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58(I)/2010
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101(I)/2013
184(I)/2014
18(I)/2016
13(I)/2018

THE PREVENTION AND SUPPRESSION OF MONEY
LAUNDERING AND TERRORIST FINANCING LAWS OF 2007-
2018

Law No. 188(I)/2007

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

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A LAW WHICH CONSOLIDATES AND REVISES THE PREVENTION
AND SUPPRESSION OF MONEY LAUNDERING
AND TERRORIST FINANCING LAWS

PART I - INTRODUCTORY PROVISIONS

1. This Law may be cited as the Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-2018.

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

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

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

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

"beneficial owner" means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted and includes at least:

(a) in the case of corporate entities:

- (i) the natural person who ultimately owns or controls a corporate entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that corporate entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with European Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

Provided that-

- (a) an indication of direct shareholding shall be a shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a natural person; and
- (b) an indication of indirect ownership shall be a

shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a corporate entity, which is under the control of a natural person, or by multiple corporate entities, which are under the control of the same natural person or persons.

Provided further that the control by other means can be verified, inter alia, based on the criteria provided for in section 142 (1) (b) and section 148 of the Companies Law;

- (ii) the natural person who holds the position of senior managing official if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under sub paragraph (i) of the present paragraph is identified, or if there is any doubt that the person identified is the beneficial owner:

Provided that the obliged entity shall keep record of the actions taken in order to identify the beneficial ownership under sub paragraphs (i) and (ii);

(b) in the case of trusts:

- (i) the settlor;
- (ii) the trustee or commissioner;
- (iii) the protector, if any;
- (iv) the beneficiary, or where the individual benefiting from the legal arrangement or legal entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
- (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means; and

(c) in the case of legal entities, such as foundations, and legal arrangements similar to trusts, the natural person holding equivalent or similar positions to the person referred to in paragraph (b);

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

"business relationship" means a business, professional or commercial relationship between the customer and the obliged entity which is connected with the professional activities of an obliged entity and which is expected by the obliged entity, at the time when the contact is established, to have an element of duration;

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

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

"Commission" means the European Commission

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

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

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

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

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

(d) pardon by the President of the Republic;

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

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

"correspondent relationship" means:

(a) the provision of banking services by one bank ('correspondent') to another bank ('respondent'), including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange

services;

(b) the relationships between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers;

"court" means an assize court or a district court in the exercise of its criminal jurisdiction;

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

'confiscation' means the final deprivation of property ordered by the court relating to a criminal offence;

14 of 1960
50 of 1962
11 of 1963
8 of 1969
40 of 1970
58 of 1972
1 of 1980
35 of 1982
29 of 1983
91 of 1983
16 of 1984
51 of 1984
83 of 1984
93 of 1984
18 of 1985
71 of 1985
89 of 1985
96 of 1986
317 of 1987
49 of 1988
64 of 1990
136 of 1991
149 of 1991
237 of 1991
42(I) of 1992
43(I) of 1992
102(I) of 1992
26(I) of 1993
82(I) of 1995
102(I) of 1996
4(I) of 1997
53(I) of 1997
90(I) of 1997
27(I) of 1998
53(I) of 1998.

"credit institution" has the meaning given to the term in section 4 (1) paragraph (1) of the act of the European Union entitled 'Regulation (EU) number 575/2013, of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) number

648/2012' and includes a credit institution to which a licence to operate as an authorised credit institution (ACI) pursuant to the provisions of the Business of Credit Institutions Law and a credit institution which operates in the Republic of Cyprus pursuant to provisions of section 10A of the Business of Credit Institutions Law;

27.6.2013

66(l) of 1997
 74(l) of 1999
 94(l) of 2000
 119(l) of 2003
 4(l) of 2004
 151(l) of 2004
 231(l) of 2004
 235(l) of 2004
 20(l) of 2005
 80(l) of 2008
 100(l) of 2009
 123(l) of 2009
 27(l) of 2011
 104(l) of 2011
 107(l) of 2012
 14(l) of 2013
 87(l) of 2013
 102(l) of 2013
 141(l) of 2013
 5(l) of 2015
 26(l) of 2015
 35(l) of 2015
 71(l) of 2015
 93(l) of 2015
 109(l) of 2015
 152(l) of 2015
 168(l) of 2015
 21(l) of 2016
 5(l) of 2017
 38(l) of 2017
 169(l) of 2017.

"customer" means a person which aims to enter into a business relationship or carry out an occasional transaction with an obliged entity in or from the Republic.

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

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

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

29 of 1977
 67 of 1983
 20(l) of 1992.
 5(l) of 2000
 4(l) of 2001

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

82 of 1967
57 of 1969
4 of 1971
45 of 1973
12 of 1977
104 of 1987
98 of 1989
5 of 1991.
2(a) of 41(l)
of 1998.

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

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

(d) of section 370 of the Criminal Code in connection with the

commission of any of the offences referred to in paragraph (a) and (b) above;

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

‘Electronic money issuer’ has the meaning given to the term by section 2 of the Electronic Money Law. 83(1) of 2012

‘Electronic Money’ has the meaning given to the term by section 2 of the Electronic Money Law.

“E.U. Directive” means an act of the European Union entitled ‘Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 relating to the prevention of the use of the credit and financial system for money laundering and financing of terrorism, the amendment of regulation (EU) number 648/2012 of the European Parliament and of the Council, and repealing directive 2005/60/EC of the European Parliament and of the Council and directive 2006/70/EC of the Commission.

Official Gazette
EU L141 p. 73
5.6.2015

‘financial institution’ means:

(a) an undertaking other than a credit institution, which carries out one or more of the activities listed in points (2) to (12), (14) and (15) of Annex IV of the Business of Credit Institutions Law, including the activities of currency exchange offices (bureaux de change); 38(l) of 2016
88(l) of 2017.

(b) an insurance or reinsurance undertaking within the meaning given to the term by section 2 of the Insurance and Reinsurance Business and Other Related Issues Law, insofar as it carries out life assurance activities covered by the scope of the said Law;

144(l) of 2007
106(l) of 2009
141(l) of 2012
154(l) of 2012
193(l) of 2014
81(l) of 2016
87(l) of 2017.

(c) an investment firm or IF within the meaning given to the term by section 2(1) of the Investment Services and Activities and Regulated Markets Law;

(d) a collective investment undertaking marketing its units or shares;

(e) an insurance or reinsurance intermediary within the meaning given to the term by section 356 of the Insurance and Reinsurance and Other Related Issues Law where it acts with respect to life insurance and other investment-related services,

(f) branches, of any of the financial institutions as referred to in points (a) to (e), when they are in Cyprus, whether their head office is situated in a Member State or in a third country;

"government stocks" includes development bonds, short term

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

'gambling services' means a service which involves wagering a stake with monetary value in games of chance, including those with an element of skill such as lotteries, casino games, poker games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services;

'Group' means a group of undertakings which consists of a parent undertaking, its subsidiaries, and the entities in which the parent undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a relationship within the meaning of Article 22 of Directive 2013/34/EU;

'high risk third country' means a third country, designated by the Commission pursuant to the provisions of section 9 (2) of the Directive of the EU by the issuance of acts by way of derogation, which presents strategical shortcomings in its national system for combating money laundering and terrorist financing which are considered as important threats for the financial system of the European Union, and a third country, which is categorised by the obliged entities as high risk in accordance with the risk assessment foreseen by section 58A.

'illegal activities' means the predicate offences mentioned in section 5.

"immovable ownership or property" has the same meaning as in the Immovable Property (Tenure, Registration and Valuation) Law;

Cap. 224.

A3 of 1960

78 of 1965

10 of 1966

75 of 1968

51 of 1971

2 of 1978

16 of 1980

23 of 1982

68 of 1984

82 of 1984

86 of 1985

189 of 1986

12 of 1987

74 of 1988

117 of 1988

43 of 1990

65 of 1990
 30(I) of 1992
 90(I) of 1992
 6(I) of 1993
 58(I) of 1994
 40(I) of 1996
 31(I) of 1998.

'information' means any form of written or oral information or documents and includes information which may be registered in a computer;

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

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

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

"obliged entity" means any of the entities mentioned in section 2A.

'proceeds' means any economic advantage derived directly or indirectly from a criminal offence; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

196(I) of 2012.
 101(I) of 2013.

'payment service provider' has the meaning given to the term by section 2 of the Payment Services Law.

128(I) of 2009
 52(I) of 2010

"person" means natural or legal person.

"politically exposed person" means a natural person who is or who has been entrusted with prominent public functions in the Republic or in another country, an immediate close relative of such person as well as a person known to be a close associate of such person:

101(I) of 2013.

Provided that, for the purpose of the present definition, 'prominent public function' means any of the following public functions:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

- (b) members of parliament or of similar legislative bodies;
- (c) members of the governing bodies of political parties;
- (d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;
- (e) members of courts of auditors or of the boards of central banks;
- (f) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
- (g) members of the administrative, management or supervisory bodies of State-owned enterprises;
- (h) directors, deputy directors and members of the board or equivalent function of an international organisation;
- (i) mayor:

Provided further that no public function referred to in points (a) to (i) shall be understood as covering middle-ranking or more junior officials;

Provided furthermore that 'close relatives of a politically exposed person' includes the following:

- (a) the spouse, or a person considered to be equivalent to a spouse, of a politically exposed person;
- (b) the children and their spouses, or persons considered to be equivalent to a spouse, of a politically exposed person;
- (c) the parents of a politically exposed person;

Provided even furthermore that 'persons known to be close associates of a politically exposed person' means natural person:

- (a) who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;
- (b) who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the de facto benefit of a politically exposed person.

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

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

"proceeds" means any kind of property or economic benefit which has been generated directly or indirectly from the commission of illegal activities and includes every subsequent reinvestment or conversion of direct products and every substantial gain.

"property" means assets of any kind, whether corporeal or incorporeal, movable assets including cash, immovable assets, tangible or intangible, and legal documents or instruments in any

form including electronic or digital, evidencing title to or an interest in such asset.

'Regulation (EU) 2015/847 means the act of the European Union entitled Regulation (EU) 2015/847 of the European Parliament and of the Council of 2 May 2015 on the information to accompany transfers of funds and repealing Regulation (EC) No. 1781/2006.

Official Gazette
EU L141 p. 1
5.6.2015

"Republic" means the Republic of Cyprus;

"Restraint" means the temporary prohibition on transfer, destruction, conversion, disposal or movement of property or the temporary undertaking of the safekeeping or control of the property;

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

'shell bank' means a credit institution or financial institution, or an institution that carries out activities equivalent to those carried out by credit institutions and financial institutions, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group.

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'senior management official' means an officer or employee of an obliged entity with sufficient knowledge of the obliged entity's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure:

Provided that the 'senior management official' need not be a member of the board of directors of the obliged entity.

"occasional transaction" means any transaction other than a transaction which is carried out during the duration of a business relationship.

'terrorist financing' means the provision or gathering of funds by any means, directly or indirectly, with the intention to use such funds or knowing that they will be used in whole or in part for the commission of an offence within the meaning given to the term by section 4 of the International Convention for the Suppression

29(III) of 2001
18(III) of 2005.
110(I) of 2010
94(I) of 2017

of the Financing of Terrorism (Ratification and Other Provisions) Law and by sections 5 to 13 of the Combating of Terrorism Law.

“Third country” means a country not a member of the European Union or contracting party to the agreement of the European Economic Area signed in Porto on the 2nd of May 1992 and was adjusted with the Protocol signed in Brussels on 17 May 1993, as amended.

“Trust” means a written legal arrangement with which the settlor transfers property to one or more trustees who hold it for the benefit of one or more persons/beneficiaries.

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

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

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

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Confiscation order	8
External order	37
Family of the accused	49
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Order for sale of bonds	18
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Pecuniary penalty	8(2)
Preferential debts	13
Privileged information	44
Proceeds of prescribed offence	7
Prohibited gift	13

Realizable property	13
Restraint order	14
Value of gift	13
Value of property	13

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

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

2.A.(1) The provisions of the present Law apply to the following persons:

Obligated Entities

- (a) Credit institution;
- (b) Financial institution;
- (c) Any of the following natural or legal persons in the exercise of their professional activities:
 - (i) Auditor, external accountant and tax advisor;
 - (ii) Independent legal professional, when it participates, whether acting on behalf of a client in a financial or real estate transaction, or by assisting in the planning or carrying out of a transaction for its client concerning the-
 - (aa) buying and selling of real property or business entities;
 - (bb) managing of client money, securities or other assets;
 - (cc) opening or management of bank, savings or securities accounts;
 - (dd) organisation of contributions necessary for the creation, operation and management of companies;
 - (ee) creation, operation or management of trusts, companies, foundations or similar structures;
- (d) Natural or legal person not already covered under paragraph (c) offering the following services to trusts or companies:
 - (i) the formation of companies or other legal persons;
 - (ii) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - (iii) providing a registered office, business address, correspondence or administrative address and other related services for a company, a partnership or any other legal person or arrangement;
 - (iv) acting as, or arranging for another person to act as, a trustee or a trustee of express trusts or a similar legal arrangement;
 - (v) holding the shareholding capital of corporate entities and registering such shareholder in the respective registers of registered shareholders on behalf of or on account of third parties, other than a company listed on a regulated market that is subject

to disclosure requirements in accordance with European Union law or subject to equivalent international standards, or ensures that other person exercises respective duties; and
 (vi) any of the services or activities specified in section 4 of the Regulation of Administrative Service Providers and Related Issues Law.

(e) estate agents;

(f) providers of gambling services, as provided in the relevant laws of the Republic.

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

(a) laundering offences;

(b) predicate offences.

4.-(1) Every person who-

Laundering offences.

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

(i) converts or transfers or removes such property, for the purpose of concealing or disguising its illicit origin or of assisting in any way any person who is involved in the commission of the predicate offence to carry out any of the above actions or acts in any other way in order to evade the legal consequences of his actions;

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

(iii) acquires, possesses or uses such property;

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

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

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

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

- (a) it shall not matter whether the predicate offence is subject to the jurisdiction of the Cyprus Courts or not;
- (b) a laundering offence may be committed by the offenders of a predicate offence as well;
- (c) the knowledge, intention or purpose which are required as elements of the offences referred to in subsection (1) may be inferred from objective and factual circumstances;
- (d) No previous or simultaneous conviction for a predicate offence is required, from which the proceeds were derived;
- (e) the identity of the person who committed the predicate offence from which the proceeds were derived, is not required to be proven.

5. Predicate offence is any offence which is defined as a criminal offence by a law of the Republic.

Predicate offences.

5A.(1) It is prohibited for a person trading in precious stones and/or precious metals, mechanical vehicles, works of art and/or antiques, within the framework of its business activities to receive any amount equal to or higher than ten thousand euros (€10.000) in cash, irrespective of whether the transaction is carried out in a single operation or in several operations which appear to be linked.

Prohibition on receipt of cash from sale of goods

(2) A person trading in precious stones and/or precious metals, mechanical vehicles, works of art and/or antiques, in breach of the prohibition provided for in subsection (1), commits a criminal offence and, in case of conviction, is subject to a monetary fine not exceeding ten percent (10%) of the amount received in cash.

PART II - CONFISCATION ORDERS,
TEMPORARY ORDERS AND OTHER MEASURES

A. Confiscation Orders

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

Inquiry in order to determine whether the accused acquired proceeds.

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

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

Assessing the proceeds from the commission of a predicate offence.

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

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

(2) The Court may, for the purpose of determining whether the accused has acquired proceeds from the commission of illegal activities or of a money laundering offence and of assessing the value of these proceeds, assume, unless the contrary is proved under the circumstances of a case, that-

(a) any property acquired by the accused after committing the said illegal activities or the said money laundering offence or transferred into his

name at any time during the last six years prior to the commencement of criminal proceedings against him, constitutes proceeds, payment or reward from the commission of illegal activities or of a money laundering offence .

- (b) any expenditure incurred by the accused during the above period was met out of proceeds of the accused from illegal activities or the commission of a money laundering offence or payments or rewards made to him in connection with illegal activities or of a money laundering offence committed by him;
- (c) for the purpose of valuing such property, he received the property free of any charge or any interest of any other persons in it.

Provided that for the purposes of the present subsection, the Court may consider the specific circumstances and available evidence, including the fact that the property and/or the expenses of the accused mentioned in paragraphs (a) and (b) are disproportionate and/or not justifiable by his lawful income.

- (3) The provisions of subsection (2) shall not apply if-
 - (a) it is proved that they do not apply to the accused; or
 - (b) the court considers that there would be a serious risk of injustice against the accused, if they were to apply.
- (4) Where the court decides not to apply the provisions of subsection (2), it shall set out the reasons for taking such a decision.

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

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

Confiscation order.

- (a) make a confiscation order of the proceeds which are in the possession of the accused or a third person, as determined in

subsection (1) of section 13 and/or for the recovery of the amount of proceeds in accordance with section 9 as assessed and determined under section 7;

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

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

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

(3) In the event where, as a result of a prescribed offence, the victim or the complainant in relation to such offence has claims against the person who is subject to a confiscation order, the order or its potential enforcement does not prevent the said victim or complainant from seeking compensation for their claims through civil action against the said person.

(4) (a) The Attorney General may not submit a court application for the issuance of a confiscation order if he is satisfied that the victim or the complainant has commenced a civil action against the accused in relation to damage or loss suffered by the committing of the offence.

(b) In the event of commencement of any civil proceedings, any confiscation order which may be issued may not be executed and the relevant restraint, charging or confiscation order is subsequently cancelled by the Court upon application from the Attorney General.

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

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

TABLE

<u>First column</u>	<u>Second column</u>
An amount not exceeding 100 euro	7 days
An amount exceeding 100 euro but not exceeding 200 euro	14 days
An amount exceeding 200 euro but not exceeding 1000 euro	30 days
An amount exceeding 1000 euro but not exceeding 2000 euro	60 days
An amount exceeding 2000 euro but not exceeding 4000 euro	90 days

An amount exceeding 4000 euro but not exceeding 10000 euro	6 months
An amount exceeding 10000 euro but not exceeding 20000 euro	9 months
An amount exceeding 20000 euro but not exceeding 40000 euro	12 months
An amount exceeding 40000 euro but not exceeding 100000 euro	18 months
An amount exceeding 100000 euro but not exceeding 200000 euro	2 years
An amount exceeding 200000 euro but not exceeding 500000 euro	3 years
An amount exceeding 500000 euro but not exceeding two million euro	5 years
An amount exceeding two million euro	10 years

(2) The provisions of subsection (1) of this section shall also apply where a confiscation order is made under section 28 (Confiscation order where the accused has died or absconded) and the defendant had absconded and subsequently appeared.

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

Procedure for enforcing an order for the confiscation of instrumentalities.

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

Procedure to issue a confiscation order.

(2) Following the submission by the prosecution of the statement of facts

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

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

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

(5) The acceptance of allegations either by the prosecution or by the accused is made orally before the court unless the court otherwise directs.

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

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

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

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

Amount to be recovered under a confiscation order.

(2) If the court is satisfied that the amount that may be realised at the time the confiscation order is made is less than the amount the court has assessed to be representative of the value of the proceeds of the accused from the commission of illegal activities or a money laundering offence, the amount to be recovered under the confiscation order shall be the amount which, in the opinion of the court, might in fact be so secured from the

realizable property. In such a case, the order also mentions the amount which ought to have been recovered as the amount representing the proceeds of the accused from the commission of a predicate offence.

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

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

Realizable property and preferential debts, prohibited gifts and prohibited transfers.

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

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

Provided that for the purposes of the present paragraph (b), the prohibited transfer of property includes the proceeds or other property the value of which is equal to the proceeds.

(2) Property is not realizable if such property is subject to forfeiture by virtue of an order of the court made in criminal proceedings.

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

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

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

(c) less, the total of obligations which in accordance with subsection (6)

below have priority at the time the order is made.

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

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

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

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

- (a) the obligations for the payment of pecuniary penalties imposed before the confiscation order was made or for other amounts due by virtue of order of the court made before the confiscation order was made;
- (b) the obligation for the payment of amounts which would have been included among the preferential debts of the accused, if at the time the confiscation order was made he was declared bankrupt or, in the case of a company, a winding up order was made;
- (c) any other bona fide claim against the accused to which the court considers appropriate to grant priority on such terms as the court under the circumstances of the case deems just;

and "Preferential debts" in this subsection means:

- (i) in relation to bankruptcy, the debts to be paid in priority under section 38 of the Bankruptcy Law or any other law, as if the date on which the confiscation order was made was the date on which the receiving order of the company was made;
- (ii) in relation to the winding up of a company, the debts to be paid in priority, under section 300 of the Companies Law or any other law, as if the date the confiscation order was made was the date the

winding up order was made;

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

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

- (a) those made by the accused at any time during the last six years prior to the institution of criminal proceedings against him; or
- (b) those made by the accused at any time and relate to property-
 - (i) received by the accused in connection with a predicate offence committed by him or any other person; or
 - (ii) which in whole or in part, directly or indirectly, represent property received by the accused in connection with a predicate offence committed by him or by another person or
- (c) Those made by the accused after the institution of criminal proceedings against him.

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

(9) For the purposes of the present section-

‘prohibited transfer of property’ means direct or indirect transfer or transport of the proceeds from the accused to another person, when the other person knows or ought to know that the purpose of the transfer or the transport is to avoid the confiscation and this is concluded based on specific data and circumstances, including the fact that the transfer or transport was effected without consideration or with a consideration substantially lower than the market value of the said property;

‘accused’ includes a person for whom reasonable suspicion exists that he may be accused for committing a money laundering offence.

(10) Irrespective of the provisions of subsections (8) and (9), the rights of bona fide third parties are preserved.

B. Interim Orders

14.-(1) The court may make a restraint order both before and after the issuance of a confiscation order, but the restraint order is issued before the issuance of the confiscation order where-

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

- (a) criminal proceedings have been instituted and have not been concluded or are about to be instituted in the Republic against a person for the commission of a predicate offence, or an application by the Attorney General has been made under sections 28 (Confiscation order where accused has died or absconded), 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) of this Law; or
- (b) the Unit possesses information which creates a reasonable suspicion that a person may be charged with the commission of a laundering offence in Cyprus, in a member state of the European Union or a foreign country:

Provided that, for the purposes of the present paragraph 'foreign country' has the meaning given to such term in section 37 of the present Law.

- (c) the court is satisfied that there is a reasonable ground to believe that-
 - (i) where an application under section 36 is submitted, the provisions of subsection (3) of the same section are fulfilled; and
 - (ii) the person mentioned in paragraphs (a) and (b) above has benefited from the commission of a predicate offence.

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

(3) A restraint order may affect-

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

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

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

(5) A restraint order-

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

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

(6) A restraint order-

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

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

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

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

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

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

It is provided that for the purposes of this Article and without prejudice to its generality, the court may appoint as a receiver also the Official Receiver, who may also apply, for the purposes of this article, the relevant provisions and procedures provided for in the Bankruptcy Law and the relevant Regulations issued in accordance with that Law, as well as the Company Law and the Company (Liquidation) Regulations.

101(I) of 2013.

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

of it to the receiver.

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

- (a) making a payment towards a debt with a view to reducing the same; and
- (b) removing or transporting the property out of the Republic.

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

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

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

- (a) if it is satisfied that the promotion of a procedure or application is delayed without any reasonable ground, or
- (b) if the Attorney-General declares that he does not intend to promote the said procedure or application.

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

Charging order, discharge or variation of a charging order.

- (a) criminal proceedings have been instituted and have not been completed or are about to be instituted in the Republic against a person for the commission of a predicate offence, or an application by the Attorney-General has been made under sections 28 (Confiscation order where accused has died or absconded), 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) of this Law; or
- (b) the Unit possesses information which creates a reasonable suspicion that a person may be accused of the commission of a laundering offence in Cyprus, in a member state of the European Union or a foreign country:

Provided that, for the purposes of the present paragraph 'foreign country' has the meaning given to such term in section 37 of the present Law.

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

- (i) where an application under section 36 is submitted (Re-assessment of proceeds), the provisions of subsection (3) of the same section are satisfied; and
- (ii) the person mentioned in paragraphs (a) and (b) above has benefited from the commission of a predicate offence.

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

- (a) of an amount equal to the value of the property charged, where a confiscation order has not been made; and
- (b) in any other case, of an amount not exceeding the amount payable under the confiscation order.

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

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

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

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

- (a) immovable property;
- (b) the following bonds:
 - (i) government stocks,
 - (ii) bonds of any legal body incorporated in the Republic;

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

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

(d) funds in court.

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

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

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

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

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

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

the order;

- (c) the prohibition of payment of dividends to the debtor in respect of the subject matter of the order;
- (d) in the case of a unit trust, the prohibition of any acquisition of the units or any dealing in connection with the units by any natural or legal person which performs functions under the trust.

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

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

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11 of 1965

161 of 1989

228 of 1989.

- (a) the charging order was a judgement of the Court for debt; and
- (b) the depositing of the order constituted registration of a judgement of the court for debt:

Provided that the registration of the order remains in force irrespective of the provisions of sections 55 and 56 of the Civil Procedure Law.

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

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

(b) Regulations made under this subsection are laid before the House of Representatives for approval and following that the provisions of subsection

(2) of section 3 of the Laying before the House of Representatives Regulations issued under the authority of a Law, Law of 1989 apply.

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

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

- (a) if it is satisfied that the promotion of a procedure or application is delayed without any reasonable ground; or
- (b) if the Attorney-General declares that he does not intend to promote the said procedure or application.

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

Cancellation of restraint and charging orders.

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

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

C. Other measures

17.-(1) After a confiscation order is made for which there was no appeal and which remains unenforced or after registration of the order or the confiscation decision issued pursuant to the provisions of Part IV or Part IVA, the court may on application by the prosecution exercise the following powers:

Appointment of a receiver following the issue of a confiscation order.

(a) appoint a receiver for the realization of the property and/or appoint a receiver, authorised to take possession in the manner determined by the Court, of the proceeds, for execution of the confiscation order.

:

101(I) of 2013.

It is provided that, for the purposes of this Article and without

prejudice to its generality, the court may appoint as a receiver also the Official Receiver, who may also apply, for the purposes of this article, the relevant provisions and procedures provided for in the Bankruptcy Law and the relevant Regulations issued in accordance of that Law, as well as the Company Law and the Company (Liquidation) Regulations.

- (b) empower the receiver so appointed or a receiver appointed under subsection (7) of section 14 or under other provisions which relate to the making of charging orders-
 - (i) to enforce any charge imposed under section 15 or Part IV or IVA on realizable property or on interest or dividend payable in respect of such property; and
 - (ii) subject to such conditions or exceptions as the court thinks appropriate to take possession of any other realizable property not affected by a charge;
- (c) to order any person having possession of realizable property to give possession of it to any such receiver;
- (d) to empower any such receiver to realize realizable property in such manner as the court may direct;
- (e) to order any person holding an interest in realizable property to make such payment to the receiver in respect of any interest held by the accused, or, as the case may be, the recipient of a prohibited gift, and then the court may, after the payment is made, order the transfer, grant or extinction of any interest in the property.

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

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

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

18.-(1) Subject to the provisions of subsection (4), where the subject matter of a charging order is the property mentioned in paragraphs (b) and (c) of subsection (5) of section 15 (Charging order), the disposal, sale or realization of such property can only be effected by an order of the court made on the application of the prosecution or of a receiver appointed under section 17 (Appointment of receiver) and which is called an order for sale of bonds.

Order for sale of bonds.

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

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

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

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

31(I) of 1992.

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

Disposal of proceeds from the realization of property.

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

- (a) the proceeds of the enforcement of any charge imposed under section 15 (Charging order);
- (b) the proceeds of the realization of property under section 14 or 17 other than by enforcement of a charge;

(c) any other sums belonging to the accused.

(3) Irrespective of the provisions of section 126 of the Criminal Procedure Law, the sums which are deducted from the sums specified in subsection (2), before the reduction of the amount due under a confiscation order, are: Cap. 155.

(a) the remuneration and expenses of the receiver:

It is provided that, the expenses and the remuneration of the receiver are assessed in proportion to the fees provided for in the Table included in the Bankruptcy (fees and royalties of the Official Receiver) Regulations. 101(I) of 2013.

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

(c) payments effected by order of the court.

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

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

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

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

(5) (a) Monetary sums which are confiscated or received from the sale of assets pursuant to the enforcement of a confiscation order in favour of the Republic, are paid into the Budget of the Management of the Ministry of Finance under "Proceeds of Confiscation from Illegal Activities"

(b) The monetary sums mentioned in (a) above are used for social purposes.

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

(Restraint order) and 17 (Appointment of a receiver) or in pursuance of a certain powers. charging order:

- (a) in the case of realizable property held by a person to whom the accused has directly or indirectly made a prohibited gift, the power is exercised with a view to realizing no more than the value of the gift;
- (b) the powers shall be exercised with a view to allowing any person other than the accused or the recipient of any prohibited gift, to retain or recover the value of any property belonging to him;
- (c) in exercising those powers, no account shall be taken of any obligations of the accused or of the recipient of any prohibited gift which conflict with the obligation to satisfy the confiscation order;
- (d) subject to the above principles, the power shall be exercised with a view to satisfying the amount due under a confiscation order by recovering the current value of the realizable property.

21.-(1) If on any application by the accused in respect of a confiscation order or of the receiver appointed under section 17 (Appointment of a receiver), or on the application for the making of a charging order, the court is satisfied that the realizable property is inadequate for the payment of any amount remaining to be recovered under the confiscation order, it may, subject to subsection (2), vary the confiscation order:

Variation of a confiscation order.

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

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

- (a) in the case of realizable property held by a person who has been adjudged bankrupt, the amount of that property which could be distributed among the creditors of the bankrupt shall be treated as property which cannot be recovered, but:
- (b) any inadequacy in the realizable property which appears to the court to be attributable wholly or partly to anything done by the accused for

the purpose of preserving from any risk of realization under this Law any property held by a person to whom the accused had directly or indirectly made a prohibited gift shall not be treated as property which cannot be recovered.

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

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

22.-(1) Where a person holding realizable property against whom a receivership order has been issued or is adjudged bankrupt, for the purposes of the Bankruptcy Law the following are excluded from the bankrupt's estate-

101(I) of 2013.
Bankruptcy of
the accused.
Cap.5
49 of 1985
197 of 1986.

- (a) property which is the subject of a restraint order made before the order adjudging him bankrupt; and
- (b) any proceeds of property realized by virtue of sections 14(6), 17(1)(d) and 17(1)(e) being in the hands of a receiver appointed under section 14 (Restraint order) or 17 (Appointment of a receiver).

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

Cap. 5.

(3) Subsection (2) above does not affect the enforcement of a charging order made before the making of a bankruptcy order or made in respect of property which was subject to a restraint order when the order adjudging him bankrupt was made.

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

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

Cap. 5.

including the remuneration of the receiver, incurred in respect of such property.

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

Cap. 5.

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

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

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

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

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

23.-(1) Where realizable property is held by a company in respect of which an order for liquidation was made or a resolution has been passed by the company for a voluntary winding up, the functions of the liquidator or provisional liquidator shall not be exercised in relation to-

101(l) of 2013.
Winding up of a company holding realizable property.

(a) property subject to a restraint, charging or confiscation order or an order issued pursuant to the provisions of Part IV or Part IVA for registration of an order or a restraint or freezing or confiscation decision made before the relevant date, as specified in subsection (4);

(b) any proceeds of property realized by virtue of sections 14(7), 17(1)(d) or 17(1)(e) which are in the hands of a receiver appointed under section 14 (Restraint order) or 17 (Appointment of a receiver):

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

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

- (a) he is prevented from exercising those functions for the purpose of distribution to the company's creditors of any property held by the company; or
- (b) he is prevented from paying out any expenses, including the remuneration of the liquidator or any provisional liquidator, properly incurred in the winding up of the company in respect of the said property:

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

Cap. 113.
 9 of 1968
 76 of 1977
 17 of 1979
 105 of 1985
 198 of 1986
 19 of 1990
 46(I) of 1992
 41(I) of 1994
 15(I) of 1995
 21(I) of 1997.

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

(4) For the purposes of this section:

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

"relevant date" means-

- (a) the date on which the resolution for the voluntary winding up of the company has been passed in the cases where-
 - (i) no winding up order has been made; or

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

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

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

Liability and remuneration of the receiver.

- (a) would have been entitled to take such action if such property was realizable;
- (b) believed or had reasonable grounds for believing that he was entitled to take such action; and
- (c) the loss or damage was not caused by his negligence.

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

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

Compensation.

- (a) did not result in a conviction; or
- (b) resulted in a conviction but such conviction was quashed on appeal and no conviction for any other predicate offence was substituted.

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

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

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

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

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

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

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

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

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

- (a) the bona fide disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract; and does not result in any kind of responsibility for the said person and
- (b) if he does any act in contravention of section 4 (Laundering offences) and the disclosure is related to the act concerned, this person shall not commit the offence of assisting another to commit a laundering offence under the said section, if the following conditions are satisfied:
 - (i) the said act was done with the consent of the police officer or Unit after the aforesaid disclosure; or
 - (ii) if the act was done before the disclosure, the disclosure was made on his initiative and without delay as soon as it was reasonable for him to make such disclosure.

(c) The non-execution or the delay in the execution of an order by the said persons upon instructions of the Unit, with regard to sums or

investments referred to above, shall not constitute violation of any contractual or other obligation on the said persons or/and his/his employers.

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

27.-(1) A person who-

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

- (a) knows or reasonably suspects that another person is engaged in laundering or financing of terrorism offences, and
- (b) the information on which that knowledge or reasonable suspicion is based, comes to his attention in the course of his trade, profession, business or employment,

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

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

(b) The existence of a reasonable explanation or justification for the non disclosure of information is a defence.

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

(4) An offence under this section shall be punishable by imprisonment not exceeding two (2) years or by a pecuniary penalty not exceeding five thousand euro or by both of these penalties.

28.-(1) Subject to the provisions of subsection (3) and upon the application of the Attorney-General, the court which has convicted a person for the commission of a predicate offence may make a confiscation order

Confiscation
order where the
accused is ill,

under section 8 (Confiscation order) against an accused who has died or absconded. has died or absconded .

(1 A) Subject to the provisions of subsection (3) and after an application by the Attorney General, a court before which criminal proceedings have been initiated regarding a prescribed offence and such proceedings could have led to a criminal conviction if the suspected or accused person had been able to stand trial but as a result of illness or absconding of the suspected or accused person the trial could not take place, may issue a confiscation order pursuant to section 8 against the said person:

Provided that, for the purposes of the present section, 'illness' means the inability of the suspected or accused person to attend the criminal proceedings for an extended period, as a result of which the proceedings cannot continue under normal conditions.

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

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

- (a) it is satisfied that the Attorney-General has taken reasonable steps to contact him; and
- (b) any person who is likely to be affected by the making of a confiscation order by the court, has been given the opportunity to appear before the court and make representations.

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

(5) The right of the accused to be represented by legal counsel is not affected.

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

Power to set aside a confiscation order where the accused who

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

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

Variation of a
confiscation
order made
under section
28.

(2) Where the accused claims that-

- (a) the value of the proceeds from the commission of a predicate offence in respect of the period for which the assessment had been made; or
- (b) the amount which could have been realized at the time the confiscation order was made was smaller than the amount of the confiscation order,

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

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

- (a) it shall make a new assessment under section 7 (Assessment of proceeds from the commission of a predicate offence); and
- (b) may, if it considers just after taking into consideration all the circumstances of the case, vary the amount of the confiscation order.

5 of 41(l)
of 1998.

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

Prohibition of
publicizing
information.

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

Cap. 155.

provided that no criminal proceedings for the commission of such offence have been instituted in the Republic against this person,

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

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

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

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

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

Freezing order of property against an absent suspect.

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

- (a) there is prima facie evidence against the suspect for the commission of a prescribed offence; and
- (b) the property of the suspect may be converted or transferred or removed outside the jurisdiction of the Republic for the purpose of concealing or disguising its illicit origin.

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

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

Order of confiscation of property against an absent suspect.

(2) The court shall make the confiscation order under subsection (1) if the suspect does not appear before the court during the validity of the freezing

order made under section 32 (Freezing order of property against an absent suspect) and if it is satisfied that;

- (a) The prosecution has taken reasonable steps to contact him; and
- (b) any person who is likely to be affected by the making of a confiscation order has been given the opportunity to make representations, if he so wishes, before the court in respect of the making of the order.

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

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

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

- (a) the court has made a freezing order under section 32 (Freezing order of property against an absent suspect) or a confiscation order under section 33 (Confiscation of property order against an absent suspect) against a suspect who was outside the jurisdiction of the Republic; and
- (b) the suspect is subsequently put on trial for the same offence and acquitted.

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

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

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

35.-(1) Where-

Reconsideration
of a case.

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

- (i) did not make an inquiry under section 6 (Inquiry in order to determine whether the accused acquired proceeds); or
- (ii) made an inquiry under section 6 but it was not ascertained whether the accused acquired proceeds from the commission of a predicate offence; and

(b) the Attorney General-

- (i) has secured evidence which was not available on the date of conviction of the accused; and
- (ii) believes that this evidence would have led the court to determine that the defendant had benefited from the commission of a predicate offence if an inquiry under section 6 was made on the date of conviction of the accused,

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

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

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

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

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

36.-(1) Where the Attorney-General is of the opinion that the real value of the proceeds of the accused from the commission of a predicate offence was greater than their assessed value, the Attorney General may apply to

Re-assessment
of proceeds.

the court for the consideration of the evidence on which he based his opinion.

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

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

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

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

(b) in any earlier period.

(3) The court if-

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

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

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

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

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

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

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

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

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

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

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

PART IV - INTERNATIONAL CO-OPERATION

37. For the purposes of this Part:

Interpretation of principal terms.

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

"Convention" means-

2 of 25(I)
of 1997.

(a) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was ratified with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Ratification) Law;

49 of 1990.

51(III) of 2007

(aa) The European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990, which was ratified with the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Ratification) Law of 1995;

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

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

(d) The Treaty on Mutual Legal Assistance in Penal Matters between Cyprus and USA, which has been ratified by the Treaty between the Government of the Republic of Cyprus and the Government of the U.S.A. on Mutual Legal Assistance in Criminal Matters (Ratification) Law and the Instrument which is provided for under subsection (2) of Section 3 of the Agreement on Mutual Legal Assistance between the European Union and the USA signed on 25 June 2003, relating to the application of the Convention between the Republic of Cyprus and the USA for Mutual Legal Assistance in Penal Matters, signed on 20 December 1999 (Ratification) Law of 2008. 7(III) 2008

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

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

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

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

(a) Orders for the confiscation of proceeds and instrumentalities as these are defined in the Convention and includes-

(i) An order for the confiscation of proceeds, which is in the possession of the accused or a third person or other assets equal to the value of the proceeds.

(ii) A confiscation order without conviction, issued by a court within the framework of the procedure relating to a criminal offence, and

(iii) A restitution order to the legitimate owners or victims which was issued, either before or after the coming into force of the provisions of the Prevention and Suppression of Money Laundering Activities (Amendment) Law of 2018:

13(I) of 2018

Provided that, for the purpose of the present paragraph, 'confiscation

order without conviction' includes an order without conviction issued either before or after the coming into force of the provisions of the Prevention and Suppression of Money Laundering Activities (Amendment) Law of 2018, from a court of a foreign country which leads to the deprivation of property and does not constitute a criminal sanction, to the extent that it is ordered by the court of a foreign country in relation to a criminal offence, provided it has been proven that the property relating to the order constitutes proceeds.

- (b) restraint orders and orders for the seizure of property made temporarily for the purposes of future confiscation of proceeds and instrumentalities;
- (c) any order which the Council of Ministers may, by notification published in the Official Gazette of the Republic, wish to include in the term "foreign order".

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

Procedure for the enforcement of external orders.

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

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

- (a) At the time of registration the external order was in force and enforceable and no appeal is pending against the said order;
- (b) in the event where the foreign order relating to the confiscation of property was issued upon conviction of the accused in his absence, he was notified of the relevant proceedings in the country of issuance of the foreign order to be able to appear and present his position and opinions;
 - (b1) in the event where the foreign order relating to the freezing of property was issued in the absence of the accused or the suspect, he was notified of the relevant proceedings in the country of issuance of the foreign order to be able to appear and present his position and opinions;

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

justice of the Republic;

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

(4) The Court, after the registration of the foreign order, issues directions that notification be given to all persons affected by the order.

(5) the provisions of paragraphs (a), (b), (c) and (d) of subsection (7) of section 43C apply by analogy in the case of a Court order for registration and execution of a restraint and seizure order issued pursuant to the provisions of the present section.

(6) Subject to the provisions of the present section, the rights of bona fide third parties are safeguarded.

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

101(I)/2013.

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

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

Effect of registration.

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

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

7 of 41(I) of 1998.

(4) In the event of registration of a confiscation order, this is executed by the Unit, if within six (6) weeks from the date the persons affected by the order received notification in accordance with section 38(4), the said persons took no action for the cancellation or the setting aside of the registration order:

Provided that, in the event it is not possible to provide the notification mentioned in section 38 (4) or the accused or the third person in the

possession of whom the proceeds are held cannot be located, despite making reasonable efforts, the confiscation order is executed immediately by the Unit.

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

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

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

(2) The court may cancel the registration of a restraint order if, within a reasonable period of time, the criminal proceedings have not been initiated or there was no progress in the investigation of the criminal case which could lead to criminal proceedings during which a confiscation order may be issued.

(3) In the event that an application for cancellation of the registration of a restraint order pursuant to the provisions of subsection (2) is submitted the foreign country which issued the order is notified in advance, and is permitted to submit its comments.

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

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

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

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

43.-(1) Subsections (7), (8), (10), (11) of section 14, subsections (9) and (10) of section 15 and sections 17, 18, 19, 20, 22 and 23 shall also apply in cases of foreign orders subject to any amendments or limitations that the Council of Ministers may wish to prescribe by regulations made under this Implementation of the provisions of this law in foreign orders.

Law.

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

- (a) to the proof of any matter or thing;
 - (b) to the circumstances which in any foreign country may be considered as constituting the commencement or conclusion of procedures for the making of an external order.
- (3) Where on the request of or on behalf of a foreign country the court is satisfied that proceedings have been instituted but not concluded in this country during which a foreign order may be made, the court shall make a restraint or charging order by applying sections 14 and 15 of this Law.
- (3A) Subject to the provisions of section 72 A, in the event that the Court cancels a restraint or charging order issued pursuant to the provisions of section 14 or section 15, the property which is the subject matter of the order is released completely, to the extent possible without reducing or affecting its value or amount in any way, for the benefit of the person in whose name it is held.
- (4) The application of this section does not depend on the issue of Regulations and until such Regulations are issued, the sections referred in paragraph (1) will apply without any amendments or limitations.

PART IV A CO-OPERATION WITH MEMBER STATES

43.A. For the purposes of this Part:

“Certificate” means, in relation to a freezing order, the certificate specified in the Framework Decision 2003/577/JHA and in relation to a confiscation order, the certificate specified in the Framework Decision 2006/783/JHA, as they are in force.”

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

Interpretation of terms.

“Council Decision 2006/783/JHA” means the Council Framework Decision

2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition of confiscation orders;

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

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

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

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

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

“member state” means a Member state of the European Union.

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

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

(b) constitutes the instrumentalities of such offence;

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

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

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

Procedure for the enforcement of orders

possible the competent authority of the issuing state.

freezing/confiscation in the Republic.

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

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

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

(4) Subject to the provisions of this Part, the Court, following the submission by the Unit of the application for execution in accordance with subsection (1) of this section, registers the freezing order or the confiscation order for the purposes of its execution.

(5) The Court, after registration of the restraint order or the confiscation order issues directions that notification be sent to all persons affected by the order.

(6) Subject to the provisions of the present section, the rights of bona fide third parties shall be safeguarded.

(7) (a) A Court order for registration and enforcement of a restraint order issued pursuant to the provisions of the present section, is valid for a period of three (3) years from the date of its issuance and may be extended by the court in accordance with the provisions of paragraph (b):

Provided that for the purpose of submitting an application for extension of the validity of the above order, as provided for in paragraph (b), the Unit communicates in a timely manner, prior to the expiration of the above timeframe with the competent judicial authority of the state of issuance which will inform the Unit of the stage the criminal case and request an extension of the validity period of the registration order.

(b) The Court may, upon ex parte application by the Unit, where the reasons for which the order in paragraph (a) above must remain in force are set out, issue an order extending the validity of the order every three (3) years, until the issuance of a confiscation order which includes a provision for notification of the issuance to all persons affected by the order, where they are informed of their right to challenge the said order:

Provided that, the reasons mentioned in this paragraph include, inter alia, the initiation of criminal proceedings in the issuing state or progress in the investigation of the criminal case which may lead to criminal proceedings, during which a confiscation order may be issued.

(c) In the event that-

- (i) The Court order for registration and enforcement of a restraint order was issued prior to the Prevention and Suppression of Money Laundering Activities (Amendment) Law of 2018 coming into force;
- (ii) More than three (3) years have passed since its issuance; and
- (iii) No confiscation order has been issued by the issuing state or the foreign country,

the said order may be cancelled by the Court in the event where the Unit within two (2) years from the date of the Prevention and Suppression of Money Laundering Activities (Amendment) Law of 2018 coming into force, does not file an application in Court for extension of its validity, in accordance with the provisions of paragraphs (a) and (b).

(d) Subject to the provisions of section 72 A, in the event where the validity of the registration order is not extended as provided for in paragraphs (a), (b) and (c) the property which is the subject matter of the order or the restraint decision, is completely released, to the extent possible without reducing or affecting the value or amount thereof in any way, for the benefit of the person in whose name it is held.

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

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

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

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

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

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

Multiple requests for the enforcement of confiscation orders.

Reasons for non-enforcement of

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

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

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

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

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

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

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

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

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

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

(f) according to the certificate, the person concerned did not appear personally in the proceedings resulting in the confiscation order, unless the certificate states that the person concerned, in accordance with further procedural claims provided for by the national laws of the issuing state-

(i) Within reasonable time-

- had either been summoned in person and was informed through summons of the date set and the location of the court proceedings which led to the issuance of the confiscation order, or had been effectively and officially informed by other means of the date and the location of the said court proceedings, in a manner which proves clearly that he knew of the set court proceedings, and
- had been informed that the confiscation order could be issued in the event that the person concerned does not present

himself at the court proceedings, or

- (ii) Knew the set date of the court proceedings and had given instructions to a legal counsellor, appointed by himself or by the state to represent him at the court proceedings and was in fact represented by such legal counsellor at the court proceedings, or
- (iii) Once the confiscation order was served upon him and once he was informed expressly of his right to be tried anew or file an appeal, where he is entitled to be present, and that the essence of the case, including new evidence will be re-examined and that the court proceedings may lead to the initial decision being overturned-
 - Declared expressly that he does not challenge the confiscation order or
 - Did not request to be tried anew or did not file an appeal within the applicable timeframe.

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

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

Deadline for the production or completion of the certificate.

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

Notification of the decision refusing execution or impossibility to execute.

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

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

(b) in case of a freezing order the property or evidence have disappeared, or have been destroyed, or cannot be found in the location indicated in the

certificate which accompanies the application for execution, or the location of the property or evidence has not been indicated in a sufficiently precise manner, even after consultation with the issuing state,

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

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

Reasons for postponement of execution of a freezing order.

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

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

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

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

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

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

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

Reasons for postponement of execution of a confiscation order.

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

- (b) where legal measures have been taken against the said order;
- (c) where the execution of the confiscation order might damage an ongoing criminal investigation or proceedings, until such time as it deemed reasonable;
- (d) where it is considered necessary to have the confiscation order or parts thereof translated, for the time necessary to be translated; or
- (e) where confiscation proceedings have already been initiated in the Republic for the property concerned.

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

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

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

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

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

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

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

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

(b) in all other cases, the Republic transfers to the issuing state 50% of the

amount and the remaining balance is deposited to the state budget of the Republic.

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

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

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

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

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

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

(8) In the event of registration of a confiscation order in accordance with the provisions of the present Part, this is enforced by the Unit, if within six (6) weeks from the date on which the persons affected by the decision received notification in accordance with section 43C (5), the said persons took no action for the cancellation or the setting aside of the registration order:

Provided that, in the event it is not possible to provide the notification mentioned in section 43C(5) or the accused or the third person in the possession of whom the proceeds arrived cannot be located, despite making reasonable efforts, the confiscation order is executed immediately by the Unit.

43.H.B. The Unit takes the necessary measures for the termination of execution of the confiscation order as soon as it is informed in writing by the competent authority of the issuing state of any decision or measure, as a result of which the order ceases to be enforceable or is withdrawn for any reason.

Effect of registration.

43.H.C. (1) The Court shall cancel the registration of a freezing order or a confiscation order if it appears to the Court that the order has been complied with-

Termination of execution of a confiscation

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

(b) in any other way that may be provided for under the legislation of the issuing state.

(2) The court may cancel the registration of a restraint order if within a reasonable period of time the criminal proceedings have not been initiated or there was no progress in the investigations of the criminal case which could lead to criminal proceedings during which a confiscation order may be issued.

(3) In the event that an application for cancellation of the registration of a restraint order pursuant to the provisions of subsection (2) is submitted the foreign country which issued the order is notified in advance, and is permitted to submit its comments.

43.H. D. (1) A freezing order or a confiscation order may be amended or revised only by a Court or any other competent authority of the issuing state. Cancellation of registration.

(2) The court, when exercising the powers conferred upon it by section 43.H.A., as well as other powers in respect of the execution of a freezing order or confiscation order, shall be bound by the findings as to the facts in so far as they are stated in the conviction or decision of a court or judicial authority of the issuing state or in so far as such conviction or judicial decision is implicitly based on them.

43. H. E. Where in the freezing order or confiscation order there is a reference to a sum of money to be received in the currency of another country, this amount shall be converted into the currency of the Republic at the rate of exchange ruling at the time the request for registration was made. Freezing or confiscation orders shall be binding.

43.H.F. (1) Subsections (7), (8), (10), (11) of section 14, subsections (9) and (10) of sections 15 and sections 17, 18, 19, 20, 22 and 23 shall also apply in cases of freezing orders or confiscation orders. Currency of freezing order or confiscation order.

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

43.H.G. If the Republic is responsible for injury caused to any affected person due to the execution of a freezing order or a confiscation order, it requests from the issuing state to reimburse to the Republic any sums paid Implementation of the provisions of this law in freezing orders

in damages except if, and to the extent that, the injury is exclusively due to the contact of the Republic. and confiscation orders.

Reimbursement of paid sums.

PART V - ORDERS FOR THE DISCLOSURE OF INFORMATION

44. For the purposes of this Part-

"information" means any form of written or oral information or documents and includes information which may be registered in a computer. Interpretation of terms.

"privileged information" means-

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

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

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

45.-(1) Without prejudice to the provisions of other laws, in relation to the receipt of information or documents in the course of investigating the possible commission of offences, for the purposes of analysis of financial transactions or inquiry in relation to prescribed offences or in relation to inquiry for the determination of proceeds or instrumentalities including locating other related assets for the purpose of restraint and/or confiscation, the court may, on the application of the investigator of the case, make an order for disclosure under the provisions of this Part. Order for disclosure.

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

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

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

Conditions for the making of an order for disclosure.

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

(a) (i) There is reasonable suspicion that a specified person has committed or has benefited from the commission of a prescribed offence, or the existence of a financial transaction which creates reasonable suspicion that a person is involved in money laundering offences or financing of terrorism or that the transaction may be connected to such offences;

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

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

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

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

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

- (3) The order for disclosure-
- (a) may also be made in relation to information which is in the possession of a government officer;
 - (b) shall have effect despite any obligation for secrecy or other restriction upon the disclosure of information imposed by law or otherwise;
 - (c) shall not confer any right for production or disclosure of information which is privileged.
 - (d) It is served only to the person who has in his possession the information referred to in the application.

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

Information contained in a computer.

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

48. (1) An obliged entity, director or employee thereof does not notify to the client or a third person the fact that information relating to suspicious transactions has been transmitted, is being transmitted or will be transmitted to the Unit, in accordance with the provisions of section 69 or that an analysis of such information or of suspicious transactions is being carried out or may be carried out, with respect to money laundering or terrorist financing.

Offences in relation to the disclosure of information.

(2) No person may make any disclosure which may cause obstruction or negatively interfere with interrogations and investigations carried out in relation to the determination of proceeds or the committing of any prescribed offences, while it knows or suspects that such interrogations and investigations are under way.

Provided that, in the event that a person who carries out the professional activity of an auditor or external accountant or independent legal professional attempts to prevent a client from getting involved in illegal activities, this is not considered as disclosure of information within the meaning of the present section.

(3) A person who breaches the provisions of the present section commits a criminal offence and, upon conviction, is subject to imprisonment not exceeding two (2) years or to a fine not exceeding fifty thousand (€50.000) and/or to both these sentences.

49.-(1) The prohibition on disclosure of information provided for in section 48 does not prevent disclosure between credit institutions and financial institutions or between those institutions and their branches and majority-owned subsidiaries located in third countries, provided that those branches and majority-owned subsidiaries comply with the group-wide policies and the procedures, including procedures for sharing information within the group, in accordance with the provisions of section 68A and that the group-wide policies and procedures comply with the requirements laid down in the EU Directive:

Exception from the prohibition on the disclosure of information.

Provided that the exchange of information in relation to suspicion that the proceeds are a product of illegal activities or relate to terrorist financing which are reported to the Unit constitute the subject matter of the exchange within the group, unless the Unit indicates otherwise.

(2) The prohibition on disclosure of information provided for in section 48 does not prevent the disclosure between persons who carry out professional auditing activities, or external accounting activities, tax advisors and independent legal counsellors or entities from third countries which impose requirements equivalent to those imposed by the EU Directive, and which carry out their professional activities, under any form of cooperation or engagement within the same legal person or the wider structure to which the person belongs and which shares common ownership, management or compliance control.

(3) In cases which relate to the same customer and the same transaction, involving two or more obliged entities mentioned in subsections (1) and (2) the prohibition on disclosure of information provided for in section 48 does not prevent the disclosure between the relevant obliged entities, provided they are from a member state or entities in a third country which imposes requirements equivalent to those laid down in the EU Directive and that they are from the same professional category and are subject to obligations as regards professional secrecy and personal data protection.

(4) Disclosure and exchange of information in accordance with the provisions of subsection (1), (2), and (3) does not constitute a breach of any restriction imposed by contract or by any legislative, regulatory or administrative provision in the disclosure of information.

(5) The prohibition on disclosure of information in section 48 does not apply in relation to the disclosure to competent Supervisory Authorities, or disclosure for law enforcement purposes.

PART VI - SUMMARY INQUIRY

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

Conduct of a summary inquiry.

(2) For the purposes of this Part-

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

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

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

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

Procedure to be followed.

- (a) the court shall call upon the accused to give particulars of any matter relevant to the imposition of the penalty including the financial position of the accused and his family. The particulars must be supported by receipts, titles and other documents verifying their correctness;
- (b) the examination of the accused is conducted by the court through which questions are submitted by the prosecution and by the advocate of the accused. The court, if it considers expedient, may allow the cross-examination and re-examination of the accused by the prosecution and by the advocate of the accused respectively;
- (c) the accused may after the conclusion of his examination by the court call witnesses and adduce any evidence in support of his allegations following which the prosecution may call witnesses and adduce evidence in rebuttal;

- (d) the witnesses called to give evidence under subsection (c) above shall be cross-examined and re-examined as if they were witnesses testifying in criminal proceedings;
- (e) if at the conclusion of the inquiry the accused fails to give sufficient and satisfactory explanations regarding the manner in which he acquired the various assets owned by him or his family and regarding any other matter relevant to section 7 (Assessing the proceeds from the commission of a predicate offence), the court may proceed on the assumption that:
 - (i) any property of his or part thereof acquired at any time during the last six years prior to the institution of criminal proceedings and for which no satisfactory explanations were given or which were not supported by satisfactory evidence, has been acquired with proceeds from the commission of a predicate offence;
 - (ii) any property of his family or part thereof for which no sufficient or satisfactory explanations were given and which has been transferred at any time during the last six years prior to the institution of proceedings against him was the subject of a gift which was made by the accused for the purpose of avoiding the consequences of the Law.
- (f) the court, after having determined that the accused benefited from the commission of a predicate offence and subject to subsection (3) of section 50 (Conduct of summary inquiry), may impose a pecuniary penalty without prejudice to the power of the court to impose any other additional penalty;
- (g) the court, in assessing the fine to be imposed, takes into account the benefit the accused had from the commission of a predicate offence as such benefit was determined in an inquiry under this section;
- (h) the court may, for the purpose of making an inquiry under this section, make any order in order to compel the accused or any other person to attend and to testify or to produce anything relevant to the inquiry.

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

False statements.

53.-(1) The court for the purpose of enforcing a pecuniary penalty may, if it considers expedient, appoint a receiver who shall have the same functions

Enforcing a pecuniary

as if he were appointed under section 17 (Appointment of a receiver).

penalty.

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

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

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

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

Composition of
the Unit for
Combating
Money
Laundering
Offences.

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

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

Cap. 155.

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

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

(6) Adequate financial, human and technical resources are provided to the Unit, in order to fulfil its tasks.

55.-(1) The Unit, operates independently and is autonomous and has the following powers and competences: - Functions of the Unit.

(a) is responsible for the gathering, evaluation and analysis of suspicious transactions submitted by obliged entities or other persons, in relation to money laundering offences, associated predicate offences and terrorist financing and for this purpose it may receive supplementary information from obliged entities;

(a1) has timely direct or indirect access, to financial, administrative and law enforcement information that they are required to fulfil its tasks properly and to respond, at its discretion, to requests for information by competent authorities in the Republic when such requests for information are motivated by concerns relating to money laundering, associated predicate offences or terrorist financing:

Provided that, where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the Unit shall be under no obligation to comply with the request for information.

(b) transmits to the Police and other Public Authorities, such as the Inland Revenue and the Customs and Excise Department, when it deems appropriate, information and data-

- (i) for the purpose of conducting investigations provided there is reasonable suspicion that a predicate offence has been committed, other offences or terrorist financing and/or
- (ii) for information purposes.

Provided that the said Authorities and Services provide feedback to the Unit about the use made of the information provided in accordance with this Article and about the outcome of the investigations or actions performed on the basis of that information.

(c) (i) co-operate with the corresponding Units abroad irrespective of the type of organizational structure of the said Units, spontaneously or upon request, for the purposes of analysis of information and/or investigation of money laundering offences and financing of terrorism offences, as well as associated

predicate offences, with the exchange of information which the Unit has the power to obtain at a domestic level even if the type of predicate offences which it may relate to are not determined at the time of the exchange of information;

- (ii) co-operate with the corresponding Asset Recovery Offices for the tracing and identification of proceeds of crime or other related property, with the exchange of information and other relevant ways of cooperation including the approval for transmission of information provided to any other Authority or Service within the scope of application of the present Law.

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

(e) (i) issue instructions to an obliged entity for the suspension or non-execution of a transaction or to have the movement of a bank account monitored, where there is reasonable suspicion that the transaction relates to money laundering or terrorist financing for the purpose of analyses of a suspicious transaction or for the future issuance or registration of a restraint order or confiscation of assets.

(ii) The power referred to in sub paragraph (i) may also be exercised in cases where the Unit receives relevant justified requests from respective Units or competent Judicial Authorities of member states of the European Union or a third country.

(iii) The instruction for suspension or non-execution of a transaction may be valid for up to seven (7) business days, but its validity may be renewed for a period not exceeding in total thirty (30) business days

(f) informs, where practicable, the obliged entities of the effectiveness of and follow-up to reports of suspected money laundering or terrorist financing which have been submitted to it, in accordance with the provisions of the present Law.

(g) carries out investigations for identification of illegal proceeds and other related assets, which may be the subject matter of a restraint and/or confiscation order;

(h) executes requests for legal assistance in accordance with the provisions of the International Cooperation on Criminal Matters Law relating to money laundering offences and/or the identification and/or the restraint and/or confiscation of illegal proceeds or other related assets.

(2) For purposes of subsection (1)

(a) the Unit's analysis function shall consist of the following:

- (i) an operational analysis which focuses on individual cases and specific targets or on appropriate selected information depending on the type and volume of the disclosures received and the expected use of the information after dissemination; and
 - (ii) a strategic analysis addressing money laundering and terrorist financing trends and patterns
- (b) the Unit may, upon a relevant application to the court, secure an order for the disclosure of information and ·

(c) the Unit has the power to request and obtain information and/or documents, with regards to, the beneficial owners of legal persons and entities, including trusts, or the existence of a business relation and its nature and/or the beneficiaries of bank accounts, signatories of bank accounts and the balances of bank accounts, including information relevant to specific suspicious transactions, or other assets, which are in the possession of persons engaged in financial or other business activities or information/documents held in the possession of Departments of Civil Service, when these are deemed necessary for the purposes of analysis of suspicious transactions, which may be related to predicate offences, money laundering offences and terrorist financing or the identification of illegal proceeds or other related assets, without the necessity to obtain a court disclosure order. This power is exercised also in case of requests submitted to the Unit by foreign competent Authorities.

(2A) For the purpose of the cooperation referred to in subsection (1)
 (c) (i) the following applies:

- (a) The request contains the relevant facts, background information, reasons for the request and how the information sought will be used;
- (b) In the event the Unit receives a report from an obliged entity which relates to a member state, it shall promptly forward it to the respective Unit of the said member state;
- (c) The Unit responds in a timely manner to a request for information received from another Unit and, for this purpose, it uses the whole range of its available powers which it would normally use domestically for receiving and analysing information;
- (d) The Unit may refuse to exchange information only in exceptional circumstances, where the exchange could be contrary to fundamental principles of the laws of the Republic;
- (e) The differences between national law definitions of tax crimes

shall not impede the ability of the Units to exchange information or provide assistance to other Units, to the greatest extent possible under their national laws;

- (f) Information and documents received or transmitted during the exchange of information between Units, is used for the fulfilling of the duties and responsibilities of the Units;

Provided that when the Unit transmits information and documents to another respective Unit, it may impose a condition that the relevant information and documents may only be used for informational purposes and/or within the framework of investigations for informational purposes and not as evidence in judicial proceedings;

- (g) Information exchanged between Units is used only for the purpose for which it was sought and provided and any dissemination of the said information by the receiving Unit to another authority, agency or department or any use of such information for purposes beyond those originally approved is made subject to prior consent by the Unit providing the information:

Provided that the prior consent for dissemination of information is granted by the Unit promptly and to the largest extent possible:

Provided further that the Unit shall not refuse its consent to such dissemination of information, unless the application for transmission would fall beyond the scope of application of the provisions of the present Law and could lead to impairment of a criminal investigation process carried out in the Republic; and

- (h) for the exchange of information, including the comparison of data with a respective Unit of a member state, the Unit uses protected channels of communication and uses 'FIU.Net' or a successor thereof for exchange of information, with a respective member state Unit as well as with a respective third country Unit or a Unit which uses the secure communication channel 'Egmont Secure Web'.

- (3) The Unit prepares and publishes an Annual Report relating to its activities.

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

Establishment
and composition
of
Advisory

- (a) The Unit for Combating Money Laundering;
 - (b) The Central Bank of Cyprus;
 - (c) all other Supervisory Authorities of the financial sector;
 - (d) the Ministry of Finance;
 - (e) the Ministry of Justice and Public Order
 - (f) the Ministry of Foreign Affairs;
 - (g) the Customs Department;
 - (h) the Cyprus Police;
 - (i) the Department of Registrar of Companies and Official Receiver;
 - (j) the Association of International Banks;
 - (ja) the Association of Commercial Banks;
 - (jb) the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus and other professional bodies which the Council of Ministers may prescribe.
 - (jb1) the Tax Commissioner;
 - (jb2) the National Betting Authority;
 - (jb3) the National Authority for Gambling and Casino Supervision;
 - (jc) any other organisation or service the Council of Ministers may prescribe.
- (2) The Advisory Authority shall be presided by a representative of the Ministry of Finance and the Head of the Unit.
- (3) The Advisory Authority shall be in quorum where at least five members are present at the meeting.

57. The Advisory Authority shall-

Powers of the
Advisory
Authority.

- (a) inform the Council of Ministers of any measures taken and the general policy applied against money laundering and terrorist financing offences;
- (b) advise the Council of Ministers about additional measures which, in its opinion, should be taken for the better implementation of this Law;
- (b1) coordinate the competent Public services and the private sector bodies for the identification, assessment, understanding and mitigation of the risks from illegal activities and terrorist financing, as well as the updating of the assessment of the said risks and such relevant assessment of risks is used for the following purposes:
 - (i) Improving the applicable national system for the prevention of money laundering and terrorist financing, in particular by identifying any areas where obliged entities are to apply enhanced measures and, where appropriate, specifying the measures to be adopted;
 - (ii) Identifying, where appropriate, sectors or areas of lower or greater risk of money laundering and terrorist financing;
 - (iii) Allocating and prioritising resources required for combating money laundering and terrorist financing;
 - (iv) Ensuring appropriate rules are drawn up for each sector or area, in accordance with the risks of money laundering and terrorist financing; and
 - (v) Promptly making available appropriate information to obliged entities to facilitate the carrying out of their own money laundering and terrorist financing risk assessments.
- (c) promote the Republic internationally as a country which complies with all the conventions, resolutions and decisions of international bodies in respect of combating laundering and terrorist financing.

PART VIII

SPECIAL PROVISIONS IN RESPECT OF FINANCIAL AND OTHER ACTIVITIES

58. An obliged entity applies adequate and appropriate policies, controls and procedures, which are proportionate to its nature and size, so as to mitigate and manage the risks of money laundering and terrorist financing effectively, in relation to the following:

Procedures for preventing Money Laundering and Terrorist Financing.

- (a) customer identification and customer due diligence, in accordance with the provisions of sections 60-66 of this Law;
- (b) record-keeping in accordance with provisions of section 68 of this Law;
- (c) internal reporting and reporting to MOKAS, in accordance with the provisions of section 69 of this Law;
- (d) internal control, risk assessment and risk management in order to prevent money laundering and terrorist financing;
- (e) detailed examination of each transaction which by its nature may be considered to be particularly vulnerable to be associated with money laundering offences or terrorist financing and in particular complex or unusually large transactions and all other unusual patterns of transactions which have no apparent economic or visible lawful purpose.
- (f) informing its employees in relation to:
 - (i) the systems and procedures in accordance with paragraphs (a) to (e) of this section
 - (ii) the present Law
 - (iii) the Directives issued by the competent Supervisory Authority according to section 59 (4) of this Law
 - (iv) the European Union's Directives on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and
 - (v) the relevant requirements for personal data protection.
- (g) ongoing training of their employees in the recognition and handling of transactions and activities which may be related to money laundering or terrorist financing
- (h) risk assessment practices;
- (i) compliance management;
- (j) recruitment and assessment of employees' integrity.

58A. (1) For the purposes of section 58 (d), an obliged entity takes appropriate steps to identify and assess the risks of money laundering and terrorist financing which it faces, taking into account risk factors, including

Supervisory
Authorities.
Assessment of
money

factors which relate to its customers, countries and geographical areas, products, services, transactions or delivery channels for providing banking services: laundering and terrorist financing risk.

Provided that such measures are proportionate to the nature and size of the obliged entity.

(2) The risk assessments referred to in subsection (1), are documented, updated and made available to the competent Supervisory Authority.

58B. When appropriate, due to the size and nature of the activities of the obliged entity, an independent internal audit service is established to verify the internal policies, controls and procedures referred to in section 58: Establishment of independent supervisory authority

Provided that the competent Supervisory Authority maintains the right to impose the obligation for the establishment of an independent audit service upon the obliged entity.

58C. The Senior management officials of the obliged entity approves the policies, procedures and controls applied by the obliged entity in relation to money laundering and terrorist financing, as well as monitor, and where appropriate, enhance the measures adopted. Approval of policies, procedures and controls by senior management members

58D. An obliged entity designates a member of the board of directors, provided there is a board of directors, which shall be responsible for the implementation of the provisions of the present Law and of the directives and/or circulars and/or regulations issued pursuant thereto including any relevant acts of the European Union. Appointment of board member

59.-(1) Supervisory Authorities, in relation to obliged entities are- Supervisory Authorities

(a) The Central Bank of Cyprus-

(i) for credit institutions, including branches of credit institutions which have an operating licence from the competent authority of the member state, in relation to activities designated in the Business of Credit Institutions Law; 66(l) of 1997
74(l) of 1999
94(l) of 2000
119(l) of 2003
4(l) of 2004
151(l) of 2004
231(l) of 2004
235(l) of 2004
20(l) of 2005
80(l) of 2008
100(l) of 2009

123(I) of 2009
27(I) of 2011
104(I) of 2011
107(I) of 2012
14(I) of 2013
87(I) of 2013
102(I) of 2013
141(I) of 2013
5(I) of 2015
26 (I) of 2015
35 (I) of 2015

(ii) for electronic money institutions, including branches and agents of electronic money institutions, which hold a relevant operational license granted by a competent authority of a member state, in relation to the activities determined by the Electronic Money Institutions Law of 2012, as it is amended from time to time, for which supervisory responsibilities have been assigned to the Central Bank;

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

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

102(I) of 2013
 141(I) of 2013
 5(I) of 2015
 26(I) of 2015
 35(I) of 2015
 71(I) of 2015
 93(I) of 2015
 109(I) of 2015
 152(I) of 2015
 168(I) of 2015.

86(I) of 2004.
 80(I) of 2012.

80(I) of 2012.

(b) The Securities and Exchange Commission:

- (i) regarding the services and activities that are provided by the Investment Firms as these are defined in the Investment Services and Activities and Regulated Markets Law, as amended and
- (ii) in relation to a collective investment undertaking which markets its own units and is established in the Republic; 101(I) of 2013.
- (iii) regarding the services and activities provided by the licensed persons as defined in the Law Regulating Companies Providing Administrative Services and Related Matters as amended or replaced; 101(I) of 2013.
- (iv) in relation to an entity which is established in the Republic and provides fund management services to a collective investment undertaking; 101(I) of 2013.
- (v) regarding the services and activities provided by persons, whose supervision is assigned to the Cyprus Securities and Exchange Commission under the Cyprus Securities and Exchange Commission Law or any other law; 101(I) of 2013.
- (vi) in relation to branches of any of the obliged entities referred to in subparagraphs (i) to (v), which is located in the Republic, irrespective of whether the head office of the obliged entity is in a member state or a third country.

(c) The Superintendent of Insurance in relation to the activities determined by the Insurance and Reinsurance Business and other Related Issues Law, as amended or replaced;

(d) The Council of the Institute of Certified Public Accountants of Cyprus, for the professional activities of -

- (i) a member of the Institute of Certified Public Accountants of Cyprus (ICPAC)
- (ii) a general partnership or limited partnership or a limited liability company, whose majority general partners or shareholders and directors are members of the ICPAC, as well as any subsidiary company of such companies:

Provided that such activities include trust and company services to third parties, as defined in this Law:

Further provided that ICPAC may assign its Supervisory functions to corresponding Professional Associations, which have the necessary organizational structures and procedures to conduct the supervisory function of ICPAC, in accordance with this Law.

(e) The Council of the Cyprus Bar Association for the professional activities of -

- (i) a lawyer and or a company of lawyers as defined in the Advocates Law,
- (iii) a general partnership or a limited partnership whose general partners are lawyers or a limited liability company of lawyers, as well as a subsidiary company of such companies: 101(I) of 2013.

Provided that such activities include trust and company services to third parties, as are defined in this Law.

(f) The Real Estate Registry Board for the professional activities of real estate agents;

(g) The National Betting Authority

(h) the National Authority of Gambling and Casino Supervision

(2) [Deleted]

(3) The Council of Ministers may appoint any other Supervisory Authority,

if it considers it necessary.

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

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

- (5)(a) The Supervisory Authorities monitor, evaluate and supervise the application of the provisions of the present Part and of the directives issued pursuant to the provisions of subsection (4) from the persons which are subject to their supervision.

- (b) In the event that the Supervisory Authority implements a risk-based approach to supervision, in the implementation of the said supervisory approach, the Supervisory Authority-

- (i) has a clear understanding of the risks of money laundering and terrorist financing present in the Republic;
- (ii) has on-site and off-site access to all relevant information on the specific domestic and international risks associated with customers, products and services of obliged entities; and
- (iii) base the frequency and intensity of the on-site and off-site supervision on the risk profile of obliged entities, and on the risks of money laundering and terrorist financing in the Republic:

Provided that the assessment of money laundering and terrorist financing risk profile of the obliged entity, including the risks of non-compliance, shall be reviewed both periodically and when there are major events or developments in their management and operations:

Further provided that the Supervisory Authorities take into account the degree of discretion allowed to the obliged entities and appropriately review the risk assessments underlying this discretion and the adequacy and implementation of their internal policies, controls and procedures.

(6) (a) The Supervisory Authority may take all or any of the following measures in cases where a person falling under its supervision fails to comply with the provisions of this Part of the Law or with the Directives issued by the competent Supervisory Authority in accordance with paragraph (4) of this section or the provisions of EC Regulation no. 847/2015:

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

(ii) To impose:

(aa) an administrative fine of up to one million euros (€1.000.000) having first given the opportunity to the supervised person to be heard, and

(bb) in the event that the culpable offender derived a benefit from the breach which benefit exceeds the administrative fine referred to in sub-paragraph (aa) an administrative fine up to an amount of at least twice the amount of the benefit derived from the breach and

(cc) in the event the breach continues, an administrative fine of up to one thousand euro (€1.000) for each day the breach continues;

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

(iv) A temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach from exercising managerial functions in obliged entity.

(v) To impose an administrative fine referred to in sub-paragraph (ii) of the present paragraph to a person discharging managerial responsibilities in an obliged entity or to any other person, whenever it is established that the failure to comply was due to their fault, intentional omission or negligence. 101(I) of 2013.

Provided that the competent Supervisory Authority may at its discretion make a public statement in which it identifies the natural or legal person who committed the breach and the nature of the breach. 101(I) of 2013.

(a1) By derogation from the provisions of subparagraph (ii) of paragraph (a), when the obliged entity is a credit institution or a financial institution, the competent Supervisory Authority may, in addition to the administrative fines referred to in this sub-paragraph, impose an administrative fine which does not exceed five million euros (€5.000.000).

(a2) A legal person may be liable for breaches which are committed for its benefit by any person acting individually or as part of an organ of that legal person and having a leading position within such legal person, based on:

- (i) power to represent the legal person or
- (ii) authority to take decisions on behalf of the legal person or
- (iii) authority to exercise control within the legal person:

Provided that, a legal person may also be liable for a breach where the lack of supervision or control by any of the above persons has made it possible to commit one of the breaches for the benefit of that legal person by a person under its authority.

(a3) In determining the type and level of administrative sanctions or measures, the competent Supervisory Authority considers all relevant circumstances including where applicable:

- (i) the gravity and duration of the breach;
- (ii) the degree of responsibility of the natural or legal person held responsible;
- (iii) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;
- (iv) the benefit derived from the breach by the natural or legal person held responsible, in so far as this can be determined,
- (v) the losses to third parties caused by the breach, in so far as they can be determined,
- (vi) the level of cooperation of the natural or legal person held responsible with the competent Supervisory Authority.
- (vii) previous breaches committed by the natural or legal person held responsible.

(a4) The Supervisory Authority exercises its powers provided by the present Law to impose administrative sanctions directly and/or in cooperation with other authorities:

Provided that, in exercising their powers to impose administrative sanctions, the Supervisory Authorities work closely together in order to ensure that the administrative sanctions or the measures imposed will have the desired

results and, in the event of cross border cases, they coordinate their actions.

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

(6A) (a) The competent Supervisory Authority publishes in its official website the administrative fine or the measures referred to in paragraphs (a) and (a1) of subsection (6) immediately after communicating such decision to the sanctioned person:

Provided that, the publication includes, as a minimum, information on the type and nature of the breach and the identity of the responsible persons:

Provided further, that in the event that an appeal is filed against the decision imposing the administrative fine or measure, the competent Supervisory Authority publishes on its website, without delay, the relevant information and subsequent information with respect to the outcome of the appeal, as well as every decision annulling a previous decision of imposition of an administrative fine or measure:

Provided furthermore, that the Supervisory Authorities are not obliged to apply the provisions of the present subsection when the decisions imposing measures are taken within the framework of an investigation.

(b) In the event where, after a case-by-case assessment is conducted on the proportionality of the publication of such data, the competent Supervisory Authority considers that the publication of the identity or the personal data of the responsible persons referred to in paragraph (a) is disproportionate, or where publication jeopardises the stability of financial markets or an on-going investigation under way, the Supervisory Authority may-

(i) delay the publication of the decision for the imposition of the administrative fine or measure until the moment when the reasons for non-publication cease to exist;

(ii) publish the decision for the imposition of the administrative fine or measure on an anonymous basis, if such anonymity secures effective protection of the personal data concerned:

Provided that, in the event where the competent Supervisory Authority proceeds with an anonymous publication of an

administrative fine or measure, the publication of the relevant data may be postponed for a reasonable period of time, if it can be foreseen that within that time period the reasons for anonymous publication shall cease to exist.

(iii) not publish the decision for the imposition of the administrative fine or measure at all in the event that the options referred to in sub-paragraphs (i) and (ii) above are considered insufficient to ensure-

(aa) that the stability of the financial markets will not be put in jeopardy, or

(bb) the proportionality of the publication of the decisions in relation to the measures which are deemed to be of a minor nature.

(c) The competent Supervisory Authority ensures that every publication made in accordance with the provisions of the present subsection will remain on the official website for a period of five (5) years from the date of its publication:

Provided that, the personal data included in the publication is kept on the official website of the competent supervisory authority only for the period provided for in the Processing of Personal Data (Protection of the Individual) Law.

6B (a) The Supervisory Authorities put in place effective and reliable mechanisms to encourage the reporting to the competent Supervisory Authority of potential or actual breaches of obligations of obliged entities, which are determined in the present Law or in the directives issued by a competent Supervisory Authority pursuant to the provisions of subsection (4) of the present section and such mechanisms include the following as a minimum:

(i) Specific procedures for the receipt of reports for breaches and their follow-up;

(ii) Appropriate protection for employees or persons in a comparable position, of obliged entities who report breaches committed within the obliged entity;

(iii) appropriate protection of the accused person;

(iv) protection of personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach, in compliance with the principles laid down in the Processing of Personal Data (Protection of the Individual) Law;

(v) clear rules, that ensure that confidentiality is guaranteed in all cases in relation to the person reporting the breaches committed within the obliged entity, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings.

(b) Every obliged entity has in place appropriate procedures for its employees, or persons in a comparable position, to report breaches internally through a specific, independent and anonymous channel, proportionate to the nature and size of the obliged entity concerned.

(6C) The Supervisory Authorities ensure they have adequate financial, human and technical resources to execute their duties and that their staff maintain a high level of professionalism, with respect to, among others, confidentiality and data protection, are distinguished for their integrity and possess the required qualifications.

(7) In the event where a Supervisory Authority has information and believes that a person is involved in the commitment of money laundering offences or terrorist financing –

- (a) It transmits, the soonest possible, the information to the Attorney General of the Republic, and
- (b) In the event where the information relates to specific monetary sums, irrespective of the amount thereof, for which there is reasonable suspicion that they constitute proceeds from illegal activities or relate to terrorist financing, it transmits the information the soonest possible, to the Unit.

138(I) of 2001
37(I) of 2003
105(I) of 2012

(8) The Unit and the Supervisory Authorities of persons engaged in financial or other business activities may exchange information within the framework of their obligations, emanating from this Law.

(9) The Supervisory Authorities -

101(I)/2013.

(a) ask and collect from persons under their supervision any useful information necessary for the performance of their duties and request within a specified deadline the provision of relevant information, documents and data. In case that any person under their supervision refuses to comply with their request to provide the information within the specified deadline or in case that the person refuses to provide any information or provides insufficient, false or forged information they have the power to take all and any of the measures mentioned in subsection (6) of the present article and

(b) in order to verify the compliance of persons under their supervision, to carry out inspections, to request and collect information, to enter the premises of the supervised persons and to inspect documents, records and accounts and any data stored in computers or other electronic means and to receive copies or extracts of these data.

It is provided that any person from which the Supervisory Authorities request submission of information is obliged to comply with the request:

It is further provided that the information submitted to the Supervisory Authorities in relation to persons dealing with financial business activities during the exercise of their powers is of a confidential nature and may be used only for purposes of exercising their responsibilities according to the present Law.

(10) In the event where an obliged entity maintains a branch and/or a subsidiary in a third country and the provisions of article 68A(5) apply for the taking of additional measures, the competent Supervisory Authority proceeds with additional supervisory actions, including-

- (a) to demand the group not to enter into or terminate business relations and not to execute transactions, and
- (b) so long as it is necessary, to require the group to cease its activities in the third country, in the event where the additional measures which the obliged entities are obliged to take are inadequate.

60. Obligated entities apply customer due diligence measures in the following cases:	Application of customer due diligence and identification procedures.
(a) When establishing a business relationship;	101(I) of 2013.
(b) When carrying out an occasional transaction which-	101(I) of 2013.
(i) amounts to an amount equal to or higher than fifteen thousand euros (€ 15,000) whether the transaction is carried out in a single operation or in several operations which appear to be linked; or	
(ii) constitutes a transfer of funds as defined in section 3 (9) of Regulation (EU) 2015/847 of an amount exceeding one thousand euros (€ 1.000).	

- (c) When there is a suspicion of money laundering or terrorist financing, regardless of the amount or any derogation, exemption or minimum threshold pursuant to the provisions of the present Law;
- (d) When there are doubts about the veracity or adequacy of previously obtained customer identification data;
- (e) For providers of gambling services, upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to two thousand euros (€ 2000) or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked.

Application of customer due diligence and identification procedures.

61.-(1) The identification procedures and the customer due diligence measures, include the following:

Ways of applying customer due diligence and identification procedures.

- (a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
- (b) identifying the beneficial owner's identity and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer;
- (c) assessing and, depending on the case, obtaining information on the purpose and intended nature of the business relationship;
- (d) Conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the information and data in the possession of the obliged entity in relation to the customer, the business and risk profile of the customer, including where necessary, relating to the source of funds and ensuring that the documents, data or information held are kept up-to-date;

Provided that, in the application of the measures referred to in paragraphs (a) and (b), the obliged entity shall also verify that any third person purporting to act on behalf of the customer is duly authorised by the customer for this purpose and identifies

and verifies the identity of that person.

(2) The obliged entities apply each of the customer due diligence measures and identification procedures set out in paragraph (1) above but may determine the extent of such measures on a risk-sensitive basis taking into account at least the variables included in Appendix I of the present Law. The obliged entities must be able to demonstrate to the competent Supervisory Authorities that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing they are exposed to.

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

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

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

(4) For life insurance or other investment-related insurance business, , in addition to the customer due diligence measures required for the customer and the beneficial owner, credit institutions and financial institutions conduct the following customer due diligence measures on the beneficiaries of life insurance and other investment-related insurance policies, as soon as the beneficiaries are identified or designated:

(a) in the case of beneficiaries that are identified as specifically named persons or legal arrangements, taking the name of the person;

(b) in the case of beneficiaries that are designated by characteristics or by class or by other means, obtaining sufficient information concerning those beneficiaries to satisfy the credit institutions or financial institution that it will be able to establish the identity of the beneficiary at the time of the payout.

(5) In the case of beneficiaries of trusts or of similar legal arrangements that are designated by particular characteristics or class, the obliged entities shall obtain sufficient information concerning the beneficiary to be satisfied that it will be able to establish the identity of the beneficiary at the time of the payout or at the time of the exercise by the beneficiary of its vested rights.

(6) (a) Subject to the provisions of paragraph (b) of the present subsection, by derogation from the provisions of paragraphs (a), (b) and (c) of subsection (1) of the present section and section 62 and based

on an appropriate risk assessment which demonstrates a low risk, an obliged entity may be allowed not to apply certain customer due diligence measures with respect to electronic money, where all of the following risk-mitigating conditions are met:

- (i) The payment instrument is not reloadable or has a maximum monthly limit of payment transactions of two hundred and fifty euros (EUR 250) which can be used for payment transactions only within the Republic;
- (ii) the maximum amount stored electronically does not exceed two hundred and fifty euros (EUR 250);
- (iii) the payment instrument is used exclusively for the purchase of goods or services;
- (iv) the payment instrument cannot be financed with anonymous electronic money;
- (v) the issuer possesses appropriate and adequate systems and procedures for monitoring the transactions or business relationship to enable the detection of unusual or suspicious transactions.

(b) The provisions of paragraph (a) do not apply in the case of redemption in cash or cash withdrawal of the monetary value of electronic money where the amount redeemed exceeds one hundred euros (€ 100).

(c) The exception from the application of certain customer due diligence measures referred to in paragraph (a) does not include the obligation to monitor transactions and the business relationship on an on-going basis and the obligation of detecting and reporting suspicious transactions.

61 A. (1) A company and any other legal entity incorporated in the Republic, obtains and holds adequate, accurate and current information on its beneficial ownership, including details of the beneficial interests held. Beneficial
Ownership
Information

(2) A company and legal entity referred to in subsection (a) provides the obliged entities, in addition to the information relating to its legal owner, information on the beneficial owner, when the obliged entities are taking customer due diligence measures in accordance with the present Law.

(3) The competent Supervisory Authority, the Unit, the Customs and Excise Department, the Inland Revenue and the Police, within the framework of exercising their competencies, can access the information referred to in subsection (1) in a timely manner.

(4) (a) The information referred to in subsection (1) is held in a central register of beneficial owners of companies and other legal entities.

(b) The characteristics, creation and operation of the register referred

to in paragraph (a), the procedure and securing a right of access and legalisation of access thereto as well as any related matters for which reference is made in the present Law, are determined in Regulations which are issued pursuant to the provisions of the present section.

(5) The information kept in the central register of beneficial owners of companies and other legal entities referred to in subsection (4) is adequate, accurate and current.

(6) The following persons have access, in each case, to the information relating to the beneficial owner:

(a) The competent Supervisory Authority, the Unit, the Customs and Excise Department, the Inland Revenue and the Police without any restrictions;

(b) the obliged entities, within the framework of applying customer due diligence measures in accordance with the present Law:

Provided that it is not permissible for an obliged entity to rely exclusively on the central register of beneficial owners of companies and other legal entities referred to in subsection (4) for the fulfillment of the customer due diligence requirements in accordance with the present Law:

Provided further that, the above mentioned requirements are fulfilled by the adoption of a risk-based approach;

(c) a person or organisation which can demonstrate a legitimate interest, as this is determined in Regulations issued pursuant to the provisions of the present section has access to the name, the month and year of birth, the nationality and the country of residence of the beneficial owner, as well as the nature and extent of the beneficial interest held:

Provided that, for the purpose of the present paragraph 'legitimate interest' means the interest of a person in relation to the combating of money laundering, terrorist financing and related predicate offences, as determined in Regulations:

Provided further that, for the purpose of the present paragraph, information relating to the beneficial owner is accessible only in accordance with the provisions of the Processing of Personal Data (Protection of the Individual) Law.

(7) (a) The competent Supervisory Authority, the Unit, the Customs and

Excise Department, the Inland Revenue and the Police have timely and unrestricted access to the central register of beneficial owners of companies and other legal entities referred to in subsection (4), without alerting the relevant companies and other legal entities.

(b) The obliged entities have timely access to the central register of beneficial owners of companies and other legal entities referred to in subsection (4), when they are taking customer due diligence measures.

(8) The competent Supervisory Authority, the Police, the Customs and Excise Department, the Inland Revenue and the Unit are able to provide the information referred to in the present section in a timely manner to the respective competent authorities and the Units of other member states.

(9) (a) In exceptional circumstances, as determined in Regulations issued pursuant to the provisions of the present section, exemptions on a case-by-case basis may be granted to the access to all or part of the information on the beneficial ownership, where such access would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable.

(b) The exceptions provided for in paragraph (a) shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in sub-paragraph (ii) of paragraph (c) of subsection (1) of section 2A that are public officials.

61 B. (1) A trustee or or commissioner of any express trust obtains and holds adequate, accurate and up-to-date information on beneficial ownership regarding the trust, which shall include the identity of:

Information held
by a trustee of an
express trust

- (a) the settlor;
- (b) the trustee or or commissioner;
- (c) the protector;
- (d) the beneficiary or class of beneficiary; and
- (e) any other natural person exercising effective control over the trust.

(2) When a trustee or commissioner establishes a business relationship or carries out an occasional transaction above the thresholds set out in paragraphs (b) and (e) of section 60, it discloses to the obliged entities its status and provides the information referred to in subsection (1).

(3) The competent Supervisory Authority, the Customs and Excise Department, the Inland Revenue, the Unit and the Police, within the framework of exercising their competencies, shall have timely access to the information referred to in subsection (1).

(4) (a) The information referred to in subsection (1) is kept in the central register of trusts, when the express trust generates tax consequences in the Republic.

(b) The characteristics, creation and operation of the central trusts register referred to in paragraph (a), access thereto as well as any related matters are determined in Regulations which are issued pursuant to the provisions of the present section.

(5) The competent Supervisory Authority, the Unit, the Customs and Excise Department, the Inland Revenue and the Police have timely and unrestricted access to the information relating to the beneficial owners of the trust without the trust concerned.

(6) The Supervisory Authorities, the Unit, the Customs and Excise Department, the Inland Revenue and the Police are able to provide the information referred to in the present section to the respective competent authorities and the Units of other member states in a timely manner.

(7) The measures provided for in the present section apply to other types of legal arrangements with a structure or functions similar to trusts.

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

When to apply customer due diligence and identification procedures.

(2) By derogation from the provisions of subsection (1), the verification of the identity of the customer and the beneficial owner may be completed during the establishment of a business relationship, if this is necessary so as not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing occurring:

Provided that in such a case the customer and beneficial owner identity verification procedures shall be completed as soon as possible after the initial contact.

(2A) [Deleted]

(3) By way of derogation from the provisions of subsection (1), it is possible to open an account with a credit institution or a financial institution, including accounts that permit transactions in transferable securities, provided that there are adequate safeguards in place to ensure that transactions are not

carried out by the customer or on its behalf, until full compliance with the customer due diligence requirements and identification procedures laid down in paragraphs (a) and (b) of subsection (1) of section 61 is obtained.

(4) Where an obliged entity is unable to comply with the customer due diligence requirements laid down in paragraphs (a), (b) and (c) of subsection (1) of section 61, it shall not carry out a transaction through a bank account, establish a business relationship or carry out the transaction, according to the case, shall terminate the business relationship and examines the possibility submitting a suspicious transaction report to the Unit in relation to the customer, in accordance with the provisions of section 69.

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

(5A.) By derogation from the provisions of subsection (1), with respect to subsection (4) of section 61, verification of the identity of beneficial owners is carried out the latest at the time of payout pursuant to the insurance policy:

Provided that, in the case of assignment to a third person, in whole or in part, of the life insurance or other investment-related insurance to a third party, credit institutions and financial institutions are aware of the assignment shall identify the beneficial owner at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the insurance policy assigned.

(6) Customer due diligence requirements and identification procedures must be applied not only to all new customers but also to existing customers at appropriate times, on a risk-sensitive basis, among others, at times when the relevant circumstances of the customer change.

63.-(1) An obliged entity may apply simplified customer due diligence measures, so long as it has previously ensured that the business relationship or the transaction presents a lower degree of risk:

Simplified
customer due
diligence

Provided that the obliged entity carries out sufficient monitoring of the transactions and the business relationships to enable the detection of unusual or suspicious transactions.

(2) When assessing the risks of money laundering or terrorist financing which relate to types of customers, geographical areas and particular products, services, transactions or delivery channels, the obliged entity

Appendix II

takes into account at least the factors of potentially lower risk situations set out in Appendix II.

64.-(1) An obliged entity applies enhanced customer due diligence measures, in addition to the measures referred to in sections 60, 61 and 62, in the following cases:

Enhanced
customer due
diligence

(a) When it is transacting with a natural person or legal entity with an establishment in a high-risk third country:

Provided that, enhanced customer due diligence measures need not be automatically invoked with respect to branches or majority owned subsidiaries of the obliged entity established in the European Union which are located in high-risk third countries, where those branches or majority owned subsidiaries fully comply with the group-wide policies and procedures in accordance with the provisions of section 68A and, in such a case, the obliged entity uses the risk-based approach;

(b) In cross border correspondent relationships with a third-country respondent institution, a credit institution and financial institution-

- (i) gathers sufficient information about the 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;
- (ii) assesses the respondent institution's prevention of money laundering and terrorist financing controls.
- (iii) obtains approval from senior management before establishing new correspondent relationships;
- (iv) documents the respective responsibilities of each institution;
- (v) with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

(c) In transactions or business relationships with a politically exposed person, an obliged entity-

- (i) has in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person.
- (ii) applies the following measures in cases of business relationships with a politically exposed person:

- (aa) Receives approval from senior management for establishing or continuing a business relationship with such a person;
- (bb) takes adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such a person;
- (cc) conducts enhanced, ongoing monitoring of that business relationship:

Provided that, where a politically exposed person is no longer entrusted with a prominent public function by the Republic or a member state or a third country, or with a prominent public function by an international organisation, an obliged entity shall, for at least 12 months, be required to take into account the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons.

- (iii) applies the measures referred to in sub-paragraphs (i) and (ii) to family members or to the persons which are known to be close associates of a politically exposed person.

2 (a) An obliged entity takes reasonable measures in order to determine whether the beneficiaries of a life insurance or other investment-related insurance policy and/or, where required, the beneficial owner of the beneficiary are politically exposed persons;

(b) The measures referred to in paragraph (a) shall be taken no later than at the time of the payout or at the time of the assignment, in whole or in part, of the insurance policy;

(c) When –

(i) The beneficiary of a life insurance or other investment-related insurance policy and/or, where required, the beneficial owner of the beneficiary are politically exposed persons at the time of the payout or at the time of the assignment of the insurance policy; and/or

(ii) higher risks are detected in transactions or in business relationships with a politically exposed person, in addition to the application of customer due diligence measures referred to in sections 60, 61 and 62, an obliged entity-

(aa) informs senior management prior to payout of insurance policy proceeds; and

(bb) conducts enhanced scrutiny of the entire business relationship with the policyholder.

Appendix III

(3) An obliged entity applies enhanced customer due diligence measures, in addition to the measures referred to in sections 60, 61 and 62 and in other cases which by their nature, present a high risk of money laundering or terrorist financing:

Provided that when assessing the said risks the obliged entity takes into account at least the factors of potentially higher risk situations, as set out in Appendix III.

(4) An obliged entity examines, as far as reasonably possible, the background and purpose of all complex and unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose and in particular, obliged entities shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear suspicious.

65. [Deleted]

66.-(1) (a) It is prohibited for a credit institution and a financial organisation to enter into or continue a correspondent relationship with a shell bank.

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

(b) A credit institution and financial institution takes appropriate measures to ensure that they it does not engage in or continue correspondent relationships with a credit institution or financial institution that is known to allow its accounts to be used by a shell bank.

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

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

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

Performance by third parties.

section 61 of this Law :

It is provided that, the ultimate responsibility for meeting the above mentioned measures and procedures shall remain with the obliged entity which relies on the third party.

(2) (a) For the purposes of this section, 'third parties' means the obliged entities determined in paragraphs (a), (b), (c) and (d) of subsection (1) of section 2A or other institutions or persons in a member state or a third country and which- 101(l) of 2013.

- (i) apply customer due diligence measures and record keeping measures which are consistent with the measures pursuant to the EU Directive; and
- (ii) are subject to supervision which is consistent with the relevant requirements of the EU Directive.

(b)(i) An obliged entity does not rely on third parties established in high-risk third countries.

(ii) Every competent Supervisory Authority may exempt from the prohibition in sub-paragraph (i) a branch or majority owned subsidiary of obliged entity established in the European Union, , where that branch or majority owned subsidiary fully complies with the group-wide policies and procedures in accordance with the provisions of section 68A.

(3) Obligated entities must request from the third party to:

- (a) make immediately available the data, information and identification documents obtained as a result of the application of the procedures establishing identity and customers due diligence measures in accordance with sub-paragraphs (a), (b) and (c) of paragraph (1) of section 61 and
- (b) forward immediately to them, copies of these documents and relevant data and information on the identity of customer or the beneficial owner which the third party collected when applying the above procedures and measures.

(4) In the case of a group, the competent Supervisory Authority of the home member and the competent Supervisory Authority of the host member state (for branches and subsidiaries) may consider that an obliged entity applies the measures in accordance with subsections (2) and (3), through the programme of its group, so long as all the following conditions are satisfied: 101(l) of 2013.

- (a) The obliged entity relies on information provided by a third party which belongs to the same group;
- (b) The said group applies customer due diligence measures, rules on record keeping and programmes against money laundering and terrorist financing in accordance with the requirements of the EU Directive or equivalent rules;
- (c) The effective implementation of the requirements referred to in paragraph (b) is supervised at group level by the competent supervisory authority of the home member state or of the third country.

(5) The provisions of the present section do not apply to outsourcing or agency relationships, where, on the basis of a contractual arrangement, the outsourcing service provider or agent is to be regarded as part of the obliged entity.

68.-(1) An obliged entity maintains the following documents and information, for a period of five (5) years after the end of the business relationship with the customer or after the date of an occasional transaction:

Record keeping.

- (a) Copies of documents and information required for compliance with the customer due diligence requirements as determined in the present Law;
- (b) relevant evidence and records of transactions which are necessary for the identification of transactions;
- (c) relevant correspondence documents with customers and other persons with whom a business relationship is maintained.

(2) An obliged entity ensures that all documents referred to in subsection (1) are promptly and without delay made available to the Unit and the competent Supervisory Authority for the purpose of execution of the duties assigned to them pursuant to the provisions of the present Law.

68.A.-(1) An obliged entity that is part of a group implements group-wide policies and procedures, including data protection policies and procedures, as well as policies and procedures for sharing information within the group, for the purpose of prevention of money laundering or terrorist financing.

Due diligence and customer identification procedures and record keeping at group level.

(2) An obliged entity ensures that the policies and procedures referred to in subsection (1) shall be implemented effectively at the level of branches and majority-owned subsidiaries in member states and third countries.

(3) An obliged entity which operates facilities in another member state complies with the provisions of that other member state which have been transposed into the national laws for the purpose of harmonisation with the EU Directive.

(4) In the event that an obliged entity possesses branches or majority-owned subsidiaries and which are located in a third country, where the minimum requirements for the prevention of money laundering and terrorist financing are less strict from those provided in the present Law and the Directives and Circulars issued by the competent Supervisory Authorities, the said branches and subsidiaries apply the requirements provided in the present Law and the directives and circulars issued by the competent Supervisory Authority, including data protection requirements, to the extent permitted by the laws of the third country where they are located.

(5) In the event where the laws of the third country do not permit the application of the policies and procedures provided for in subsections (1) and (2), the obliged entity which maintains branches and majority-owned subsidiaries, in the said third country is obliged to:

- (a) take additional measures so as to effectively deal with the risk of money laundering or terrorist financing, and
- (b) inform the competent Supervisory Authority immediately.

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

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

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

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

69. Obligated entities apply the following internal reporting and reporting to the Unit procedures which:

Internal procedures and reporting to MOKAS.

- (a) Appoint a senior staff member who has the ability, the knowledge and the expertise as a 'money laundering compliance officer' to whom a report is to be made about any information or other matter which comes to its attention and which, in its opinion, proves or creates suspicion that another

person is engaged in a money laundering offence or terrorist financing.

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

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

(d) when they know or have reasonable suspicion that monetary sums, irrespective of the amount thereof, constitute proceeds of illegal activities or relate to terrorist financing, ensure that the Unit is immediately notified, on their own initiative, by submitting a relevant report and providing complimentary information after a relevant request by the Unit:

Provided that the obligation to report suspicious transactions to the Unit includes the attempt to carry out such suspicious transactions;

(e) The obligation imposed pursuant to the provisions of section 68B and paragraph (d) of the present section does not apply to independent legal professionals, auditors, external accountants and tax advisors, only to the strict extent where they are acting in the course of ascertaining the legal position of their client or performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings irrespective of whether the information is received prior to, during or after judicial proceedings.

69A. Disclosure of information in good faith by an obliged entity or by an employee or director of such an obliged entity, in accordance with the provisions of section 69 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors or employees in liability of any kind even in circumstances where they were not precisely aware of the underlying criminal activity and regardless of whether the illegal activity actually occurred.

Disclosure in good faith does not constitute a breach of the prohibition on disclosure of information

69B. A person who submits an internal report or a report to the Unit for suspicious transactions pursuant to the provisions of section 69, is protected from being exposed to threats or hostile action, and in particular from adverse or discriminatory employment actions.

Protection of person submitting an internal report or Unit report for suspicious transactions

70. Obligated entities refrain from carrying out transactions which they know or suspect to be related with money laundering or terrorist financing, before they inform the Unit of their suspicion in accordance with sections 27 and 69 of this Law;

Refrain from carrying out suspicious transactions before informing the Unit.

It is provided that, if it is impossible to refrain from carrying out the transaction or is likely to frustrate efforts to pursue the persons of a suspected money laundering or terrorist financing operation, the obliged entities, must inform the Unit immediately afterwards.

70A. (1) The competent Supervisory Authority may require an electronic money issuer and payment services provider established in the Republic in a form other than a branch, and the head office of which is in another member state, to appoint a central point of contact in the Republic.

Central contact point for electronic money issuers and payment service providers

(2) The central point of contact mentioned in subsection (1) ensures, on behalf of the competent institution for determining a central point of contact, the compliance with the requirements provided for in the present Part and the directives issued from time to time by the competent Supervisory Authority for the prevention of money laundering and terrorist financing and facilitates supervision by the competent Supervisory Authority, providing, among other, documents and information upon request from such authority.

70B. (1) The data processing carried out pursuant to the provisions of the present Law is subject to the provisions of the Processing of Personal Data (Protection of the Individual) Law.

Personal Data Processing

(2) For the purposes of the present Law, personal data are subjected to processing by obliged entities only for the purposes of the provisions of the present Law and are not subjected to any other incompatible processing.

(3) The processing of personal data for purposes other than those provided for in the present Law, such as commercial purposes, is prohibited.

(4) Obligated entities provide to their new customers-

- (a) The information required pursuant to the provisions of subsection (1) of section 11 of the Processing of Personal Data (Protection of the Individual) Law, prior to the commencement of a business relationship or the execution of an occasional transaction and
- (b) information, prior to the commencement of a business relationship or the execution of an occasional transaction, on the processing to

which the personal data is subjected pursuant to the provisions of the present Law for purposes of prevention of money laundering and terrorist financing.

(5) The data subject's right of access to data which concerns it, may be lifted in whole or in part in accordance with the provisions of the Processing of Personal Data (Protection of the Individual) Law-

- (a) For purposes of proper fulfilment of the duties of obliged entities and supervisory authorities, as these are derived from the present Law; or
- (b) to avoid obstruction of official or legal inquiries, analyses, investigations or procedures for the purposes of the present Law and to ensure that prevention, investigation and detection of money laundering and terrorist financing is not jeopardised.

(6) The processing of personal data based on the provisions of the present Law with the aim of prevention of money laundering and terrorist financing is considered a matter of public interest in accordance with the provisions of Directive 95/46/EC.

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

Non-execution or delay in executing transaction for the account of a customer by an obliged entity

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

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

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

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

PART IX - MISCELLANEOUS PROVISIONS

72. (1) Upon the making of any order under this Law, in instances where no other express provision is made in this Law, the relevant provisions of the

Application of civil

Civil Procedure Law and the Civil Procedure Rules apply, with the exemption of the provisions of section 9 of the Civil Procedure Law which relates to orders obtained ex-parte. proceedings.

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

(2) Irrespective of the provisions of subsection (1) of section 25 of the Courts of Justice Law, court orders issued pursuant to the provisions of the present Law, with the exception of an order issued pursuant to sections 45 and 46 hereof, are subject to appeal in the High Court, applying the relevant provisions of the Civil Procedure Law and the Civil Procedure Rules proportionally.

(3) A restraint, charging or confiscation order which has been issued or registered and has not been annulled in accordance with the provisions of the present Law, irrespective of the date of its issuance, remains in force, is enforceable and enforcement measures may be taken with respect thereto and it may be enforced, irrespective of the time period which has lapsed from the date of its issuance.

(4) The Court may, for the purpose of application of the provisions of the present Law, upon application by the Attorney General, order the reinstatement of a company or the name of a company in the Register of the Registrar of Companies and upon issuance of the order the company is considered as having continued to exist as if the name was never deleted, by analogy with the provisions of subsection (7) of section 327 of the Companies Law:

Provided that for the purposes of the present subsection 'court' means a President or Senior District Judge of the Nicosia District Court.

Consequences on property the subject matter of the order issued or registered based on the provisions of the present Law 17(I) of 2013 38(I) of 2013 97(I) of 2013 90(I) of 2014 22(I) of 2016. 22(I) of 2016.

72 A. Property which is the subject matter or an order which has been issued or registered based on the provisions of the present Law, namely a restraint, charging, freezing or confiscation order, or the registration of an order or decision of restraint, freezing or confiscation and which was issued prior to or after the Credit and other Institutions Law or the Credit Institutions and Investment Companies Law came into force is not affected in any way by the application of the provisions of the above laws or any other law or administrative regulatory act issued pursuant thereto or by any liquidation measures or special liquidation of an authorised credit institution or any other measures, irrespective of whether the property is finally confiscated or released.

73.-(1) The court may make an order setting aside any prohibited gift with a Setting aside of

view to enforcing a confiscation order or a pecuniary penalty.

gifts.

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

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

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

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

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

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

Extradition of a person who has committed a prescribed offence.

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

Service of orders.

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

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

Statistical Data.

(2) The statistical data shall as a minimum include the suspicious transaction reports made to the Unit, the inspections made by the Supervisory Authorities, the administrative penalties and the disciplinary sanctions imposed by the Supervisory Authorities, the number of cases investigated, the number of criminal prosecutions, the number of convictions and the assets frozen, seized

or confiscated as well as the types of predicate offences and applications received or sent by the Unit, within the scope of the cooperation with respective Units of other countries.

(3) The statistical data referred to in subsection (2) is transmitted to the Commission and is available for the assessment of risks in accordance with paragraph (b1) of section 57, the national valuations including the National Risk Assessment and the Evaluation of the Council of Europe's "Moneyval" Commission.

(4) A consolidated overview of the statistical data referred to in subsection (2) is published.

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

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

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

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

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

Date of
enforcement
of the present
Law

ANNEX I
(Section 61 (2))

Non-exhaustive list of risk variables that obliged entities shall consider when determining to what extent to apply customer due diligence measures in accordance with section 61 (2):

1. the purpose of an account or relationship;
2. the level of assets to be deposited by a customer or the size of transactions undertaken;
3. the regularity or duration of the business relationship.

ANNEX II
(Section 63(2))

Non-exhaustive list of factors and types of evidence of potentially lower risk referred to in Section 63(2):

(1) Customer risk factors:

- (a) public companies listed on a stock exchange and subject to disclosure requirements, either by stock exchange rules or through law or enforceable means, which impose requirements to ensure adequate transparency of beneficial ownership;
- (b) public administrations or enterprises;
- (c) customers that are resident in geographical areas of lower risk as set out in paragraph (3);

(2) Product, service, transaction or delivery channel risk factors:

- (a) life insurance policies for which the premium is low;
- (b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;
- (c) a pension or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme;
- (d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;
- (e) products where the risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership such as certain types of electronic money;

(3) Geographical risk factors:

- (a) Member States;
- (b) third countries having effective AML/CFT systems;
- (c) third countries identified by credible sources as having a low level of corruption or other criminal activity;
- (d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have requirements to combat money laundering and terrorist financing consistent with the revised FATF Recommendations and effectively implement those requirements.

ANNEX III
(Section 64(3))

Non-exhaustive list of factors and types of evidence of potentially higher risk referred to in Section 64(3):

(1) Customer risk factors:

- (a) the business relationship is conducted in unusual circumstances;
- (b) customers that are resident in geographical areas of higher risk as set out in paragraph (3);
- (c) legal persons or arrangements that are personal asset-holding vehicles;
- (d) companies that have nominee shareholders or shares in bearer form;
- (e) businesses that are cash-intensive;
- (f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business;

(2) Product, service, transaction or delivery channel risk factors:

- (a) private banking;
- (b) products or transactions that might favour anonymity;
- (c) non-face-to-face business relationships or transactions, without certain safeguards, such as electronic signatures;
- (d) payment received from unknown or unassociated third parties;
- (e) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products;

(3) Geographical risk factors:

- (a) without prejudice to Article 64(1)(a), countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;
- (b) countries identified by credible sources as having significant levels of corruption or other criminal activity;
- (c) countries subject to sanctions, embargos or similar measures issued by, for example, the Union or the United Nations;
- (d) countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

