement of the Law of the Azerbaijan Republic «On state registration of legal entities» from February 6, 1996, № 17- II, within 1 year from the enforcement date of this Law shall be submitted by the registering authorities to the relevant executive authority of the Azerbaijan Republic. These documents may also be submitted by legal entities and their founders.

20.4. Within 6 months from the date of enforcement of this Law, all legal entities, representations or branches of foreign legal entities shall submit to the relevant executive authority the information on their legal representatives, if such information was not submitted earlier.

20.5. From the date of enforcement of this Law, the Law of the Azerbaijan Republic «On state registration of legal entities» from February 6, 1996, No. 17- IG shall be deemed invalid.

*President of the Azerbaijan Republic*

*Ilham ALIYEV*

*City of Baku, December 12, 2003*

*№ 560-IIIG*

## **ANNEX XXI Law on Legal Assistance in Criminal Matters**

*Non - official translation*



### **THE LAW OF THE REPUBLIC OF AZERBAIJAN ON LEGAL ASSISTANCE IN CRIMINAL MATTERS**

#### ***Chapter I. General Provisions***

#### ***Article 1. The legislation of the Republic of Azerbaijan on legal assistance in criminal matters***

The legal assistance in criminal matters (hereinafter – «legal assistance») shall be executed on the basis of the Constitution of the Republic of Azerbaijan, the criminal-procedural legislation, the present Law, other legislative acts of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party.

#### ***Article 2. The scope of Law***

**2.1.** Legal assistance consists of carrying out the relevant acts in accordance with the provisions of this Law at the time of the request for legal assistance in respect of offence that is under investigation or at the court proceedings of the requesting competent authority of the foreign state.

**2.2.** Unless there is a relevant agreement on legal assistance between the Republic of Azerbaijan and the requesting foreign state, the provisions of this Law shall be applied.

**2.3.** In accordance with the article 2.1 of this Law, the legal assistance shall be provided under the legislation of the Republic of Azerbaijan by carrying out the following acts:

**2.3.1.** to take witness testimonies and records;

- 2.3.2. to present judicial documents;
- 2.3.3. to carry out search or seizure operations;
- 2.3.4. to examine objects, residential or other areas;
- 2.3.5. to give materials, information or substantial evidences;
- 2.3.6. to present the opinions of the expert;
- 2.3.7. to present the originals or required certified copies of the documents, including bank and financial records;
- 2.3.8. to determine the identity or residential place;
- 2.3.9. to carry out search or seizure operations on property;
- 2.3.10. to determine criminally obtained funds, property, means used in the commitment of crime;
- 2.3.11. to carry out other acts under the legislation of the Republic of Azerbaijan.

2.4. The provisions of this Law do not apply the following cases:

- 2.4.1. to hand over the person that shall be subject to the criminal liability or to the execution of sentence granted by the court;
  - 2.4.2. to arrest or to detain of a person with a view to handing over;
  - 2.4.3. to provide court verdicts' enforcement of the requesting foreign state within the territory of the Republic of Azerbaijan;
  - 2.4.4. to hand over sentenced person to the state of his nationality for the execution of sentence;
  - 2.4.5. to pass criminal proceedings due to conduct the investigation;
- 2.5. The provisions of this Law do not apply to the cooperation issues with the international judicial bodies.

***Article 3. Refusal of request for legal assistance***

3.1. The refusal reasons are the following:

- 3.1.1. if the request for legal assistance may be detrimental to the sovereignty, security and other fundamental interests of the Republic of Azerbaijan;
- 3.1.2. if the request for legal assistance made by the Republic of Azerbaijan is related to the political crimes;

**3.1.3.** if the request for legal assistance made by the Republic of Azerbaijan is related to the crimes against military services;

**3.1.4.** if the request for legal assistance is related to the offence that is not specified as a crime under the legislation of the Republic of Azerbaijan;

**3.1.5.** if the request for legal assistance is related to the fact that the person whose handing over is requested may be prosecuted for his race, nationality, religion, citizenship, political views or sex;

**3.1.6.** if the request for legal assistance is related to the investigation or conviction of offence in the territory of the Republic of the Azerbaijan and if there is not any possibility to suspend the same request;

**3.1.7.** if the form and content of the request for legal assistance is not consistent with the provisions of the article 4 of this Law.

**3.2.** The refusal reasons on request for legal assistance shall be addressed to the requesting foreign state.

**3.3.** If the request for legal assistance may be handicap for the investigation or conviction of offence in the territory of the Republic of Azerbaijan, the execution of that assistance may be postponed.

Before the postponement the request for legal assistance may be reviewed by the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] in accordance with its own determined conditions. If the requesting state agrees with these conditions the request for legal assistance may be provided.

## ***Chapter II. The Procedural Rules for Legal Assistance***

### ***Article 4. The form and content of the request***

**4.1.** The content of the request for legal assistance submitted by the competent authority of the foreign state to the relevant executive authority of the Republic of Azerbaijan shall be consisted of the followings:

**4.1.1.** the name of competent authority of the foreign state making a request;



- 4.1.2. the name of relevant competent authority [*the Ministry of Justice of the Republic of Azerbaijan*] that is charged for the examination, investigation or court proceedings related to the request;
- 4.1.3. the subject and content of the request;
- 4.1.4. the elements of crime content, the description of facts and the classification of the offence, the relevant text of the criminal law of the requesting foreign state;
- 4.1.5. information about the requested person's name, father's name, surname and residential place in respect of request asking for submitting relevant documents;
- 4.1.6. other relevant information in respect of the review of the request for legal assistance ;
- 4.1.7. information on the identity and residential place of the concerned person from whom the seizure of materials or substantial evidences required;
- 4.1.8. information on the identity and place of staying of the concerned whose place of being determination required;
- 4.1.9. the description of place or person that is subject for search, including the substantial evidences (goods) that is subject for seizure;
- 4.1.10. the list of questions addressed to concerned person;
- 4.1.11. information on payment of amount and expenses of the person transited to the foreign state;
- 4.2. The relevant executive authority of the Republic of Azerbaijan may obtained additional information in respect of execution of legal assistance as needed.

***Article 5. The Procedure for Request***

- 5.1. The relevant executive authority [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority shall be executed the request for legal assistance under the legislation of the Republic of Azerbaijan.

**5.2.** If the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority finds that the matter requested does not fall within the scope of his authority, the same request shall be submitted to the competent authority and the competent authority of the foreign state shall be informed about it.

**5.3.** The officials of the competent authority of the requesting foreign state may participate in the execution of request for legal assistance on the approval of the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority.

**Article 6. Confidentiality**

**6.1.** The relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority shall provide the confidentiality of the existence of request for legal assistance, the content of request itself and accompanied documents, and the execution of legal assistance at the request of the competent authority of the requesting foreign state.

**6.2.** If the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority considers the request for legal assistance non-executive the competent authority of the requesting foreign state shall be informed about it. In this circumstance, the request for legal assistance shall be provided on the approval of the competent authority of the requesting foreign state.

**Article 7. Submitting of materials, documents and information**

The relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority shall provide the competent authority of the foreign state with the official materials, documents and information in accordance with the legislation of the Republic of Azerbaijan.

**Article 8. Giving a statement on legal assistance**

**8.1.** The person being in the territory of the Republic of Azerbaijan shall be called for giving a statement by the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] in regard with the criminal case on the basis of the request for legal assistance made from the foreign state and shall be informed about it.

**8.2.** The persons specified in the article 8.1 of this Law may refuse to give a statement in the following cases:

**8.2.1.** to have the right of withdrawal of giving a statement under the legislation of the Republic of Azerbaijan on the same case being under investigation or court hearing in the foreign state;

**8.2.2.** to have the right of withdrawal of giving a statement under the legislation of the foreign state on the case being under investigation or court hearing;

**8.3.** The persons specified in the article 8.1 of this Law and transited to the foreign state on the purpose of giving a statement shall not be subject to criminal investigation for the crimes committed before irrespective of their nationality.

**8.4.** The provisions of the article 8.3 of this Law shall not be applied to the persons that leave the territory of the foreign state after the 45 days following the completion of execution legal assistance or return back to that state voluntarily after leaving the same area.

***Article 9. The handing over the persons those are under custody or sentenced for imprisonment penalty under the request for legal assistance***

**9.1.** The persons those are under custody or sentenced for imprisonment penalty in the territory of the Republic of Azerbaijan on the purpose of the determination of the identity, giving a statement or executing other legal assistance on the criminal case that is under investigation or court hearing shall be handed over to the foreign state within the purposes specified in this article and on the approval of the same persons.

**9.2.** The persons specified in the article 9.1 of this Law shall be kept under custody at the request of the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority by the competent authority of the foreign state.

**9.3.** The persons specified in the Article 9.1 of this Law shall be transfer back to the Republic of Azerbaijan on a period prior agreed with the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] upon the completion of relevant procedural acts in the course of criminal investigation. The competent authority of the foreign state shall not have a power to require initiating the process of the handing over these persons.

**9.4.** The persons specified in the article 9.1 of this Law before the transmission to the foreign state on the purpose of executing legal assistance request shall not be subject to criminal investigation for the crimes committed before.

**9.5.** The competent authority of the foreign state shall be informed concerning the rules determined in the Article 9 of this Law and upon the written approval of the same competent authority the relevant persons shall be handed over for the purpose of execution legal assistance request under the same rules.

**9.6.** The term of person's staying in the foreign state that was handed over concerning legal assistance shall be included into the sentence term.

***Article 10. Ensuring the security***

**10.1.** The ensuring the security of the persons specified under the articles 8 and 9 of this Law shall be provided by the competent authority of the foreign state at the request of the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of the Azerbaijan*] or other competent authority by undertaking relevant measures.

**10.2.** The persons specified in the articles 8 and 9 of this Law:

**10.2.1.** may not subject to the compulsory measures concerning the offences they committed before leaving the territory of the Republic of Azerbaijan;

**10.2.2.** may not be involved in the carrying out procedural acts within the criminal case without their consent.

***Article 11. Determination of identity, residential place and presentation of substantial evidences***

If the competent authority of the foreign state submits request on the determination of identity or residential place of the person being in the territory of the Republic of Azerbaijan or if the request relates to the presentation of substantial evidences, the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority shall undertake all measures under the legislation of the Republic of Azerbaijan in a timely manner.

***Article 12. Carrying out search and seizure operations***

The relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority shall carry out search or seizure operations at the request of the competent authority of the foreign state in accordance with the criminal-procedural legislation of the Republic of Azerbaijan.

***Article 13. Returning materials, documents and substantial evidences (goods)***

The competent authority of the foreign state shall return materials, documents and substantial evidences obtained in respect of reviewing the request at the request of the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] upon agreed timeframe.

***Chapter III. Final provisions***

***Article 14. Expenses incurred from the execution of legal assistance***

All expenses incurred from the execution of legal assistance in the territory of the Republic of Azerbaijan shall be paid by the requesting foreign state.

***Article 15. The procedure for communication***

Communication issues related to the execution of the legal assistance shall be exercised by the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*] or other competent authority.

***Article 16. Languages***

The documents presented on the execution of legal assistance shall be translated into Azerbaijani language or one of the official languages of the United Nations Organization upon approval of the relevant executive authority of the Republic of Azerbaijan [*the Ministry of Justice of the Republic of Azerbaijan*].

***Article 17. Entry into force of this Law***

This Law shall enter into force from the date of publication.

*The President of the Republic of Azerbaijan*  
*Haydar Aliyev*

*Baku city, 29 June 2001*

*Nº 163-IIQ*

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*("VneshExpertService" LLC)*

## **ANNEX XXII Law on Non- Governmental Organizations**

### **THE LAW OF AZERBAIJAN REPUBLIC ON THE NON- GOVERNMENTAL ORGANIZATIONS**

#### **CHAPTER 1.**

#### ***GENERAL PROVISIONS***

##### **Article 1. Purpose of the given law**

1.1 This law regulates the relations with creation and functioning of public unions and foundations.

1.2 The definition of "the non-governmental organization" of this law is applicable to public unions and foundations.

1.3 This law defines non-governmental organizations as legal entities to the rules of their establishment, activity, reorganization and liquidation, as well as rules of their functioning, managing, relation to the government.

1.4 This law does not apply to political parties, trade unions, religious associations, local self-government institutions as well as institutions established to perform the functions relevant to such institutions and other non-governmental organizations which are regulated by other laws.

##### **Article 2. Non-Governmental Organization**

2.1 Public union, as it is settled as aims of founding documents, is a voluntary, self- controlled, non-governmental organization established under the initiative of several physical and (or) legal entities with common interests, whose main purpose is not to gain profit as a result of the activity and share it between the members of the organization.

2.2 Foundation is a non-membership non-governmental organization established under the property benefiting of one or several physical and (or) legal entities with social, charitable, cultural, education or other public benefit purposes.

2.3 Non-governmental organization can be formed and function with the purposes not forbidden by the Constitution and laws of Azerbaijan Republic.

2.4 Non-governmental organization cannot participate at the presidential, parliament and municipality elections in the Azerbaijan Republic as well as provide financial and other assistance to political parties. In accordance with the electoral law of the Republic of Azerbaijan, non-governmental organizations may observe and conduct exit-polls at the presidential, parliament and municipality elections in the Azerbaijan Republic. Foreign legal persons may participate in exit-poll activities during presidential, parliament and municipality elections in the Republic of Azerbaijan only together with the non-governmental organizations of the Republic of Azerbaijan. The non- governmental organization may put forward suggestion on improving by-laws in accordance with the laws of the Republic of Azerbaijan and its charter.

### **Article 3. Name and domicile of the non-governmental organization.**

3.1 The non-governmental organization shall have a name that indicates its organizational- legal form and nature of activity. The names of the government authorities of the Republic of Azerbaijan as well as the names of prominent persons of Azerbaijan (without permission of their close relatives or heirs) are not allowed to be used in the names of the non- governmental organizations.

3.2 Domicile of non-governmental organization is determined by the legal address indicated in its establishing documents.

3.3 Upon change of the legal address of a non-governmental organization, it is necessary to notify the appropriate state body in writing not later than 7 days from the date of the address change.

### **Article 3-1. Symbols of the non-governmental organization**

The non-government organization may have its flag, emblem and other symbols. The symbols of the organization shall be the same with state symbols of the Republic of Azerbaijan and foreign jurisdictions, as well as symbols of government authorities, international organizations and other institutions, and shall not imitate the trademarks protected by the law.

## **CHAPTER 2.**

### ***ORGANIZATIONAL-LEGAL FORMS OF PUBLIC ORGANIZATIONS, TYPES AND INITIATORS***

#### **Article 4. Organizational - legal forms of non-governmental organizations**

Non-governmental organization can be founded in any organizational-legal form.

#### **Article 5. The types of non-governmental organization**

Non-governmental organizations can be founded on constant or to pursue a concrete aim basis.

#### **Article 6. Territory of activity of non-governmental organizations**

6.1 Non-governmental organizations can be established and functioning with the all- Azerbaijan, regional and local statuses in the Azerbaijan Republic. Territory of activity of public organizations is determined independently by the organization.

6.2 The activity of all-Azerbaijan public organizations concerns all the territory of the Azerbaijan Republic. Activity of regional public organizations concerns two or more Administrative-territorial units of the Azerbaijan Republic. Local public organizations act within the framework of one administrative-territorial unit.



6.3 The international non-governmental organizations are public organizations acting on the territory of the Azerbaijan Republic and not less than one foreign state.

#### **Article 7. Branches and Representative Offices of the non-governmental organizations**

7.1 A non-governmental organization with state registration may open branches and representative offices in the territory of Azerbaijan Republic and beyond its limits. State registration is not required for the branches and representative offices of the non- governmental organizations. The organization shall within ten days inform the relevant executive authority of the opening of the branch and (or) representative office.

7.2 Branch of a public organization is formed away from its organization and engaged in implementation of its activity or even parts of it.

7.3 Representative office of public organization also forms away from the organization and is engaged in representation of its concerns and their protection.

7.4 Branch and representative office of public organization are funded not by a legal entity and rather from the assets of the organization that has established them and act on its behalf according to the approved provisions. Non-governmental organization is liable for its branches and representative offices.

7.5 Heads of branches and representative offices are assigned by the non-governmental organization and act according to the power of attorney issued by the non-governmental organization. The deputies of the heads of the branches and representative offices of the non-governmental organizations whose founders are foreign citizens or foreign legal persons shall be the citizens of the Republic of Azerbaijan.

#### **Article 8. Participants of non-governmental organizations.**

8.1 Participants of public unions are founders, member and assisting entities. Participants of foundations are founders and assisting entities.

8.2 Members of public organizations that are legally underage according to the civil legislature of Azerbaijan Republic receive rights and obligations.

8.3 Both aliens and stateless persons can be participants of non-governmental organizations in Azerbaijan Republic.

8.4. Membership to non-govermental organization shall be open on equal conditions to men and women and equal opportunities shall be created for them.

8.5. The requirement specified in Article 8.4 of the Law is not applicable to non- governmental organizations established for protection of gender-specific interests.

#### **Article 9. Founders of the non-governmental organizations.**

9.1 Founders of public organizations can be legal entities (except for bodies of state power and institutions of local government) or physical persons who have reached 18 years of age (and 16 years of age for youth public organizations).

9.1-1 The foreign citizens who hold residence permits for the Republic of Azerbaijan and persons without citizenship may be the founders of the non-governmental organization in the territory of the Republic of Azerbaijan.

9.2 Founders of public organizations have equal rights. Degree of mutual rights and obligations of founders in terms of establishment of a public organization is determined by the articles of incorporation (after compiling the agreement), and by its charter in terms of participation in activity of a public organization.

#### **Article 10. Members of public unions**

10.1 Every physical and legal (except state and municipality organs) entity in Azerbaijan Republic can be a member of a public union.

10.2 Members of a public union have equal rights. They can elect and to be elected in control bodies of public organizations, participate in their activity, control the activity of control bodies, can bear rights and abide by rules of requirements indicated in the charter.

10.3 The charter determines membership and expulsion in a public union. A member has the right of appeal within union and to the court in case of expulsion from a public union.

10.4. The public union shall ensure initiation of the members' register within thirty days after it passed the state registration.

#### **Article 11. Assisting entities of the non-governmental organizations**

Physical and legal entities that stimulate public organizations (except for state authority and institutions of local government) are the ones that participate in activity of a public organization according to the charter and support a public organization by rendering different help and services, with no official relations. The existence of assisting entities and their legal status are determined by the constituent documents of a non-governmental organization.

### **CHAPTER 3.**

#### ***ESTABLISHMENT OF THE NON-GOVERNMENTAL ORGANIZATIONS REORGANIZATION AND LIQUIDATION***

#### **Article 12. Establishment of the non-governmental organizations**

12.1 Non-governmental organization can be formed as of its establishment, and also reorganization of already existing non-governmental organization.

12.1-1. When establishing a foundation, its charter capital shall not be less than ten thousand manats.

12.2 Formation of non-governmental organization by establishment is implemented by decisions of founder(s). Depending on number of the founders, constituent assembly (conference, congress, etc.) is called and the charter is adopted.

12.3. State registration of the branches and representative offices of the foreign non- governmental organizations in the Republic of Azerbaijan is conducted on the basis of an agreement signed with such organizations.

### **Article 13. The charter of a non-governmental organization**

13.1 Charter of a non-governmental organization shall contain name and domicile, purposes of activity and rule of control, rights and obligations of members, conditions and rules of acceptance and expulsion from public organization (if member), information on sources of formation of assets of a public organization, information on acceptance of the charter, rules of amendments and additions to the charter, liquidation of a non-governmental organization and instructions for use of its assets at liquidation.

13.2 Charter of foundation should contain a name of foundation including the word "foundation", information on its domicile, purposes, bodies, including Board, information on rules of their formation, information on assigning and dismissing the officials of fund and distribution of assets at liquidation of foundation.

13.3. Assumption of the powers of the government and local self-government authorities as well as inclusion of the state control and inspection functions into the charters of the non- governmental organization is not permitted.

### **Article 14. Modification in the charter of a non-governmental organization**

14.1 Modifications to the charter of a non-governmental organization are introduced by the decision of the supreme body of control. Changes to the charter can be made by the Board.

14.2 Preservation of the charter of fund in an invariable condition may result in random outcomes at its establishment if the charter does not allow modifications or the authorized persons have not made the necessary changes to the charter, then under the application of the Board, right to make any modifications to the charter of fund is given to the court.

14.3 The state registration of changes in the charter of fund is implemented by an executive body. Changes brought to the charter of a public organization come into effect the state registration is completed.

### **Article 15. The notice on establishment of a non-governmental organization.**

15.1 Notice on establishment of a non-governmental organization implemented by the written reference to the applicable executive body not later than 30 days after acceptance of the law on establishment. Reference signed by the leaders of a non-governmental organization must include the constituent minutes.

15.2 On the day of obtaining the notice about establishment of a public union by the applicable executive body, given document is handed or mailed to the representative of public union, which verifies its legalization.

**Article 16. State registration of non-governmental organizations.**

16.1 State registration of non-governmental organizations is implemented by the applicable executive body according to the law of Azerbaijan Republic on State Registration of legal entities in Azerbaijan Republic.

16.2 Non-governmental organization receives the status of a legal entity only after state registration.

**Article 17. Refusal in state registration.**

17.1 State registration of a non-governmental organization may be refused only in cases stipulated in the Law of the Republic of Azerbaijan “On state registration and state register of legal persons”.

17.2 The information that reflects the reasons for refusal, provisions and articles of the legislation violated in preparation of the founding documents shall be presented in writing to the representative of the non-governmental organization.

17.3 Refusal in state registration, after all deficiencies have been removed, can not hinder repeated submission of documents for state registration.

17.4 Administrative and (or) legal action may be taken against refusal in state registration of a non-governmental organization.

**Article 18. Termination of activity of a non-governmental organization.**

Termination of activity of a non-governmental organization is made by reorganization (to associate, to join, to split, to separate, to resettle) or liquidation.

**Article 19. Reorganization of a non-governmental organization.**

19.1 According to the rule indicated in the given law, public organization can be reorganized. Decision on reorganization of a non-governmental organization is received from the supreme body or from the founders, according to the order provided by the charter of organization.

19.2 Reorganization of a non-governmental organization is implemented in the form of: to associate, to join, to split, to separate, to resettle.

19.3 Reorganization of a non-governmental organization in the form of association with another organization is considered true from the moment of adding a relevant record by the appropriate executive authority about termination of activity of one of the organizations in the state register of legal entities.

19.4 Reorganization of a non-governmental organization in the form of separation is considered true from the moment of adopting a decision by the appropriate executive body about termination of activity of one organization in the state registry of legal entities and establishment of a new organization.

19.5 After association or separation, all assets or part their part as well as debts of associated or separated organizations pass to a newly established organizations.

19.6 After reorganization of a non-governmental organization all legacy issues must be legalized in accordance to the Civil Code of the Azerbaijan Republic.

**Article 20. Liquidation of a non-governmental organization.**

Non-governmental organization can be liquidated in the order provided by the law of Azerbaijan Republic on State Registration of legal entities.

**Article 21. Assets of the liquidated a non-governmental organization.**

All property issues related to the liquidation of a non-governmental organization are solving in order made up by the Civil Code of the Azerbaijan Republic.

**CHAPTER 4**

***ACTIVITY OF A NON-GOVERNMENTAL ORGANIZATION***

**Article 22. Types of activity of a non-governmental organization.**

22.1 Non-governmental organization can execute any kind of activity both in the country and beyond its limits, if it does not contradict to the legislature of Azerbaijan Republic and purposes provided in the charter of a non-governmental organization.

22.2 Non-governmental organization can execute commercial activity and direct the acquired profit only on achievement of the purposes intended upon establishment of the organization and not dividing it between the founders (members). Such types of activity can be production and sale of goods and services that meet the requirements of establishment of a non-governmental organization and produce profit, acquisition of financial credit instruments, property and non-property rights, participation in economic societies and partnerships as investors.

22.3 Non-governmental organization keeps account of incomes and expenditures of commercial activity. Only the law determines limits in types of activity of a non- governmental organization.

**Article 23. Asset of a non-governmental organization**

23.1 Admissible forms of assets can constitute property of a non-governmental organization.

23.2 Non-governmental organization is liable by its assets only. Such assets can only be alienated only in accordance with the laws of Azerbaijan Republic.

23.3 Assets of a foundation are settled by its founder (founders). An entity who's donating property to the foundation after its settling does not become a founder. Founders and foundation are not responsible for debts of each other.

#### **Article 24. Sources of formation of assets of a non-governmental organization**

24.0 Sources of formation of assets of a non-governmental organization are:

24.0.1 Regular and single fees of the founders and members;

24.0.2 Property fees and voluntary donations;

24.0.3 Income from produce, sale of goods, rendering services, performed activity;

24.0.4 Income from the stocks, borrows and other financial credit instruments and dividends from the contributions;

24.0.5 incomes of use by property and its sale;

24.0.6 grants;

24.0.7 other incomes, not forbidden by the legislature

#### **Article 24-1. Donations and grants**

24-1.1. Donation is an assistance provided in funds and (or) other material form to a non-governmental organization as prescribed by the Law without setting any goal before the non-governmental organization.

24-1.2. The non-governmental organization cannot directly or indirectly provide, suggest or promise any material or other benefits, any privilege or concession to a donating or any other person in return for the received or promised donation.

24-1.3. The person making donation to the non-governmental organization cannot directly or indirectly demand or accept any material or other benefits, any privilege or concession for himself/herself or any third persons or agree to such an offer or promise..

24-1.4. The donated funds are accepted through the transfer to the bank account of the non-governmental organization. The non-governmental organization whose main purpose is charity pursuant to its Charter may accept in cash a donation of up to two hundred manats.

24-1.5. The information determined by the relevant executive authority on the amount of donations received by the non-governmental organizations and the persons who made the donations is incorporated into the financial report submitted to the relevant executive authority.

24-1.6. Economic and legal relations related to issuing, receiving and use of the grants are regulated by the Law of the Republic of Azerbaijan "On Grants".

### **CHAPTER 5**

#### ***MANAGEMENT OF A NON-GOVERNMENTAL ORGANIZATION***

#### **Article 25. Bases of management of a public union**

25.1 Pattern, structure of a public organization, authority of control bodies, rules of formation and time of their authorities, rules of decision making and right to speak on behalf of a public union are determined by the charter of a public union applicable to this and other laws.

25.2 Supreme body of control of a public union is the general meeting convoked not less than once per year.

25.3 General meeting is convoked by executive body, founder or two third of its members.

25.4 General meeting is to observe purposes established in the name of a public union interests.

25.5 The following tasks concern the authorities of the general meeting:

25.5.1 Adopting, amending and modification in the charter of a public union;

25.5.2 Definition of formation of assets of a public organization and principle of its usage;

25.5.3 Creation of executive bodies of a public union and determination of them in advance of their term

25.5.4 Approval of the annual report;

25.5.5 Participation in other organization;

25.5.6 Reorganization and liquidation of a public organization.

25.6 The general meeting is competent at participation of more than half of its members. Decision of the general meeting is made by the majority vote of members participating in the meeting. Each member of the meeting has one voice.

25.7 Written minutes are taken on each general meeting. The chairman and the secretary should sign minutes. The minutes of the meeting should be distributed to all members of the meeting, if necessary.

#### **Article 26. The executive body of a public union**

26.1 The executive body of a public union can be collective and (or) independent. It executes a current management of the activity of a public organization.

26.2 The executive body opens branches and representative offices.

26.3 The executive body has the authority to resolve problems connected with this law, other laws of other management bodies of a public organization and all tasks defined by the charter of a public union.

#### **Article 27. Management of a foundation**

27.1 President or Board is managing a foundation.

27.2 Trusteeship Council is a supervision body of a foundation deal to the control of foundation's activity, its bodies' decisions and their implementation, use of assets, amendments in a charter, decision on reorganization or liquidation of a foundation. Trusteeship Council is acting on a public basis.

27.3 Charter of a foundation defines a trusteeship council status.

## **CHAPTER 6**

### ***NON-GOVERNMENTAL ORGANIZATIONS AND STATE BODIES***

#### **Article 28. Relation between state power bodies and non-governmental organizations**

Rights of a public organization are defended by means of the state local law and judicial authority. The public organization has the right to independently execute the activity within the framework of the local law. The bodies of state power are competent to assist public organizations in financial and other areas. The bodies of state power as far as their officials cannot interfere in the activity of a non-governmental organization. No structures of public unions are established at government authorities.

#### **Article 29. Control over the activity of non-governmental organizations**

29.1 Non-governmental organization conducts account reports according to the law.

29.2 Amount and pattern of the income of a public organization and its assets, expenditures, information on quantity of staff, wages, indemnification to the volunteers can not be considered as a state or trade secret.

29.3 Non-governmental organization is publishing once a year its financial report.

29.4. The non-governmental organization submits its annual financial report no later than the 1st of April every year to the relevant executive authority of the Republic of Azerbaijan. The form, content and submission method is determined by the relevant executive authority.

29.5. The non-governmental organization shall take measures prescribed for it by the relevant legislation for prevention of money laundering and terrorist financing.

Article 30.(Deleted)



## **CHAPTER 7**

### ***FINAL REGULATION***

#### **Article 31. Liability of a non-governmental organization**

31.1 Upon violation of the requirements made from rules of this Law, non-governmental organization bears the responsibility according to the laws of the Azerbaijan Republic.

31.2 In case of undertaking actions that contradict to the purposes of this law, non- governmental organization receives written warning from the applicable executive body or instructions on liquidation of violations.

31.2-1 A warning is issued about the non-governmental organization in cases of non- submission of data necessary for state register of the legal persons or submission of incorrect data..

31.3 Non-governmental organization has the right to appeal to court against the given warning.

31.4 If non-governmental organization received more than two warnings or instructions on correction of violations within a year, the court can liquidate non-governmental organization.

31.5. The operation of the non-governmental organization that hinders the elimination of the situation which caused the introduction of emergency situation may be suspended as prescribed by the legislation.

31.6. In case the non-governmental organization fails to submit its annual financial report within the defined period, the relevant executive authority issues a written warning to the organization and demands the submission of the relevant report within 30 days. The non- governmental organization that fails to submit the report within that period is liable pursuant to the legislation of the Republic of Azerbaijan.

#### **Article 32. Re-registration of registered non-governmental organizations**

Non-governmental organizations registered until the given law came into effect should be included in the State registry of legal entities of Azerbaijan Republic from the applicable executive body.

#### **Article 33. Date of effect of this law**

This law comes into effect from the moment of its promulgation.

#### **Heydar Aliyev**

The President of the Republic of Azerbaijan

**Baku, June 13, 2000**

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1 [1] Source: "Azerbaijan" newspaper

## ANNEX XXIII Code on administrative violations

### Extracts from

#### The Code of the Azerbaijan Republic On administrative violations

#### **Article 26. Withdrawal of the item being an instrument to commit administrative violation or direct object of administrative violation**

26.1. Withdrawal of the item being an instrument to commit administrative violation or direct object of the administrative violation means its forced withdrawal and subsequent sale and hand-over of proceeds to the previous owner with deduction of all expenses on the sale of the item withdrawn.

26.2. Judge applies withdrawal of the item being an instrument to commit administrative violation or direct object of the administrative violation.

26.3. Withdrawal of the gun, ammunition and other hunting guns may not be applied to the persons, for whom hunting is the main source of living.

26.4. Procedure for withdrawing the item is defined by this Code and the other legislation of the Azerbaijan Republic.

#### **Article 261. Non-declaration or non-verified declaration of goods and transport vehicles**

261.1. Non-declaration or non-verified declaration of goods and transport vehicles, transported via customs border of Azerbaijan Republic, if rate of this is insignificant, *вЂ*

entails confiscation of goods and transport vehicles, which were direct objects of administrative misconduct or imposition of penalty in amount of 30-100 percent from its cost.

261.2. Declaration of non-verified data, which do not influence adoption by corresponding body of executive power of Azerbaijan Republic of decision on transportation of goods and transport vehicles via customs area of Azerbaijan republic, its location under requested customs regime, rate of customs payments, *вЂ*

entails imposition on natural persons of penalty in amount of 20-50 *manats*, official persons - 70-100 *manats* and legal persons - 150-250 *manats*. ([1](#), [119](#), [142](#))

#### **Article 348-3. Violation of legislation on fight against laundering of money or other assets obtained by criminal means and funding of terrorism**

348-3.0. Violation of legislation on fight against laundering of money or other assets obtained by criminal means and funding of terrorism, i.e.:

348-3.0.1. failure of the monitoring parties and other parties involved in monitoring to comply the requirements of identification, verification of the client, his representative or beneficiary, documenting information;

348-3.0.2. failure of the monitoring parties and other parties involved in monitoring to fulfill the obligations associated with the storage of identification documents and documents relating to money or other assets;

348-3.0.3. failure to apply or partial application of the internal control system by the monitoring parties and other parties involved in the monitoring of persons, being the legal entities;

348-3.0.4. late or incomplete performance by monitoring parties and other parties involved in the monitoring of written instructions made by the supervisory authorities or the financial monitoring authority in accordance with the law and in appropriate cases;

348-3.0.5. violation by the monitoring parties and other persons involved in monitoring of the statutory requirements for provision of information and inaction –

shall result in application of penalty to officials in the amount of eight hundred to one thousand five hundred *manats*, against legal entities at the amount of eight thousand to fifteen thousand *manats*.

#### **Article 404. Seizure of belongings and documents**

404.1. Seizure of belongings and documents found at the administrative violation case location or during the search of person, his belongings or transport that can be used as evidences during the case, used as an instrument or were targets of administrative violation, shall be conducted by the official executing the administrative violation case in presence of two witnesses.

404.2. If violation is conducted by the driver, marine transport operator or pilot and stipulates the limitation of access to driving/operation before the decision of administrative violation case, driver`s licence shall be seized from driver and certificates from the marine transport operator and pilot and temporary documents shall be issued providing the right of temporary driving of vehicles, marine or air transport. If the decision is made on limitation of driving access, the driver`s licence not to be returned. The validity date of the document that provides the right of temporary operation of onshore, marine or air transport shall be extended until the expiry of the date of submission the petition for re-consideration of resolution on limitation of driving/operating access in accordance with procedure stipulated by the legislation of the Azerbaijan Republic, or until the decision is reached on such petition.

404.3. Protocol shall be made on seizure of belongings and documents or appropriate note shall be made into the protocol of administrative violation.

404.4. The protocol on seizure of belongings and documents shall include:

404.4.1. date and venue of protocol preparation;

404.4.2. position, first/middle/last names of the person who had prepared the protocol;

404.4.3. information on the owner of belongings and documents;

404.4.4. reasons for seizure of belongings and documents;

404.4.5. types and references of documents.

404.4.6. information on type, quantity, characteristics of seized items, including type or model, calibre series and number of weapons, quantity and type of ammunition, type, model, state license plate number and other identification characteristics of transport;

404.5. The protocol on seizure of items and documents shall include the note on application of photography or video recording and obtain of documents by other methods. Materials obtained as a result of application of photography, video recording and other technical means in relation with seizure of belongings and documents shall be attached to the protocol.

404.6. The protocol on seizure of belongings and documents shall be signed by the person who had prepared it and the person whose belongings and documents were seized as well as witnesses. Should the owner of seized property refuse to sign a protocol appropriate note shall be made into the protocol indicating this. The copy of protocol shall be submitted to person the administrative violation case is initiated against or his legal representative (representative).

404.7. If necessary seized items and documents shall be packed and sealed at location. Before the start of the administrative violation case seized items and documents shall be stored in locations established by authorities (officials) authorised to seize the items and documents.

404.8. Seized firearms and bullets, other weapons as well as ammunition shall be stored in accordance with procedures established by the relevant executive authority of the Azerbaijan Republic.

404.9. Seized short expiry term items are sent for sale by relevant organisations and if sale is impossible such items shall be destroyed.

404.10. Products that do not comply to standards, sanitary norms and rules, hygiene requirements established in the Azerbaijan Republic, confiscated narcotic and drug substances, ethyl alcohol, alcoholic and alcohol containing products shall be sent for processing or shall be destroyed in accordance with procedures established by the relevant executive authority of the Azerbaijan Republic.

404.11. Before the resolution on administrative violation case is entered into force, samples of narcotic and drug substances, ethyl alcohol, alcoholic and alcohol containing products shall be preserved.

## **Article 410. Administrative violation protocol**

410.1. The protocol shall be made on execution of administrative violation case with exception stipulated in articles 368 and 412.1. of this Code. The protocol of administrative violation shall include:

410.1.1. date and venue of execution;

410.1.2. position, first/middle/last name of the person who had executed the protocol;

410.1.3. information on person, the administrative violation case is initiated against;

410.1.4. place, time of content of administrative violation;

410.1.5. relevant article of this Code that stipulates the liability for such administrative violation;

410.1.6. first/middle/last names and resident addresses of victims and witnesses;

410.1.7. explanations of natural person or representative of legal person the administrative violation case is initiated against;

*410.1.7-1. if when revealing the administrative violation were used special technical devices, their indications, as well as information about the type, make, model, location of used special technical devices, the time of last comparative state inspection of measuring device (number, date of confirming document) and the time of its next inspection.*

*410.1.7-2. if as a result of an administrative violation the person's health has suffered slight injury or material damage, the record of those circumstances;*

410.1.8 other information necessary to execute the administrative violation case.

410.2. When executing the protocol rights and responsibilities, stipulated by this Code shall be made clear to the natural person or representative of legal person the administrative violation case is initiated against as well as other case participants and appropriate note shall be made in the protocol.

*410.3. Natural person or representative of the legal entity against whom proceedings are being conducted on administrative violation, will be given a copy of the administrative violation protocol.*

410.4. Protocol shall be signed by the person who had made it, natural person or representative of legal person the case is initiated against. Should the natural person or representative of legal person refuse to sign a protocol appropriate note shall be made in the protocol. The natural person or representative of legal person may provide his explanations and comments on protocol and give motives for non-signing the protocol. Such explanations and opinions shall be attached to protocol. *The injured person in the case of an administrative violation may obtain a copy of the administrative violation protocol.*[\(183\)](#)

## ANNEX XXIV Statistics on Training

### Involvement in international working parties

	SUBJECT	DATE (2011-2013)	NUMBER OF ATTENDEES
<b>Ministry of National Security of the Republic of Azerbaijan</b>	<b>AML/CFT</b>		
	<i>(general subject of the all events)</i>		
	<b>1. Meeting on the subject of “Financial Training” organized by the General Intelligence and Security Service of Netherlands</b>	<b>2011.11.01-04</b>	<b>3</b>
	<b>2. 1st Baku Regional Conference on combating money laundering and financing of terrorism jointly held by Financial Monitoring Service under the Central Bank of Azerbaijan, USAID, SECO and OSCE Baku Office</b>	<b>2011.02.17-18</b>	<b>1</b>
	<b>3. 4th meeting of the Working Sub-Group of GUAM on Combating Corruption and Money Laundering</b>	<b>2011.05.26-27</b>	<b>1</b>
	<b>4. 5th meeting of the Working Sub-Group of GUAM on Combating Corruption and Money Laundering</b>	<b>2011.10.22-23</b>	<b>1</b>
<b>5. 38th plenary meeting of the MONEYVAL</b>	<b>2012.03.05-09</b>	<b>1</b>	
<b>6. 6th meeting of the Working Sub-Group of GUAM on Combating Corruption and Money Laundering</b>	<b>2012.04.26-27</b>	<b>1</b>	

	<b>7. Working meeting on the experts' level organized by the External Information and Security Agency of Italy on theme of "Combating transnational organized crime"</b>	<b>2012.06.20-23</b>	<b>3</b>
	<b>8. 39th plenary meeting of the MONEYVAL</b>	<b>2012.07.02-06</b>	<b>1</b>
	<b>9. 7th meeting of the Working Sub-Group of GUAM on Combating Corruption and Money Laundering</b>	<b>2012.10.12</b>	<b>1</b>
	<b>10. Special Meeting of the UN Security Council/Counter Terrorism Committee on preventing and suppressing terrorist financing</b>	<b>2012.11.20</b>	<b>1</b>
	<b>11. 40th plenary meeting of the MONEYVAL</b>	<b>2012.12.03-07</b>	<b>1</b>
	<b>12. 41st plenary meeting of the MONEYVAL</b>	<b>2013.04.09-12</b>	<b>1</b>
	<b>13. 8th meeting of the Working Sub-Group of GUAM on Combating Corruption and Money Laundering</b>	<b>2013.04.25-26</b>	<b>1</b>



## Training Schedule (2013) for FMS employees

### Domestic trainings

<b>№</b>	<b>Organizers</b>	<b>Subjects</b>	<b>Date and venue</b>	<b>Participants</b>
1.	World Bank	National Risk Assessments	February, Baku	7
2.	Luxembourg Ministry of Foreign Affairs	Internal Audit and Control	April, Baku	1
3.	Central Bank and PwC	“Financial statements and financial instruments”	October, Baku	1
	Academy Group	Free BSD UNIX	July-August	1

### Trainings abroad

<b>№</b>	<b>Organizers</b>	<b>Subjects</b>	<b>Date and venue</b>	<b>Participants</b>
1	International Monetary Fund	Strategic Analysis at FIUs	April, Kazakhstan	1
2	Joint Vienna Institute	New FATF Methodology	April, Vienna	2
3	Council of Europe	AML and Terrorist Financing	June Strasbourg	1
4	ACAMS	ACAMS Training	September- October, Luxembourg	1

<b>5</b>	<b>UN and GUAM</b>	<b>Peculiarities of court trials related to money laundering</b>	<b>October, Moldova</b>	<b>1</b>
<b>6</b>	<b>MONEYVAL</b>	<b>Money laundering through organized crime</b>	<b>October, Strasbourg</b>	<b>1</b>
<b>7</b>	<b>MONEYVAL</b>	<b>MONEYVAL Evaluators course</b>	<b>November, Strasbourg</b>	<b>2</b>