THE LAW OF UKRAINE
On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime

(With amendments introduced by the Laws of Ukraine
dated 24 December 2002 # 345-IV,
dated 6 February 2003 # 485-IV,
dated 18 May 2004 # 1726-IV,
dated 1 December 2005 # 3163-IV)

This Law shall regulate the relations in the sphere of prevention and counteraction to the implementation into the legal turnover of the proceeds from crime, and this Law is aimed at combating terrorist financing.

SECTION 1. GENERAL PROVISIONS

ARTICLE 1. DEFINITIONS
The following definitions shall be used in this Law:

proceeds shall mean any economic benefit resulting from the commitment of a socially dangerous illicit act that precedes the legalization (laundering) of proceeds and consists of material property, or titles, also movable or immovable property, and legal papers that confirm the title to such property or a share in it;

socially dangerous criminal activity that is followed by the legalization (laundering) of the proceeds, - activity (except for the activity provided for by articles 207, 212 of the Criminal Code of Ukraine) for which, in compliance with the Criminal Code of Ukraine, punishment in a form of imprisonment for a term of one year or longer is provided for or which is recognized as a crime by a Criminal Code of another country, as well as for the same activity, in compliance with the Criminal Code of Ukraine, the responsibility is provided for, and, as a consequence of which, the proceeds of crime were obtained;

legalization (laundering) of the proceeds shall mean any actions, specified by the Article 2 of this Law, taken to disguise as legal the possession, the use or the disposal of the proceeds, or the actions taken to conceal the sources of origin of such proceeds;

financial transaction, - any transaction involving any natural person or legal entity with the assets of any kind, material or non-material, movable or immovable, and also legal documents or acts of any kind, including those in the electronic or digital form, which certify the right for these assets or participation in them, aimed at establishment, amendment, defeasance of civil rights and duties or registration of the rights on these assets, in particular:

- making or withdrawing a deposit;
- money transfer from one account to another;
- currency exchange;
- services related to the issuing, purchase or sale of securities and other kinds of financial assets;
- granting or receiving a loan or a credit;
- insurance (reinsurance);
- provision of financial guarantees and liabilities;
- trust management of securities portfolio;
- financial leasing;
issue, circulation, payment (dissemination) of the state and other kinds of cash lottery;
- services related to the issue, purchase, sale or servicing of checks, bills of exchange, credit cards, postal money transfer orders and other payment instruments;
- transactions on accounts.

*the state financial monitoring* – the execution, by entities of the state financial monitoring, of actions stipulated by this Law.

*the initial financial monitoring* – the application, by entities of initial financial monitoring, of the measures of due diligence with the purpose of detecting financial transactions which might be relevant to the legalization (laundering) of the proceeds terrorism or financing, in particular:

- conduction of the analysis of financial transactions with the purpose of determining if they comply with the characteristics stipulated by articles 11, 12 of the Law, as well as to the other characteristics which may prove their implementation for the legalization (laundering) of the proceeds or terrorist financing;
- conduction, according to the current Law and other laws of Ukraine, the identification of a client, an entity acting on behalf of a client and a beneficial owner;
- receiving of the information as to the purpose and to the foreseen nature of business relations;
- conduction of a constant verification of the compliance of financial transactions with the actual information about the nature (content) of a client’s activity.

*Politically Exposed Persons* are individuals who are or have been entrusted with prominent public functions in Ukraine or in foreign countries: Heads of the State or the Government, senior governmental, judicial or military officials, senior executives of state authorities, persons who hold leading positions in political parties. Business relationships with family members or close associates of politically exposed persons involve risk, similar to that with politically exposed persons themselves;

*Shell bank* means a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a banking group.

**ARTICLE 2. ACTS RELATED TO THE LEGALIZATION (LAUNDERING) OF PROCEEDS**
According to this Law, the legalization (laundering) of proceeds shall mean any acts taken to conceal or disguise the illegal origins of money or any other property, or possession thereof, titles to such money and property, their sources, location or movement, and shall also mean the acquiring, possession or use of money or any other property provided a person realizes that they were the proceeds.

**ARTICLE 3. SCOPE OF THE LAW**
This Law shall apply to the citizens of Ukraine, foreigners and subjects without citizenship, also the legal entities, their branches, offices and other separate units that are engaged in financial transactions both in Ukraine and abroad pursuant to the international treaties of Ukraine.
SECTION II. THE SYSTEM OF FINANCIAL MONITORING

Article 4. The system of financial monitoring and financial monitoring entities

The system of financial monitoring shall consist of two levels: the initial and the state level.

The following shall be the entities of initial financial monitoring:
- banks, insurance and other kinds of financial institutions;
- payment organizations, members of payment systems, acquiring and clearing institutions;
- commodity, stock and other exchanges;
- professional operators in securities market;
- joint investment institutions;
- gambling and pawn institutions and legal entities holding any kinds of lottery;
- enterprises, institutions that manage investment funds or non-governmental pension funds;
- communication companies and associations, other non-crediting institutions that transfer funds;
- legal entities, which received permission to open bureau de change;
- other legal entities which according to the legislation provide financial services;
- realtors (real estate companies);
- traders in precious metals, and precious stones;
- notaries, attorneys, entities of business undertakings providing legal services;
- auditors, auditing companies, entities of business undertakings providing accounting services;
- trust companies;
- entities of business undertakings providing services for setting up and registering enterprises,
  enterprise and assets management

The following shall be the entities of the state financial monitoring:
- central executive authorities and the National Bank of Ukraine which, pursuant to the law, carry
  out functions of regulation and supervision of the entities of initial financial monitoring;
- state authorities, which may find out about the circumstances certifying that the person carries
  out financial transactions aimed at legalization (laundering) of the proceeds from crime or
  terrorist financing, while performing tasks assigned to them;
- specially authorized executive agency for financial monitoring – the State Committee of Financial
  Intelligence of Ukraine - central executive authority with the special status (hereinafter referred
  to as the Authorized Agency).

ARTICLE 5. TASKS AND DUTIES OF THE ENTITY OF INITIAL FINANCIAL MONITORING

Basing on this Law and in its pursuance, an entity of initial financial monitoring shall:
- conduct the initial financial monitoring in accordance with the requirements of the legislation of Ukraine;
- ensure the registration of financial transactions subject to compulsory financial monitoring and other financial transactions, about which the suspicion with a motivation exist that they are connected with the legalization (laundering) of the proceeds from crime or financing of terrorism;
- inform immediately the Authorized Agency about financial transactions subject to compulsory financial monitoring and other financial transactions about which suspicion with a motivation exist that they are connected with the legalization (laundering) of the proceeds from crime or terrorist financing;
- assist the personnel of the Authorized Agency in analysis of transactions subject to compulsory financial monitoring;
- provide, according to the laws, information at the Authorized Agency’s request related to the financial transactions that have become the object of financial monitoring, including the information that is classified as bank and commercial secret, not later than within three working days from the moment of receiving the request;
- assist the entities of the state financial monitoring in analyzing the financial transactions subject to financial monitoring;
- take measures to prevent disclosure (including disclosure to persons whose financial transactions are being checked) of information that is submitted to the Authorized Agency, also any other kinds of information on financial monitoring (including the facts of submission of such information);
- keep the documents on identification of the persons who carried out the financial transaction subject to financial monitoring pursuant to this Law, as well as all documents on financial transactions for five years after conducting such financial transaction.

In addition to the regular measures of initial financial monitoring, entities of initial financial monitoring are obliged:

1) in regard to politically exposed people:

to take special procedures in order to determine that a person is a politically exposed person;

to obtain permission of the head of an entity of initial financial monitoring for establishing business relations with such clients;

to take measures for determining the sources of enrichment and the sources of financing these entities;

to conduct constant monitoring of business relations undertaken;

2) in regard to foreign corresponding bank services and other similar relations:

collect information about the respondent institution with the aim of comprehensive understanding of their activity and obtain available public information about its reputation and quality of its supervision, including information whether this institution was the object of investigation or of the measures of the regulatory body on counteraction to legalization of the proceeds from crime or terrorist financing issues;

basing on the received information, assess the respondent institution as for its conduction of control over money laundering and terrorist financing;

obtain permission of the head of an entity of initial financial monitoring to establish new correspondent relations with such institutions;
according to the payment documents, make sure that an entity has determined a person and has taken due diligence measures towards a client, and that an institution is able to provide upon request the submission of corresponding identification data;

refuse to establish correspondent relationships with shell banks;

take precautionary measures with the view of avoiding the establishment of correspondent relationships with financial institutions, which allow shell banks to use their accounts.

Entities of initial financial monitoring are obliged to ensure application of the measures of initial financial monitoring also for branches and foreign daughter enterprises, which are located in countries, where FATF Recommendations are not applied or applied insufficiently, within the limits that do not contradict to current legislation of given country. In those cases, when application of the mentioned Recommendations is prohibited by the legislation of a given country, entities of initial financial monitoring are obliged to inform the Authorized Agency and corresponding entity of the state financial monitoring about the impossibility of application of this Law.

An entity of initial financial monitoring in accordance with the requirements of current legislation and regulations of the Authorized Agency shall establish the rules for conducting the initial financial monitoring and assign an employee in charge of the monitoring.

Such employee (a compliance officer) shall be independent in his/her activity and accountable only to the head of an entity of initial financial monitoring and at least once in a month, the employee is obliged to inform the head about detected financial transactions subject to financial monitoring and measures taken, including those related to:

- Elaboration and permanent updating of initial financial monitoring regulations and programs of monitoring implementation allowing for the laws current in force and resolutions of the Authorized Agency;

- Training of personnel to detect the financial transactions subject to financial monitoring pursuant to this Law through proper education and practical studies;

- Ensuring the conduction of initial financial monitoring.

**ARTICLE 6. IDENTIFICATION OF THE PERSONS ENGAGED IN FINANCIAL TRANSACTIONS**

Entities of initial financial monitoring on the basis of the submitted original documents or duly notarized copies of documents, information, obtained from state registers or from other entities of initial financial monitoring (third parties) identify persons in a case of:

- establishing business relations;
- performing financial transactions, which, in compliance with this Law, are subject to financial monitoring;
- suspecting that a financial transactions might be connected with the legalization (laundering) of the proceeds or terrorist financing;
- having doubts as to reliability or sufficiency of the preliminary received information about an entity.
Identification is done prior or at the time of establishing business relations, but before performing a financial transaction.

Entities of initial financial monitoring have the right to demand, and the state authorities are obliged within ten working days to provide information, stipulated by the legislation, which concern identification of entity, on a free basis.

The following data shall be established for the purposes of identification:

- for natural persons: last name, first name, patronymic, date of birth, series and number of passport (or other identification document), date of its issue and issuing agency, place of residence and identification number from the State Register of Natural Persons – Payers of Taxes and Other Compulsory Payments;

- for legal entities: full name, legal address, a number (if present), date of issue (date of the record in the register) of a certificate on the state registration and the body of issuance; information about executive authorities and their composition; owners of this legal entity or entities which significantly participate in it, have direct or indirect influence on it and receive economic benefit from its activity, identification code from the Unified State Register of Enterprises and Organizations of Ukraine, references of the bank which opened the account and account number.

The following information shall be provided for the purpose of identification of nonresidents:

- for natural persons: last name, first name, patronymic (if any), date of birth, passport series and number (or other identification document), date of its issue and issuing agency, citizenship, place of residence or temporary stay;

- for legal entities: full name, location and references of the bank that opened the account and account number, information about executive authorities and their composition; the owners of this legal entity, entities which have significant participation in it, direct or indirect influence on it and receive economic benefit from its activity. An entity of initial financial monitoring shall also be provided with a copy of legalized quotation from trade, banking or judicial register or certified by a notary, proof of registration of the Authorized Agency of foreign state regarding registration of the corresponding legal entity.

Identification of a person shall not be obligatory in the following cases:

if financial transaction is conducted by previously identified persons;

signing of agreements between the banks registered in Ukraine.

In case when a person represents another person or if an entity of initial financial monitoring has doubts about whether a person acts in its own name or a beneficiary is another person, an entity of initial financial monitoring shall identify, according to the provisions of this Article and other laws that regulate such procedure, the person, on behalf of which the financial transaction is executed, or the beneficiary.

If a person acts as a representative of another person, entity of initial financial monitoring has to check also whether this person has corresponding powers.
Article 7. The right of an entity of initial financial monitoring to refuse the performance of financial transaction

Prior or after a financial transaction, an entity of initial financial monitoring shall determine whether the financial transaction is subject to financial monitoring pursuant to this Law. If such financial transaction is detected, it shall be registered by a relevant entity of initial financial monitoring. To do this, the person performing a financial transaction, the type of financial transaction and the reasons for it, its date and amount shall be entered into the register. The procedure of registration of the financial transaction subject to financial monitoring pursuant to this Law shall be established for banks by the National Bank of Ukraine, for other entities of financial monitoring by the Cabinet of Ministers of Ukraine.

An entity of initial financial monitoring shall refuse to ensure the execution of a financial transaction, provided that the conduction of identification in compliance with the procedure stipulated by legislation, is not possible, and has the right to hold back the execution of financial transaction for the period up to 2 working days or to refuse ensuring execution of a financial transaction in case there is a suspicion that it might be connected with the legalization (laundering) of the proceeds or terrorist financing. Thus, an entity of initial financial monitoring shall immediately inform the Authorized Agency about these transactions and about entities intending to execute them.

ARTICLE 8. SUBMISSION OF THE INFORMATION ABOUT FINANCIAL TRANSACTION

The procedure of submission of information on financial transactions subject to financial monitoring to the Authorized Agency shall be established for banks by the National Bank of Ukraine, and for other entities of financial monitoring by the Cabinet of Ministers of Ukraine.

Submission of the information by the entities of initial financial monitoring to the Authorized Agency shall not represent a violation of bank or commercial secrecy.

The entities of initial financial monitoring, their officials and other personnel shall not be disciplinary, administratively and criminally liable or subject to civil penalties for submission of information about a financial transaction to the Authorized Agency, if they acted pursuant to this Law, even if such actions caused damage to legal entities or individuals, as well as for other actions related to implementation of this Law.

It is prohibited for the employees of the entities of initial financial monitoring who have submitted to the Authorized Agency information on any financial transaction subject to financial monitoring pursuant to this Law, to inform about it the persons engaged in financial transactions or any other third persons.

Violation of paragraph 4 of this Article by employees of entities of initial financial monitoring shall be subject to liability pursuant to the laws of Ukraine.

If employees of an entity of initial financial monitoring engaged in financial transaction have any reasonable doubts that a certain financial transaction is carried out to legalize (launder) the proceeds, this entity shall inform the Authorized Agency about such transaction.
If the entities of initial financial monitoring engaged in financial transactions suspect or should have suspected that such financial transactions are related with or intended for financing terrorist activity, terrorist acts or terrorist organizations, they shall immediately inform the Authorized Agency and the law-enforcement bodies defined by the laws about such financial transactions.

The information submitted under this Law shall be restricted. This information shall be exchanged, disclosed and protected in accordance with the laws by the Authorized Agency, entities of initial financial monitoring, and the executive agencies and the National Bank of Ukraine responsible for the regulation and the supervision of entities of initial financial control in accordance with the laws.

It is forbidden for the Authorized Agency to transfer to anybody the information, which has been submitted by the entities of initial financial monitoring, and which contains commercial or bank secrecy, with the exception of cases, stipulated in paragraph 5 of part 2 of the Article 13 and part 3 of the Article 16 of this Law.

ARTICLE 9. REGISTRATION OF FINANCIAL TRANSACTION SUBJECT TO FINANCIAL MONITORING
A financial transaction subject to financial monitoring, concerning which the information was submitted, shall be registered by the Authorized Agency. The registration procedure shall be established by the Cabinet of Ministers of Ukraine.

Article 10. Powers of entities of the state financial monitoring (except Authorized Agency)
The entities of the state financial monitoring, which, pursuant to the laws, perform the functions of regulation and supervision of the entities of initial financial monitoring, shall include the National Bank of Ukraine, the State Commission on Securities and Stock Market, the State Commission on Regulation of financial services markets, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine, the State Committee of Ukraine on Land Resources.

State regulation and supervision in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing is carried out:

concerning banks, payment organizations, members of payment systems, acquiring and clearing institutions, communication companies and associations, other non-credit institutions that transfer funds, legal entities that received permission for the right to open bureau de change – by the National Bank of Ukraine;

concerning stock exchanges, professional operators in securities market – by the State Commission on Securities and Stock Market;

concerning insurance and other kinds of financial institutions, commodity and other exchanges, joint investment institutions, pawn institutions, enterprises, institutions that manage investment funds or non-governmental pension funds, trust companies, other legal entities which according to the legislation provide financial services – by the State Commission on Regulation of Financial Services Markets;
concerning gambling institutions, legal entities holding any kinds of lottery, traders in precious metals, and precious stones, auditors, auditing companies, entities of business undertakings providing accounting services – by the Ministry of Finance of Ukraine;

concerning realtors (real estate companies) – by the State Committee on Land Resources;

concerning notaries, attorneys, entities of business undertakings providing legal services and entities of business undertakings providing services of setting up and registration of enterprises, enterprise and property management – by the Ministry of Justice of Ukraine.

The entities of the state financial monitoring indicated in part 1 of this Article shall:

- demand that the entities of initial financial monitoring fulfill the tasks and the duties as per this Law;

- check the quality of professional training of the employees and heads of units in charge of the initial financial monitoring, also take measures specified by this Law;

- check, during supervision, the observance of legislation on prevention and counteraction to the legalization (laundering) of the proceeds, terrorist financing, take measures stipulated by this Law, according to the established procedure;

- inform the Authorized Agency on detected cases of violation of legislation by the entities of initial financial monitoring;

- ensure storage of the information submitted by the entities of initial and the state financial monitoring and by law-enforcement bodies;

- coordinate with the Authorized Agency all regulations relating to fulfillment of the requirements of this Law;

- submit to the Authorized Agency information and documents essential for fulfillment of its tasks and duties (with the exception of the information on private life of citizens) according to the procedure prescribed by the laws;

- rule out the possibility of granting access to persons, who have a record conviction that have not been quashed and expunged by the order established by legislation, of taking leading positions in financial institutions, or of becoming owners of such an institution, or of having significant participation in it, direct or indirect influence on it and receiving economic benefit out of its activity;

- within its competence to elaborate methodological recommendations for entities of initial financial monitoring and provide necessary assistance as for application of the legislation in sphere of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing.

Mentioned in part 1 of this article entities of the state financial monitoring within its competence have the right to receive from entities of initial financial monitoring any information, necessary for fulfilment by them of functions of regulation and supervision over these entities.
The entities of the state financial monitoring, which may find out about the circumstances certifying that a person carries out financial transactions aimed at legalization (laundering) of the proceeds from crime or terrorist financing, during performing the tasks assigned to them, include: the Accounting Chamber of Ukraine, the State Customs Service, the Main Division of Control and Revision of Ukraine, the State Property Fund of Ukraine, the State Tax Administration of Ukraine.

Mentioned in part 5 this Article, the entities of the state financial monitoring are obliged to inform the Authorized Agency about financial transactions, concerning which there are suspicions with a motivation that they are linked to legalization (laundering) of the proceeds from crime or terrorist financing. The State Customs Service of Ukraine is also obliged to inform about the cases of physical cross-border transportation of cash, money-and-credit turnaround documents, precious metals, precious stones and products made of them, and also cultural values, which exceed the threshold prescribed by the Article 11 of this Law.

SECTION III. FINANCIAL TRANSACTIONS SUBJECT TO FINANCIAL MONITORING

ARTICLE 11. FINANCIAL TRANSACTIONS SUBJECT TO COMPULSORY FINANCIAL MONITORING

A financial transaction shall be subject to compulsory financial monitoring if its amount equals or exceeds UAH 80,000, or equals or exceeds the sum in foreign currency equivalent to UAH 80,000 if such financial transaction also has one or more indications specified in this Article:

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

- purchase (sale) of checks, traveler’s checks or other similar payment facilities for cash;

- placement or transfer of funds, granting or receiving a credit (loan), performing other financial transactions when at least one of the parties is a natural person or legal entity that is registered, located or resident in a country (territory) that does not take part in international cooperation in the sphere of prevention and counteraction of the legalization (laundering) of the proceeds from crime and terrorist financing, or if one of the parties has an account in a bank registered in such country (on abovementioned territory). The list of such countries (territories) shall be fixed in accordance with the procedure established by the Cabinet of Ministers according to lists, approved by the international organizations engaged in counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing. The said list shall be published.

- transfer of funds in cash abroad with a request to give the recipient the funds in cash;

- placement by a person, within one financial transaction, of funds to an account in cash with their subsequent transfer of the same or larger sum to another person’s account during the same or the next trading day (if it’s not related to the main activity of a person);

- placement of funds to an account or writing off the funds from an account of the legal entity which period of activity does not exceed three months from the day of registration (re-registration) of such entity, or placement of funds to an account or writing off the funds from an account of the legal entity or natural person provided that the transactions on such account have not been conducted since the date of its opening, including establishment of current or deposit account;
- closing of an account of a person if there’s a decision of the Authorized state agency about liquidation of the state registration of legal entity or state registration of entity of business undertakings – natural person, determining in the established order the legal entity as fictitious or announcing a natural person as dead or missing;

- opening an account with placing the funds on it for the benefit of a third person;

- transfer of funds abroad by a person in cases when no foreign economic contract was concluded;

- exchange of banknotes, particularly of foreign currency, for banknotes of another nominal value;

- carrying out financial transactions with bearer securities (including promissory notes with blank endorsement) which are not placed or cannot be placed in depositaries;

- purchase of securities for cash;

- payment of insurance compensation to a natural person;

- receiving from a natural person of insurance payment (insurance deposit, insurance premium) by cash;

- performing of insurance payments (insurance deposits, insurance premiums) within the contracts of re-insurance by cash, and/or if one of the parties of the agreement and/or insurance intermediary is non-resident of Ukraine;

- payment of lottery, casino or other gambling winnings to a person;

- placement of precious metals, precious stones and other valuables at a pawn shop.

**ARTICLE 12. FINANCIAL TRANSACTIONS AS TO WHICH THE MEASURES OF DUE DILIGENCE MUST BE APPLIED**

A financial transaction is subject to financial monitoring and the measures of due diligence shall be applied to it, provided that a transaction has one or more characteristics which have been determined by this article:

1. Nonstandard or excessively complicated financial transaction that has no evident economic sense or obvious legal aim, including:

   a) receipt by an entity of initial financial monitoring of funds from a person that proposes or agrees to receive the interest on deposit, which is significantly lower than the current interest rate fixed by the bank, or payment of commission (payment for conducting financial transactions with this person’s funds) in the amount that is higher than the one fixed by the entity of initial financial monitoring in terms of similar deposits and financial transactions;

   b) a person insists on conducting a transaction according to the rules that differ from those established by the laws and internal documents of an entity of initial monitoring relating to the essence of such transaction or the terms of carrying out such transaction;
c) a person introduces considerable changes into the previously agreed pattern of financial transaction right before its conduction, especially changes pertaining to the movement of funds or other kinds of property, including repeated changes of bank references of beneficiary after the first order for transfer of funds was issued or payment documents endorsed, as well as issuing order for transfer of funds to beneficiary using two or more bank accounts of other persons;

d) a person submits unverifiable information;

e) impossibility to identify a person’s counteragents, acceptance of funds (payment documents for payment of such funds) from a person that transfers the funds to another party of a civil law agreement, which results in return of funds without conducting of a financial transaction due to the failure to locate such other party or due to the refusal of such party to accept the funds;

f) person’s (customer’s) refusal to provide the information specified by the laws and internal documents of an entity of initial financial monitoring;

g) regular conclusion of short-term agreements by a person or the use of other derivative financial instruments, particularly those that do not envisage the provision of basic assets, pertaining to the financial transactions with one or several counteragents resulting in permanent profit or permanent losses of the customer;

h) acceptance of funds (or payable financial instruments) by an entity of initial financial monitoring from a person who repeatedly exchanges securities for other securities within the same year without receiving or providing cash indemnity related to such exchange;

i) emergence of insured accident within a short period of time established by the specially authorized executive body that regulates the financial services markets, after conclusion of an insurance contract;

2. Noncompliance of a financial transaction with the activity of legal entity defined by statutory documents of such entity, including:

a) sudden increase of the account balance amount not directly connected with the person’s activity with further transfer of such amount to another entity of initial financial monitoring or if the balance amount is used for purchase of foreign currency (with transfer in favor of a nonresident) or bearer securities;

b) absence of clear connection between the nature and kinds of a person’s activities with the services for which the customer applies to an entity of initial financial monitoring;

c) regular presentation of checks issued by a nonresident bank and endorsed by a nonresident, for collection payment provided such practice is inconsistent with the customer’s activity which is known to an entity of initial financial monitoring;

d) placement to a person’s account of a large number of payments from natural persons in the amount not exceeding the amount indicated in Article 11 of this Law, including those through the cash department of an entity of initial monitoring, provided that the person's activity does not involve rendering services to population or collection of compulsory and voluntary payments.
e) considerable increase of the amount in cash being transferred to account of the person
provided the person usually effected cashless settlements.

f) placement to the account of a considerable amount of cash by a person whose income or
activity make it impossible to conduct a financial transaction in such amount;

g) single-time sale (purchase) by a person of a large block of shares that do not freely circulate
at organized market provided the person is not a professional operator at securities market and
the securities are not given to the person as compensation for the arrears of a counteragent.

3. Repeated financial transactions, the nature of which gives grounds to believe that their aim is
to evade the procedures of compulsory financial monitoring established by this Law, including:

a) regular placement of cash to a person’s account (if the person is a legal entity and such
placement is not connected with its main activity), with further transfer of the entire amount or
its bigger part within one trading day or the next day to a customer’s account opened at another
entity of initial financial monitoring, or in favor of third persons, including nonresidents;

b) a person orders to conduct a financial transaction through a representative (intermediary), if
such representative (intermediary) fulfills the person’s order without direct (personal) contact
with an entity of initial financial monitoring;

4) participation in financial transaction of politically exposed persons and their close relatives;

5) establishment of foreign correspondent bank and other similar relations;

6) execution of a financial transaction with the application of new technologies or informal
systems of transfer of funds and other valuables.

7) receiving by non-profit organization of charitable contributions

Actions of initial financial monitoring may be applied to other financial transactions when an
entity of initial financial transaction has enough grounds to consider that a financial transaction is
being conducted with the aim of the legalization (laundering) of the proceeds or terrorist
financing.

SECTION IV. TASKS, FUNCTIONS AND RIGHTS OF THE AUTHORIZED AGENCY

Article 13. Tasks and functions of the Authorized Agency

The following shall be the tasks of the Authorized Agency:

- collection, processing and analysis of the information on the financial transactions
subject to financial monitoring;

- participation in implementation of the state policy in the sphere of prevention and
counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- creation and support of operation of a single state information system on prevention and
counteraction to the legalization (laundering) of the proceeds and financing of terrorism;
- cooperation, interaction and information exchange with the state authorities, competent bodies of other countries and international organizations in the said sphere;

- representation of Ukraine, according to the established procedure, in international organizations dealing with prevention and counteraction to the legalization (laundering) of the terrorist proceeds and financing.

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

- make proposals on elaboration of legislative acts, take part, according to the established procedure, in elaboration of other regulations relating to prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- receive, at its request, the information essential for fulfillment of its tasks from the executive bodies, local self-government authorities and business entities;

- clear with the executive bodies, other state authorities engaged in prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- submit, within its jurisdiction, relevant materials to law-enforcement bodies, in accordance with their competence, given the proofs that a financial transaction may involve the legalization (laundering) of the proceeds and terrorist financing and receives information as to the execution of its processing at all the stages of the criminal proceedings;

- take part in international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of such proceeds and terrorist financing;

- analyze the methods and financial patterns of the legalization (laundering) of the proceeds and terrorist financing;

- conduct coordination and methodological provision of the activity of entities of financial monitoring on issues of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing, check the fulfillment by them of the requirements of the legislative acts in this sphere;

- analyze the efficiency of measures taken by the entities of financial monitoring to prevent and counteract to the legalization (laundering) of the proceeds and terrorist financing;

- assist detection of indications of using the proceeds in financial transactions;

- ensure the realization of the unified state policy in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing and conducts interagency coordination of the activity of the state authorities in this sphere;

- ensure recording of: financial transactions, about which information was received; the generalized materials submitted to the law enforcement bodies and the actions brought against them; data as to the execution of investigation and their adjudications; the confiscated assets; received and processed international requests about the interaction in the sphere of prevention and counteraction to the legalization (laundering) and terrorist financing;
- provides explanation as for the application of legislative and other normative-legal acts in
  the sphere of prevention and counteraction to legalization (laundering) of the proceeds from
  crime and terrorist financing;

- participate, on the instruction of the Cabinet of Ministers of Ukraine, in elaboration of
  relevant international treaties of Ukraine;

- perform other functions pursuant to the tasks assigned to it.

The Authorized Agency can establish and liquidate its territorial divisions for performing its
powers. Territorial divisions of the Authorized Agency do not have the status of legal entity and
act on the basis of the regulation, which is approved by the Authorized Agency.

**Article 12**

**1. Prevention and counteraction to terrorist financing**

Entity of initial financial monitoring is obliged to suspend execution of financial transaction if its
participant or beneficiary is enlisted to the list of persons, related to terrorist activity, and within
the same day to report about it to the Authorized Agency. Such suspension of financial
transactions shall be performed for a period up to two working days.

The procedure for suspension of financial transactions shall be established within its competence
by the entities of financial monitoring which provide regulation and supervision over entities of
initial financial monitoring.

The Authorized Agency can take a decision on further suspension of such transaction up to five
working days and is obliged to inform immediately about it the entity of initial financial
monitoring and also law enforcement authorities, determined by the legislation. If the Authorized
Agency takes no relevant decision during the period, envisaged by the part one of this Article,
the entity of initial financial monitoring shall recommence execution of financial transaction.

The procedure for composition of the list of persons related to terrorist activity shall be
determined by the Cabinet of Ministers of Ukraine. The reasons for enlisting of a legal or physical
person to the relevant list shall be the following:

  sentence of court in force, concerning conviction of the physical person for committing crimes,
envisaged by the Article 258 of the Criminal Code of Ukraine;

  information on organizations and physical persons related to terrorist organizations or terrorists,
prepared by the UN Security Council;

  sentences of courts (court decisions), decisions of other competent agencies of foreign
states concerning organizations and physical persons, related to execution of terrorist activity,
acknowledged by Ukraine according to the international agreements of Ukraine.

List of persons, related to execution of terrorist activity, shall be introduced to the entities of
initial financial monitoring by the Authorized Agency within procedure agreed with other entities
of state financial monitoring”.

**Section IV. TASKS, FUNCTIONS AND RIGHTS OF THE AUTHORIZED AGENCY**
Article 13. Tasks and functions of the Authorized Agency

The following shall be the tasks of the Authorized Agency:

- collection, processing and analysis of the information on the financial transactions subject to financial monitoring;

- participation in implementation of the state policy in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- creation and support of operation of a single state information system on prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;

- cooperation, interaction and information exchange with the state authorities, competent bodies of other countries and international organizations in the said sphere;

- representation of Ukraine, according to the established procedure, in international organizations dealing with prevention and counteraction to the legalization (laundering) of the terrorist proceeds and financing.

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

- make proposals on elaboration of legislative acts, take part, according to the established procedure, in elaboration of other regulations relating to prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- receive, at its request, the information essential for fulfillment of its tasks from the executive bodies, local self-government authorities and business entities;

- clear with the executive bodies, other state authorities engaged in prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- submit, within its jurisdiction, relevant materials to law-enforcement bodies, in accordance with their competence, given the proofs that a financial transaction may involve the legalization (laundering) of the proceeds and terrorist financing and receives information as to the execution of its processing at all the stages of the criminal proceedings;

- take part in international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of such proceeds and terrorist financing;

- analyze the methods and financial patterns of the legalization (laundering) of the proceeds and terrorist financing;

- conduct coordination and methodological provision of the activity of entities of financial monitoring on issues of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing, check the fulfillment by them of the requirements of the legislative acts in this sphere;

- analyze the efficiency of measures taken by the entities of financial monitoring to prevent and counteract to the legalization (laundering) of the proceeds and terrorist financing;
- assist detection of indications of using the proceeds in financial transactions;

- ensure the realization of the unified state policy in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing and conducts interagency coordination of the activity of the state authorities in this sphere;

- ensure recording of: financial transactions, about which information was received; the generalized materials submitted to the law enforcement bodies and the actions brought against them; data as to the execution of investigation and their adjudications; the confiscated assets; received and processed international requests about the interaction in the sphere of prevention and counteraction to the legalization (laundering) and terrorist financing;

- provides explanation as for the application of legislative and other normative-legal acts in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing;

- participate, on the instruction of the Cabinet of Ministers of Ukraine, in elaboration of relevant international treaties of Ukraine;

- perform other functions pursuant to the tasks assigned to it.

The Authorized Agency can establish and liquidate its territorial divisions for performing its powers. Territorial divisions of the Authorized Agency do not have the status of legal entity and act on the basis of the regulation, which is approved by the Authorized Agency.


The Head of the Authorized Agency shall be appointed and discharged according to the procedure established by the laws.

The use of the Authorized Agency for party, group or personal interests shall be forbidden.

The activities of parties, movements and other civic unions having political purposes shall be forbidden within the Authorized Agency.

The membership of officials and personnel of the Authorized Agency in such unions shall be withdrawn for the term of their service or work under labor contract.

AS AN EXCEPTION, PERSONNEL OF THE AUTHORIZED AGENCY WORKING UNDER LABOR CONTRACT MAY PARTICIPATE IN TRADE UNIONS.

Article 14. Rights of the Authorized Agency

The Authorized Agency shall have the right:

- to engage experts of central and local executive bodies, enterprises and institutions (with the consent of their heads) in consideration of the issues within its jurisdiction;
- to receive, according to the procedure established by the laws, the information (including the information protected by bank or commercial secrecy provisions) required for fulfillment of its tasks from executive bodies, law-enforcement, local self-government authorities, enterprises and institutions;

- to receive, according to the procedure established by the laws, the information on elaboration and implementation of relevant measures from the law enforcement bodies which, pursuant to this Law, obtain generalized materials on financial transactions from the Authorized Agency;

- to provide access (including automatic access) to databases of other entities of the state financial monitoring and the state executive bodies in the manner prescribed by the laws;

- to conclude, in accordance with the procedure fixed by the law, international interdepartmental cooperation agreements with the relevant bodies of other countries;

- to issue normative-legal acts necessary for performing its tasks and functions as per Article 13 of this Law;

- with the purpose of performing coordination of the activity of entities of financial monitoring in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing, to verify the fulfillment by the entities of financial monitoring the requirements of the legal acts, to take in the established order measures of influence on the offenders of this legislation;

- to suspend for the term up to five working days the execution of financial transactions about which there are convincing grounds to consider that they are carried out with the aim of the legalization (laundering) of the proceeds, and also concerning which there is a suspicion with a motivation that they are linked, relate or aimed at terrorist financing in the cases if the information about such financial transactions cannot be recognized as inadequate information. The procedure of suspension of transactions is established by the Cabinet of the Ministers of Ukraine and the National Bank of Ukraine.

Entities of the state financial monitoring and other state authorities are obliged to provide informational resources to the Authorized Agency for establishing by it and functioning of the Unified State Informational System in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing.

**Article 14-1. Special Fund of financing of the system of combating legalization (laundering) of the proceeds from crime and terrorist financing**

The funds and other assets which have been seized or confiscated as the result of carrying out a case of the legalization (laundering) of the proceeds of financing of terrorism, and which are subject to the return to Ukraine or to a foreign country, are distributed in compliance with separate international agreements about the confiscated assets or the proceeds from the allocations of these assets. The funds, received by Ukraine according to such an agreement, are accrued to a special fund of the state budget and are used for special-purpose financing of a system to counteract to the legalization (laundering) of the proceeds and financing of terrorism in compliance with the order established by the Cabinet of the Ministers of Ukraine.
Section V. INTERNATIONAL COOPERATION IN THE AREA OF PREVENTION AND COUNTERACTION TO THE LEGALIZATION (LAUNDERING) OF THE PROCEEDS FROM CRIME AND TERRORIST FINANCING

Article 15. The principles of international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing

International cooperation for the prevention and counteraction (laundering) of the proceeds and terrorist financing shall be carried out in accordance with the procedures established by the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), other international treaties of Ukraine, this Law and other laws and regulations.

A request for international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism may be refused or delayed only on the basis and with due observance of the provisions of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990).

Article 16. Competence of state authorities concerning international cooperation in the area of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing

The Authorized Agency, according to the international agreements in force or the reciprocity principle, shall conduct international cooperation with relevant agencies of foreign states in the area of exchange of experience and information, related to prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing.

The Authorized Agency shall disclose information with restricted access to the relevant agency of foreign state on the conditions of ensuring by the latter of its protection at the level of the national standards and its use exclusively for the purposes of criminal justice in cases on legalization (laundering) of the proceeds or terrorist financing.

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

The Ministry of Justice of Ukraine shall be entrusted with performance of international cooperation in the part of execution of court decisions concerning confiscation of the proceeds, while the General Prosecutor's Office of Ukraine shall be entrusted with execution of procedural actions in the framework of investigation of criminal cases on legalization (laundering) of the proceeds and terrorist financing.

Entities of state financial monitoring (except the Authorized Agency) shall on the grounds of international agreements of Ukraine conduct international cooperation with relevant agencies of foreign states concerning exchange of experience and information on regulation and
supervision over the activity of financial institutions in the area of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing.

The Authorized Agency and other entities of state financial monitoring shall within their competence cooperate with the Financial Action Task Force (FATF), the Egmont group and other international organizations, activity of which is directed on performance of international cooperation in the area of prevention to legalization (laundering) of the proceeds and terrorist financing.

Section VI. LIABILITY FOR VIOLATION OF THIS LAW AND REINSTATEMENT OF RIGHTS AND LEGITIMATE INTERESTS

Article 17. Liability for violation of provisions of this Law

The persons guilty of violation of provisions of this Law shall be subject to criminal, administrative, disciplinary and civil liability pursuant to the law. They may be deprived of the right to conduct certain kinds of activity pursuant to the laws.

The legal entities that conducted financial transactions for legalization (laundering) of the proceeds or financed terrorism may be liquidated by a court ruling.

A fine up to one thousand untaxed minimal incomes may be imposed on any entity of initial financial monitoring for its failure to comply with the requirements set by this Law. Provided no agreement on payment of fine has been reached, the decision on imposition of fine or denial of such imposition shall be made by court at the request of the authority that regulates the activity of a subject of initial financial monitoring and issues licenses or other kinds of special permits.

Repeated violation of this Law by entities of initial financial monitoring shall result, by court ruling, in restriction, suspension or termination of a license or any other special permit for certain kinds of activity in the manner prescribed by the laws.

ARTICLE 18. REINSTATEMENT OF RIGHTS AND LEGITIMATE INTERESTS

Upon a court order, the proceeds shall be confiscated by the State or returned to their owner whose rights and legitimate interests were violated, or their cost shall be compensated.

The agreements aimed at the legalization (laundering) of the proceeds and terrorist financing shall be considered null and void in accordance with the procedure prescribed by the law.

The entities of initial financial monitoring, their executives and other employees shall not be liable for the damage inflicted on natural persons and legal entities as a result of performance of their official duties during financial monitoring, provided they did so within the limits of their duties and in the manner prescribed by this Law.

The damage, inflicted on a legal entity or a natural person by illegal actions of the state bodies as a result of taking actions to counteract the legalization (laundering) of the proceeds and terrorist financing, shall be compensated from the State Budget of Ukraine.

SECTION VII. FINAL PROVISIONS

1. This Law shall come into force after six months from the date of its publication.
2. Until the laws of Ukraine and other regulations are brought in line with this Law, they shall apply only in the part not running counter to this Law.

3. Before the entry of this Law into force, the Cabinet of Ministers of Ukraine shall:
   - submit proposals to the Verkhovna Rada of Ukraine on making necessary amendments ensuing from this Law to other legislative acts;
   - harmonize its own regulations with this Law;
   - decide on the matters ensuing from this Law;
   - provide that the ministries and other central executive authorities revise their regulations that run counter to this Law;

4. The National Bank of Ukraine shall harmonize its regulations with this Law and submit its proposals regarding amendments ensuing from this Law and other legislative acts for review by the Verkhovna Rada of Ukraine.

5. Articles 5, 6, 7 and 8 of this Law shall apply to casinos, gambling houses and pawnshops after approval of relevant procedures by the Cabinet of Ministers of Ukraine, but no later than on 1 January 2004, and shall apply to other entities of initial financial monitoring from the moment of entry of this Law into force.

6. The Administrative Code of Ukraine shall be amended as follows:

1) The Code shall be supplemented by Article 166 of the following wording:

   "Article 166. Violation of legislation on the prevention and counteraction to legalization (laundering) of the proceeds from crime

   Violation of requirements on identification of any person who conducts a financial transaction, violation of the procedure for registration of financial transactions subject to primary financial monitoring, failure to submit, untimely submission or submission of false information on such financial transactions to the specially authorized executive body in charge with financial monitoring, as well as failure to comply with the requirements for safekeeping of the documents related to identification of the persons that conduct financial transactions, and the documents related to financial transactions conducted by them,

   shall be punishable by a penalty of fifty to one hundred untaxed minimum incomes of citizen imposed on officials of the entities of initial financial monitoring.

   Disclosure of information submitted to the specially authorized executive body in charge of financial monitoring and of the fact that such information was submitted,

   shall be punishable by penalty of one hundred to three hundred untaxed minimum incomes of citizens."

2) In Article 221 and paragraph 1 of Article 294, numbers "1667 and 1668" shall be replaced with numbers "1667 to 1669".

3) Subparagraph 1 of paragraph 1 of Article 255 shall be supplemented by the following sentences:

   "Specially authorized executive body in charge of financial monitoring (Article 1669);"
the State Commission for Securities and Stock Exchange (Article 1669),

and, in subparagraph "The National Bank of Ukraine" (Articles 16411, 1667, 1668), the numbers “1667 and 1668” shall be replaced with the numbers “1667 to 1669”.

7. The Law of Ukraine on Banks and Banking shall be amended as follows:

1) In Article 62:
the following subparagraph shall be added to paragraph 1:

“5) to the Specially Authorized executive Agency in charge of financial monitoring at its request in writing in matters related to financial transactions subject to financial monitoring pursuant to the legislation on the prevention and counteraction to the legalization (laundering) of the proceeds from crime.”

the words “to the special anti-organized crime units” in paragraph 8 shall be replaced by the words “to the Specially Authorized executive Agency in charge with financial monitoring.”

2) Subpoint 2 of point 7 of section VII is excluded.

President of Ukraine                                                                      L. Kuchma
Kyiv, 28 November 2002                                                                         # 249-IV

dated 1 December 2005 # 3163-IV)

This Law shall regulate the relations in the sphere of prevention and counteraction to the implementation into the legal turnover of the proceeds from crime, and this Law is aimed at combating terrorist financing.

SECTION 1. GENERAL PROVISIONS

ARTICLE 1. DEFINITIONS
The following definitions shall be used in this Law:

proceeds shall mean any economic benefit resulting from the commitment of a socially dangerous illicit act that precedes the legalization (laundering) of proceeds and consists of material property, or titles, also movable or immovable property, and legal papers that confirm the title to such property or a share in it;

socially dangerous criminal activity that is followed by the legalization (laundering) of the proceeds, - activity (except for the activity provided for by articles 207, 212 of the Criminal Code of Ukraine) for which, in compliance with the Criminal Code of Ukraine, punishment in a form of imprisonment for a term of one year or longer is provided for or which is recognized as a crime by a Criminal Code of another country, as well as for the same activity, in compliance with the Criminal Code of Ukraine, the responsibility is provided for, and, as a consequence of which, the proceeds of crime were obtained;
legalization (laundering) of the proceeds shall mean any actions, specified by the Article 2 of this Law, taken to disguise as legal the possession, the use or the disposal of the proceeds, or the actions taken to conceal the sources of origin of such proceeds;

financial transaction, - any transaction involving any natural person or legal entity with the assets of any kind, material or non-material, movable or immovable, and also legal documents or acts of any kind, including those in the electronic or digital form, which certify the right for these assets or participation in them, aimed at establishment, amendment, defeasance of civil rights and duties or registration of the rights on these assets, in particular:

- making or withdrawing a deposit;
- money transfer from one account to another;
- currency exchange;
- services related to the issuing, purchase or sale of securities and other kinds of financial assets;
- granting or receiving a loan or a credit;
- insurance (reinsurance);
- provision of financial guarantees and liabilities;
- trust management of securities portfolio;
- financial leasing;
- issue, circulation, payment (dissemination) of the state and other kinds of cash lottery;
- services related to the issue, purchase, sale or servicing of checks, bills of exchange, credit cards, postal money transfer orders and other payment instruments;
- transactions on accounts.

the state financial monitoring – the execution, by entities of the state financial monitoring, of actions stipulated by this Law.

the initial financial monitoring – the application, by entities of initial financial monitoring, of the measures of due diligence with the purpose of detecting financial transactions which might be relevant to the legalization (laundering) of the proceeds terrorism or financing, in particular:

conduction of the analysis of financial transactions with the purpose of determining if they comply with the characteristics stipulated by articles 11, 12 of the Law, as well as to the other characteristics which may prove their implementation for the legalization (laundering) of the proceeds or terrorist financing;

conduction, according to the current Law and other laws of Ukraine, the identification of a client, an entity acting on behalf of a client and a beneficial owner;

receiving of the information as to the purpose and to the foreseen nature of business relations;

conduction of a constant verification of the compliance of financial transactions with the actual information about the nature (content) of a client’s activity.

Politically Exposed Persons are individuals who are or have been entrusted with prominent public functions in Ukraine or in foreign countries: Heads of the State or the Government, senior governmental, judicial or military officials, senior executives of state authorities, persons who hold leading positions in political parties. Business relationships with family members or close
associates of politically exposed persons involve risk, similar to that with politically exposed persons themselves;

*Shell bank* means a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a banking group.

**ARTICLE 2. ACTS RELATED TO THE LEGALIZATION (LAUNDERING) OF PROCEEDS**

According to this Law, the legalization (laundering) of proceeds shall mean any acts taken to conceal or disguise the illegal origins of money or any other property, or possession thereof, titles to such money and property, their sources, location or movement, and shall also mean the acquiring, possession or use of money or any other property provided a person realizes that they were the proceeds.

**ARTICLE 3. SCOPE OF THE LAW**

This Law shall apply to the citizens of Ukraine, foreigners and subjects without citizenship, also the legal entities, their branches, offices and other separate units that are engaged in financial transactions both in Ukraine and abroad pursuant to the international treaties of Ukraine.

**SECTION II. THE SYSTEM OF FINANCIAL MONITORING**

**Article 4. The system of financial monitoring and financial monitoring entities**

The system of financial monitoring shall consist of two levels: the initial and the state level.

The following shall be the entities of initial financial monitoring:
- banks, insurance and other kinds of financial institutions;
- payment organizations, members of payment systems, acquiring and clearing institutions;
- commodity, stock and other exchanges;
- professional operators in securities market;
- joint investment institutions;
- gambling and pawn institutions and legal entities holding any kinds of lottery;
- enterprises, institutions that manage investment funds or non-governmental pension funds;
- communication companies and associations, other non-crediting institutions that transfer funds;
- legal entities, which received permission to open bureau de change;
- other legal entities which according to the legislation provide financial services;
- realtors (real estate companies);
- traders in precious metals, and precious stones;
- notaries, attorneys, entities of business undertakings providing legal services;
- auditors, auditing companies, entities of business undertakings providing accounting services;
- trust companies;
- entities of business undertakings providing services for setting up and registering enterprises, enterprise and assets management

The following shall be the entities of the state financial monitoring:
central executive authorities and the National Bank of Ukraine which, pursuant to the law, carry out functions of regulation and supervision of the entities of initial financial monitoring;

state authorities, which may find out about the circumstances certifying that the person carries out financial transactions aimed at legalization (laundering) of the proceeds from crime or terrorist financing, while performing tasks assigned to them;

specially authorized executive agency for financial monitoring – the State Committee of Financial Intelligence of Ukraine - central executive authority with the special status (hereinafter referred to as the Authorized Agency).

ARTICLE 5. TASKS AND DUTIES OF THE ENTITY OF INITIAL FINANCIAL MONITORING

Basing on this Law and in its pursuance, an entity of initial financial monitoring shall:

- conduct the initial financial monitoring in accordance with the requirements of the legislation of Ukraine;
- ensure the registration of financial transactions subject to compulsory financial monitoring and other financial transactions, about which the suspicion with a motivation exist that they are connected with the legalization (laundering) of the proceeds from crime or financing of terrorism;
- inform immediately the Authorized Agency about financial transactions subject to compulsory financial monitoring and other financial transactions about which suspicion with a motivation exist that they are connected with the legalization (laundering) of the proceeds from crime or terrorist financing;
- assist the personnel of the Authorized Agency in analysis of transactions subject to compulsory financial monitoring;
- provide, according to the laws, information at the Authorized Agency’s request related to the financial transactions that have become the object of financial monitoring, including the information that is classified as bank and commercial secret, not later than within three working days from the moment of receiving the request;
- assist the entities of the state financial monitoring in analyzing the financial transactions subject to financial monitoring;
- take measures to prevent disclosure (including disclosure to persons whose financial transactions are being checked) of information that is submitted to the Authorized Agency, also any other kinds of information on financial monitoring (including the facts of submission of such information);
- keep the documents on identification of the persons who carried out the financial transaction subject to financial monitoring pursuant to this Law, as well as all documents on financial transactions for five years after conducting such financial transaction.

In addition to the regular measures of initial financial monitoring, entities of initial financial monitoring are obliged:

1) in regard to politically exposed people:

to take special procedures in order to determine that a person is a politically exposed person;

to obtain permission of the head of an entity of initial financial monitoring for establishing business relations with such clients;
to take measures for determining the sources of enrichment and the sources of financing these entities;

to conduct constant monitoring of business relations undertaken;

2) in regard to foreign corresponding bank services and other similar relations:

collect information about the respondent institution with the aim of comprehensive understanding of their activity and obtain available public information about its reputation and quality of its supervision, including information whether this institution was the object of investigation or of the measures of the regulatory body on counteraction to legalization of the proceeds from crime or terrorist financing issues;

basing on the received information, assess the respondent institution as for its conduction of control over money laundering and terrorist financing;

obtain permission of the head of an entity of initial financial monitoring to establish new correspondent relations with such institutions;

according to the payment documents, make sure that an entity has determined a person and has taken due diligence measures towards a client, and that an institution is able to provide upon request the submission of corresponding identification data;

refuse to establish correspondent relationships with shell banks;

take precautionary measures with the view of avoiding the establishment of correspondent relationships with financial institutions, which allow shell banks to use their accounts.

Entities of initial financial monitoring are obliged to ensure application of the measures of initial financial monitoring also for branches and foreign daughter enterprises, which are located in countries, where FATF Recommendations are not applied or applied insufficiently, within the limits that do not contradict to current legislation of given country. In those cases, when application of the mentioned Recommendations is prohibited by the legislation of a given country, entities of initial financial monitoring are obliged to inform the Authorized Agency and corresponding entity of the state financial monitoring about the impossibility of application of this Law.

An entity of initial financial monitoring in accordance with the requirements of current legislation and regulations of the Authorized Agency shall establish the rules for conducting the initial financial monitoring and assign an employee in charge of the monitoring.

Such employee (a compliance officer) shall be independent in his/her activity and accountable only to the head of an entity of initial financial monitoring and at least once in a month, the employee is obliged to inform the head about detected financial transactions subject to financial monitoring and measures taken, including those related to:

- Elaboration and permanent updating of initial financial monitoring regulations and programs of monitoring implementation allowing for the laws current in force and resolutions of the Authorized Agency;
- Training of personnel to detect the financial transactions subject to financial monitoring pursuant to this Law through proper education and practical studies;

- Ensuring the conduction of initial financial monitoring.

ARTICLE 6. IDENTIFICATION OF THE PERSONS ENGAGED IN FINANCIAL TRANSACTIONS
Entities of initial financial monitoring on the basis of the submitted original documents or duly notarized copies of documents, information, obtained from state registers or from other entities of initial financial monitoring (third parties) identify persons in a case of:

- establishing business relations;
- performing financial transactions, which, in compliance with this Law, are subject to financial monitoring;
- suspecting that a financial transaction might be connected with the legalization (laundering) of the proceeds or terrorist financing;
- having doubts as to reliability or sufficiency of the preliminary received information about an entity.

Identification is done prior or at the time of establishing business relations, but before performing a financial transaction.

Entities of initial financial monitoring have the right to demand, and the state authorities are obliged within ten working days to provide information, stipulated by the legislation, which concern identification of entity, on a free basis.

The following data shall be established for the purposes of identification:

- for natural persons: last name, first name, patronymic, date of birth, series and number of passport (or other identification document), date of its issue and issuing agency, place of residence and identification number from the State Register of Natural Persons – Payers of Taxes and Other Compulsory Payments;

- for legal entities: full name, legal address, a number (if present), date of issue (date of the record in the register) of a certificate on the state registration and the body of issuance; information about executive authorities and their composition; owners of this legal entity or entities which significantly participate in it, have direct or indirect influence on it and receive economic benefit from its activity, identification code from the Unified State Register of Enterprises and Organizations of Ukraine, references of the bank which opened the account and account number.

The following information shall be provided for the purpose of identification of nonresidents:

- for natural persons: last name, first name, patronymic (if any), date of birth, passport series and number (or other identification document), date of its issue and issuing agency, citizenship, place of residence or temporary stay;

- for legal entities: full name, location and references of the bank that opened the account and account number, information about executive authorities and their composition; the owners of this legal entity, entities which have significant participation in it, direct or indirect influence
on it and receive economic benefit from its activity. An entity of initial financial monitoring shall also be provided with a copy of legalized quotation from trade, banking or judicial register or certified by a notary, proof of registration of the Authorized Agency of foreign state regarding registration of the corresponding legal entity.

Identification of a person shall not be obligatory in the following cases:

if financial transaction is conducted by previously identified persons;

signing of agreements between the banks registered in Ukraine.

In case when a person represents another person or if an entity of initial financial monitoring has doubts about whether a person acts in its own name or a beneficiary is another person, an entity of initial financial monitoring shall identify, according to the provisions of this Article and other laws that regulate such procedure, the person, on behalf of which the financial transaction is executed, or the beneficiary.

If a person acts as a representative of another person, entity of initial financial monitoring has to check also whether this person has corresponding powers.

**Article 7. The right of an entity of initial financial monitoring to refuse the performance of financial transaction**

Prior or after a financial transaction, an entity of initial financial monitoring shall determine whether the financial transaction is subject to financial monitoring pursuant to this Law. If such financial transaction is detected, it shall be registered by a relevant entity of initial financial monitoring. To do this, the person performing a financial transaction, the type of financial transaction and the reasons for it, its date and amount shall be entered into the register. The procedure of registration of the financial transaction subject to financial monitoring pursuant to this Law shall be established for banks by the National Bank of Ukraine, for other entities of financial monitoring by the Cabinet of Ministers of Ukraine.

An entity of initial financial monitoring shall refuse to ensure the execution of a financial transaction, provided that the conduction of identification in compliance with the procedure stipulated by legislation, is not possible, and has the right to held back the execution of financial transaction for the period up to 2 working days or to refuse ensuring execution of a financial transaction in case there is a suspicion that it might be connected with the legalization (laundering) of the proceeds or terrorist financing. Thus, an entity of initial financial monitoring shall immediately inform the Authorized Agency about these transactions and about entities intending to execute them.

ARTICLE 8. SUBMISSION OF THE INFORMATION ABOUT FINANCIAL TRANSACTION

The procedure of submission of information on financial transactions subject to financial monitoring to the Authorized Agency shall be established for banks by the National Bank of Ukraine, and for other entities of financial monitoring by the Cabinet of Ministers of Ukraine.

Submission of the information by the entities of initial financial monitoring to the Authorized Agency shall not represent a violation of bank or commercial secrecy.
The entities of initial financial monitoring, their officials and other personnel shall not be disciplinary, administratively and criminally liable or subject to civil penalties for submission of information about a financial transaction to the Authorized Agency, if they acted pursuant to this Law, even if such actions caused damage to legal entities or individuals, as well as for other actions related to implementation of this Law.

It is prohibited for the employees of the entities of initial financial monitoring who have submitted to the Authorized Agency information on any financial transaction subject to financial monitoring pursuant to this Law, to inform about it the persons engaged in financial transactions or any other third persons.

Violation of paragraph 4 of this Article by employees of entities of initial financial monitoring shall be subject to liability pursuant to the laws of Ukraine.

If employees of an entity of initial financial monitoring engaged in financial transaction have any reasonable doubts that a certain financial transaction is carried out to legalize (launder) the proceeds, this entity shall inform the Authorized Agency about such transaction.

If the entities of initial financial monitoring engaged in financial transactions suspect or should have suspected that such financial transactions are related with or intended for financing terrorist activity, terrorist acts or terrorist organizations, they shall immediately inform the Authorized Agency and the law-enforcement bodies defined by the laws about such financial transactions.

The information submitted under this Law shall be restricted. This information shall be exchanged, disclosed and protected in accordance with the laws by the Authorized Agency, entities of initial financial monitoring, and the executive agencies and the National Bank of Ukraine responsible for the regulation and the supervision of entities of initial financial control in accordance with the laws.

It is forbidden for the Authorized Agency to transfer to anybody the information, which has been submitted by the entities of initial financial monitoring, and which contains commercial or bank secrecy, with the exception of cases, stipulated in paragraph 5 of part 2 of the Article 13 and part 3 of the Article 16 of this Law.

**ARTICLE 9. REGISTRATION OF FINANCIAL TRANSACTION SUBJECT TO FINANCIAL MONITORING**

A financial transaction subject to financial monitoring, concerning which the information was submitted, shall be registered by the Authorized Agency. The registration procedure shall be established by the Cabinet of Ministers of Ukraine.

**Article 10. Powers of entities of the state financial monitoring (except Authorized Agency)**

The entities of the state financial monitoring, which, pursuant to the laws, perform the functions of regulation and supervision of the entities of initial financial monitoring, shall include the National Bank of Ukraine, the State Commission on Securities and Stock Market, the State Commission on Regulation of financial services markets, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine, the State Committee of Ukraine on Land Resources.
State regulation and supervision in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing is carried out:

centering banks, payment organizations, members of payment systems, acquiring and clearing institutions, communication companies and associations, other non-credit institutions that transfer funds, legal entities that received permission for the right to open bureau de change – by the National Bank of Ukraine;

centering stock exchanges, professional operators in securities market – by the State Commission on Securities and Stock Market;

centering insurance and other kinds of financial institutions, commodity and other exchanges, joint investment institutions, pawn institutions, enterprises, institutions that manage investment funds or non-governmental pension funds, trust companies, other legal entities which according to the legislation provide financial services – by the State Commission on Regulation of Financial Services Markets;

centering gambling institutions, legal entities holding any kinds of lottery, traders in precious metals, and precious stones, auditors, auditing companies, entities of business undertakings providing accounting services – by the Ministry of Finance of Ukraine;

centering realtors (real estate companies) – by the State Committee on Land Resources;

centering notaries, attorneys, entities of business undertakings providing legal services and entities of business undertakings providing services of setting up and registration of enterprises, enterprise and property management – by the Ministry of Justice of Ukraine.

The entities of the state financial monitoring indicated in part 1 of this Article shall:

- demand that the entities of initial financial monitoring fulfill the tasks and the duties as per this Law;

- check the quality of professional training of the employees and heads of units in charge of the initial financial monitoring, also take measures specified by this Law;

- check, during supervision, the observance of legislation on prevention and counteraction to the legalization (laundering) of the proceeds, terrorist financing, take measures stipulated by this Law, according to the established procedure;

- inform the Authorized Agency on detected cases of violation of legislation by the entities of initial financial monitoring;

- ensure storage of the information submitted by the entities of initial and the state financial monitoring and by law-enforcement bodies;

- coordinate with the Authorized Agency all regulations relating to fulfillment of the requirements of this Law;
- submit to the Authorized Agency information and documents essential for fulfillment of its tasks and duties (with the exception of the information on private life of citizens) according to the procedure prescribed by the laws;

- rule out the possibility of granting access to persons, who have a record conviction that have not been quashed and expunged by the order established by legislation, of taking leading positions in financial institutions, or of becoming owners of such an institution, or of having significant participation in it, direct or indirect influence on it and receiving economic benefit out of its activity;

- within its competence to elaborate methodological recommendations for entities of initial financial monitoring and provide necessary assistance as for application of the legislation in sphere of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing.

Mentioned in part 1 of this article entities of the state financial monitoring within its competence have the right to receive from entities of initial financial monitoring any information, necessary for fulfilment by them of functions of regulation and supervision over these entities.

The entities of the state financial monitoring, which may find out about the circumstances certifying that a person carries out financial transactions aimed at legalization (laundering) of the proceeds from crime or terrorist financing, during performing the tasks assigned to them, include: the Accounting Chamber of Ukraine, the State Customs Service, the Main Division of Control and Revision of Ukraine, the State Property Fund of Ukraine, the State Tax Administration of Ukraine.

Mentioned in part 5 this Article, the entities of the state financial monitoring are obliged to inform the Authorized Agency about financial transactions, concerning which there are suspicions with a motivation that they are linked to legalization (laundering) of the proceeds from crime or terrorist financing. The State Customs Service of Ukraine is also obliged to inform about the cases of physical cross-border transportation of cash, money-and-credit turnaround documents, precious metals, precious stones and products made of them, and also cultural values, which exceed the threshold prescribed by the Article 11 of this Law.

SECTION III. FINANCIAL TRANSACTIONS SUBJECT TO FINANCIAL MONITORING

ARTICLE 11. FINANCIAL TRANSACTIONS SUBJECT TO COMPULSORY FINANCIAL MONITORING

A financial transaction shall be subject to compulsory financial monitoring if its amount equals or exceeds UAH 80,000, or equals or exceeds the sum in foreign currency equivalent to UAH 80,000 if such financial transaction also has one or more indications specified in this Article:

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

- purchase (sale) of checks, traveler’s checks or other similar payment facilities for cash;

- placement or transfer of funds, granting or receiving a credit (loan), performing other financial transactions when at least one of the parties is a natural person or legal entity that is registered, located or resident in a country (territory) that does not take part in international cooperation in
the sphere of prevention and counteraction of the legalization (laundering) of the proceeds from crime and terrorist financing, or if one of the parties has an account in a bank registered in such country (on abovementioned territory). The list of such countries (territories) shall be fixed in accordance with the procedure established by the Cabinet of Ministers according to lists approved by the international organizations engaged in counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing. The said list shall be published.

- transfer of funds in cash abroad with a request to give the recipient the funds in cash;

- placement by a person, within one financial transaction, of funds to an account in cash with their subsequent transfer of the same or larger sum to another person’s account during the same or the next trading day (if it’s not related to the main activity of a person);

- placement of funds to an account or writing off the funds from an account of the legal entity which period of activity does not exceed three months from the day of registration (re-registration) of such entity, or placement of funds to an account or writing off the funds from an account of the legal entity or natural person provided that the transactions on such account have not been conducted since the date of its opening, including establishment of current or deposit account;

- closing of an account of a person if there’s a decision of the Authorized state agency about liquidation of the state registration of legal entity or state registration of entity of business undertakings – natural person, determining in the established order the legal entity as fictitious or announcing a natural person as dead or missing;

- opening an account with placing the funds on it for the benefit of a third person;

- transfer of funds abroad by a person in cases when no foreign economic contract was concluded;

- exchange of banknotes, particularly of foreign currency, for banknotes of another nominal value;

- carrying out financial transactions with bearer securities (including promissory notes with blank endorsement) which are not placed or cannot be placed in depositaries;

- purchase of securities for cash;

- payment of insurance compensation to a natural person;

- receiving from a natural person of insurance payment (insurance deposit, insurance premium) by cash;

- performing of insurance payments (insurance deposits, insurance premiums) within the contracts of re-insurance by cash, and/or if one of the parties of the agreement and/or insurance intermediary is non-resident of Ukraine;

- payment of lottery, casino or other gambling winnings to a person;

- placement of precious metals, precious stones and other valuables at a pawn shop.
ARTICLE 12. FINANCIAL TRANSACTIONS AS TO WHICH THE MEASURES OF DUE DILIGENCE MUST BE APPLIED

A financial transaction is subject to financial monitoring and the measures of due diligence shall be applied to it, provided that a transaction has one or more characteristics which have been determined by this article:

1. Nonstandard or excessively complicated financial transaction that has no evident economic sense or obvious legal aim, including:

a) receipt by an entity of initial financial monitoring of funds from a person that proposes or agrees to receive the interest on deposit, which is significantly lower than the current interest rate fixed by the bank, or payment of commission (payment for conducting financial transactions with this person’s funds) in the amount that is higher than the one fixed by the entity of initial financial monitoring in terms of similar deposits and financial transactions;

b) a person insists on conducting a transaction according to the rules that differ from those established by the laws and internal documents of an entity of initial monitoring relating to the essence of such transaction or the terms of carrying out such transaction;

c) a person introduces considerable changes into the previously agreed pattern of financial transaction right before its conduction, especially changes pertaining to the movement of funds or other kinds of property, including repeated changes of bank references of beneficiary after the first order for transfer of funds was issued or payment documents endorsed, as well as issuing order for transfer of funds to beneficiary using two or more bank accounts of other persons;

d) a person submits unverifiable information;

e) impossibility to identify a person’s counteragents, acceptance of funds (payment documents for payment of such funds) from a person that transfers the funds to another party of a civil law agreement, which results in return of funds without conducting of a financial transaction due to the failure to locate such other party or due to the refusal of such party to accept the funds;

f) person’s (customer's) refusal to provide the information specified by the laws and internal documents of an entity of initial financial monitoring;

g) regular conclusion of short-term agreements by a person or the use of other derivative financial instruments, particularly those that do not envisage the provision of basic assets, pertaining to the financial transactions with one or several counteragents resulting in permanent profit or permanent losses of the customer;

h) acceptance of funds (or payable financial instruments) by an entity of initial financial monitoring from a person who repeatedly exchanges securities for other securities within the same year without receiving or providing cash indemnity related to such exchange;

i) emergence of insured accident within a short period of time established by the specially authorized executive body that regulates the financial services markets, after conclusion of an insurance contract;
2. Noncompliance of a financial transaction with the activity of legal entity defined by statutory documents of such entity, including:

a) sudden increase of the account balance amount not directly connected with the person’s activity with further transfer of such amount to another entity of initial financial monitoring or if the balance amount is used for purchase of foreign currency (with transfer in favor of a nonresident) or bearer securities;

b) absence of clear connection between the nature and kinds of a person’s activities with the services for which the customer applies to an entity of initial financial monitoring;

c) regular presentation of checks issued by a nonresident bank and endorsed by a nonresident, for collection payment provided such practice is inconsistent with the customer’s activity which is known to an entity of initial financial monitoring;

d) placement to a person’s account of a large number of payments from natural persons in the amount not exceeding the amount indicated in Article 11 of this Law, including those through the cash department of an entity of initial monitoring, provided that the person's activity does not involve rendering services to population or collection of compulsory and voluntary payments.

e) considerable increase of the amount in cash being transferred to account of the person provided the person usually effected cashless settlements.

f) placement to the account of a considerable amount of cash by a person whose income or activity make it impossible to conduct a financial transaction in such amount;

g) single-time sale (purchase) by a person of a large block of shares that do not freely circulate at organized market provided the person is not a professional operator at securities market and the securities are not given to the person as compensation for the arrears of a counteragent.

3. Repeated financial transactions, the nature of which gives grounds to believe that their aim is to evade the procedures of compulsory financial monitoring established by this Law, including:

a) regular placement of cash to a person’s account (if the person is a legal entity and such placement is not connected with its main activity), with further transfer of the entire amount or its bigger part within one trading day or the next day to a customer’s account opened at another entity of initial financial monitoring, or in favor of third persons, including nonresidents;

b) a person orders to conduct a financial transaction through a representative (intermediary), if such representative (intermediary) fulfills the person’s order without direct (personal) contact with an entity of initial financial monitoring;

4) participation in financial transaction of politically exposed persons and their close relatives;

5) establishment of foreign correspondent bank and other similar relations;

6) execution of a financial transaction with the application of new technologies or informal systems of transfer of funds and other valuables.

7) receiving by non-profit organization of charitable contributions
Actions of initial financial monitoring may be applied to other financial transactions when an entity of initial financial transaction has enough grounds to consider that a financial transaction is being conducted with the aim of the legalization (laundering) of the proceeds or terrorist financing.

SECTION IV. TASKS, FUNCTIONS AND RIGHTS OF THE AUTHORIZED AGENCY

Article 13. Tasks and functions of the Authorized Agency

The following shall be the tasks of the Authorized Agency:

- collection, processing and analysis of the information on the financial transactions subject to financial monitoring;

- participation in implementation of the state policy in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- creation and support of operation of a single state information system on prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;

- cooperation, interaction and information exchange with the state authorities, competent bodies of other countries and international organizations in the said sphere;

- representation of Ukraine, according to the established procedure, in international organizations dealing with prevention and counteraction to the legalization (laundering) of the terrorist proceeds and financing.

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

- make proposals on elaboration of legislative acts, take part, according to the established procedure, in elaboration of other regulations relating to prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- receive, at its request, the information essential for fulfillment of its tasks from the executive bodies, local self-government authorities and business entities;

- clear with the executive bodies, other state authorities engaged in prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

- submit, within its jurisdiction, relevant materials to law-enforcement bodies, in accordance with their competence, given the proofs that a financial transaction may involve the legalization (laundering) of the proceeds and terrorist financing and receives information as to the execution of its processing at all the stages of the criminal proceedings;

- take part in international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of such proceeds and terrorist financing;

- analyze the methods and financial patterns of the legalization (laundering) of the proceeds and terrorist financing;
- conduct coordination and methodological provision of the activity of entities of financial monitoring on issues of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing, check the fulfillment by them of the requirements of the legislative acts in this sphere;

- analyze the efficiency of measures taken by the entities of financial monitoring to prevent and counteract to the legalization (laundering) of the proceeds and terrorist financing;

- assist detection of indications of using the proceeds in financial transactions;

- ensure the realization of the unified state policy in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing and conducts interagency coordination of the activity of the state authorities in this sphere;

- ensure recording of: financial transactions, about which information was received; the generalized materials submitted to the law enforcement bodies and the actions brought against them; data as to the execution of investigation and their adjudications; the confiscated assets; received and processed international requests about the interaction in the sphere of prevention and counteraction to the legalization (laundering) and terrorist financing;

- provides explanation as for the application of legislative and other normative-legal acts in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing;

- participate, on the instruction of the Cabinet of Ministers of Ukraine, in elaboration of relevant international treaties of Ukraine;

- perform other functions pursuant to the tasks assigned to it.

The Authorized Agency can establish and liquidate its territorial divisions for performing its powers. Territorial divisions of the Authorized Agency do not have the status of legal entity and act on the basis of the regulation, which is approved by the Authorized Agency.

**Article 12**

**Prevention and counteraction to terrorist financing**

Entity of initial financial monitoring is obliged to suspend execution of financial transaction if its participant or beneficiary is enlisted to the list of persons, related to terrorist activity, and within the same day to report about it to the Authorized Agency. Such suspension of financial transactions shall be performed for a period up to two working days.

The procedure for suspension of financial transactions shall be established within its competence by the entities of financial monitoring which provide regulation and supervision over entities of initial financial monitoring.

The Authorized Agency can take a decision on further suspension of such transaction up to five working days and is obliged to inform immediately about it the entity of initial financial monitoring and also law enforcement authorities, determined by the legislation. If the Authorized Agency takes no relevant decision during the period, envisaged by the part one of this Article, the entity of initial financial monitoring shall recommence execution of financial transaction.
The procedure for composition of the list of persons related to terrorist activity shall be determined by the Cabinet of Ministers of Ukraine. The reasons for enlisting of a legal or physical person to the relevant list shall be the following:

- sentence of court in force, concerning conviction of the physical person for committing crimes, envisaged by the Article 258 of the Criminal Code of Ukraine;
- information on organizations and physical persons related to terrorist organizations or terrorists, prepared by the UN Security Council;
- sentences of courts (court decisions), decisions of other competent agencies of foreign states concerning organizations and physical persons, related to execution of terrorist activity, acknowledged by Ukraine according to the international agreements of Ukraine.

List of persons, related to execution of terrorist activity, shall be introduced to the entities of initial financial monitoring by the Authorized Agency within procedure agreed with other entities of state financial monitoring”.

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

Article 13. Tasks and functions of the Authorized Agency

The following shall be the tasks of the Authorized Agency:

- collection, processing and analysis of the information on the financial transactions subject to financial monitoring;
- participation in implementation of the state policy in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;
- creation and support of operation of a single state information system on prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism;
- cooperation, interaction and information exchange with the state authorities, competent bodies of other countries and international organizations in the said sphere;
- representation of Ukraine, according to the established procedure, in international organizations dealing with prevention and counteraction to the legalization (laundering) of the terrorist proceeds and financing.

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

- make proposals on elaboration of legislative acts, take part, according to the established procedure, in elaboration of other regulations relating to prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;
- receive, at its request, the information essential for fulfillment of its tasks from the executive bodies, local self-government authorities and business entities;
clear with the executive bodies, other state authorities engaged in prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing;

submit, within its jurisdiction, relevant materials to law-enforcement bodies, in accordance with their competence, given the proofs that a financial transaction may involve the legalization (laundering) of the proceeds and terrorist financing and receives information as to the execution of its processing at all the stages of the criminal proceedings;

take part in international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of such proceeds and terrorist financing;

analyze the methods and financial patterns of the legalization (laundering) of the proceeds and terrorist financing;

conduct coordination and methodological provision of the activity of entities of financial monitoring on issues of prevention and counteraction to the legalization (laundering) of the proceeds from crime and terrorist financing, check the fulfillment by them of the requirements of the legislative acts in this sphere;

analyze the efficiency of measures taken by the entities of financial monitoring to prevent and counteract to the legalization (laundering) of the proceeds and terrorist financing;

assist detection of indications of using the proceeds in financial transactions;

ensure the realization of the unified state policy in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing and conducts interagency coordination of the activity of the state authorities in this sphere;

ensure recording of: financial transactions, about which information was received; the generalized materials submitted to the law enforcement bodies and the actions brought against them; data as to the execution of investigation and their adjudications; the confiscated assets; received and processed international requests about the interaction in the sphere of prevention and counteraction to the legalization (laundering) and terrorist financing;

provides explanation as for the application of legislative and other normative-legal acts in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing;

participate, on the instruction of the Cabinet of Ministers of Ukraine, in elaboration of relevant international treaties of Ukraine;

perform other functions pursuant to the tasks assigned to it.

The Authorized Agency can establish and liquidate its territorial divisions for performing its powers. Territorial divisions of the Authorized Agency do not have the status of legal entity and act on the basis of the regulation, which is approved by the Authorized Agency.

**Article 13¹. Political independence of the Authorized Agency.**
The Head of the Authorized Agency shall be appointed and discharged according to the procedure established by the laws.

The use of the Authorized Agency for party, group or personal interests shall be forbidden.

The activities of parties, movements and other civic unions having political purposes shall be forbidden within the Authorized Agency.

The membership of officials and personnel of the Authorized Agency in such unions shall be withdrawn for the term of their service or work under labor contract.

**AS AN EXCEPTION, PERSONNEL OF THE AUTHORIZED AGENCY WORKING UNDER LABOR CONTRACT MAY PARTICIPATE IN TRADE UNIONS.**

**Article 14. Rights of the Authorized Agency**

The Authorized Agency shall have the right:

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

- to receive, according to the procedure established by the laws, the information (including the information protected by bank or commercial secrecy provisions) required for fulfillment of its tasks from executive bodies, law-enforcement, local self-government authorities, enterprises and institutions;

- to receive, according to the procedure established by the laws, the information on elaboration and implementation of relevant measures from the law enforcement bodies which, pursuant to this Law, obtain generalized materials on financial transactions from the Authorized Agency;

- to provide access (including automatic access) to databases of other entities of the state financial monitoring and the state executive bodies in the manner prescribed by the laws;

- to conclude, in accordance with the procedure fixed by the law, international interdepartmental cooperation agreements with the relevant bodies of other countries;

- to issue normative-legal acts necessary for performing its tasks and functions as per Article 13 of this Law;

- with the purpose of performing coordination of the activity of entities of financial monitoring in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing, to verify the fulfillment by the entities of financial monitoring the requirements of the legal acts, to take in the established order measures of influence on the offenders of this legislation;

- to suspend for the term up to five working days the execution of financial transactions about which there are convincing grounds to consider that they are carried out with the aim of the legalization (laundering) of the proceeds, and also concerning which there is a suspicion with a motivation that they are linked, relate or aimed at terrorist financing in the cases if the
information about such financial transactions cannot be recognized as inadequate information. The procedure of suspension of transactions is established by the Cabinet of the Ministers of Ukraine and the National Bank of Ukraine.

Entities of the state financial monitoring and other state authorities are obliged to provide informational resources to the Authorized Agency for establishing by it and functioning of the Unified State Informational System in the sphere of prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing.

**Article 14-1. Special Fund of financing of the system of combating legalization (laundering) of the proceeds from crime and terrorist financing**

The funds and other assets which have been seized or confiscated as the result of carrying out a case of the legalization (laundering) of the proceeds of financing of terrorism, and which are subject to the return to Ukraine or to a foreign country, are distributed in compliance with separate international agreements about the confiscated assets or the proceeds from the allocations of these assets. The funds, received by Ukraine according to such an agreement, are accrued to a special fund of the state budget and are used for special-purpose financing of a system to counteract to the legalization (laundering) of the proceeds and financing of terrorism in compliance with the order established by the Cabinet of the Ministers of Ukraine.

**Section V. INTERNATIONAL COOPERATION IN THE AREA OF PREVENTION AND COUNTERACTION TO THE LEGALIZATION (LAUNDERING) OF THE PROCEEDS FROM CRIME AND TERRORIST FINANCING**

**Article 15. The principles of international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing**

International cooperation for the prevention and counteraction (laundering) of the proceeds and terrorist financing shall be carried out in accordance with the procedures established by the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), other international treaties of Ukraine, this Law and other laws and regulations.

A request for international cooperation in the sphere of prevention and counteraction to the legalization (laundering) of the proceeds and financing of terrorism may be refused or delayed only on the basis and with due observance of the provisions of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990).

**Article 16. Competence of state authorities concerning international cooperation in the area of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing**

The Authorized Agency, according to the international agreements in force or the reciprocity principle, shall conduct international cooperation with relevant agencies of foreign states in the area of exchange of experience and information, related to prevention and counteraction to legalization (laundering) of the proceeds from crime and terrorist financing.
The Authorized Agency shall disclose information with restricted access to the relevant agency of foreign state on the conditions of ensuring by the latter of its protection at the level of the national standards and its use exclusively for the purposes of criminal justice in cases on legalization (laundering) of the proceeds or terrorist financing.

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

The Ministry of Justice of Ukraine shall be entrusted with performance of international cooperation in the part of execution of court decisions concerning confiscation of the proceeds, while the General Prosecutor's Office of Ukraine shall be entrusted with execution of procedural actions in the framework of investigation of criminal cases on legalization (laundering) of the proceeds and terrorist financing.

Entities of state financial monitoring (except the Authorized Agency) shall on the grounds of international agreements of Ukraine conduct international cooperation with relevant agencies of foreign states concerning exchange of experience and information on regulation and supervision over the activity of financial institutions in the area of prevention and counteraction to the legalization (laundering) of the proceeds and terrorist financing.

The Authorized Agency and other entities of state financial monitoring shall within their competence cooperate with the Financial Action Task Force (FATF), the Egmont group and other international organizations, activity of which is directed on performance of international cooperation in the area of prevention to legalization (laundering) of the proceeds and terrorist financing.

Section VI. LIABILITY FOR VIOLATION OF THIS LAW AND REINSTATEMENT OF RIGHTS AND LEGITIMATE INTERESTS

Article 17. Liability for violation of provisions of this Law

The persons guilty of violation of provisions of this Law shall be subject to criminal, administrative, disciplinary and civil liability pursuant to the law. They may be deprived of the right to conduct certain kinds of activity pursuant to the laws.

The legal entities that conducted financial transactions for legalization (laundering) of the proceeds or financed terrorism may be liquidated by a court ruling.

A fine up to one thousand untaxed minimal incomes may be imposed on any entity of initial financial monitoring for its failure to comply with the requirements set by this Law. Provided no agreement on payment of fine has been reached, the decision on imposition of fine or denial of such imposition shall be made by court at the request of the authority that regulates the activity of a subject of initial financial monitoring and issues licenses or other kinds of special permits.
Repeated violation of this Law by entities of initial financial monitoring shall result, by court ruling, in restriction, suspension or termination of a license or any other special permit for certain kinds of activity in the manner prescribed by the laws.

**ARTICLE 18. REINSTATEMENT OF RIGHTS AND LEGITIMATE INTERESTS**

Upon a court order, the proceeds shall be confiscated by the State or returned to their owner whose rights and legitimate interests were violated, or their cost shall be compensated.

The agreements aimed at the legalization (laundering) of the proceeds and terrorist financing shall be considered null and void in accordance with the procedure prescribed by the law.

The entities of initial financial monitoring, their executives and other employees shall not be liable for the damage inflicted on natural persons and legal entities as a result of performance of their official duties during financial monitoring, provided they did so within the limits of their duties and in the manner prescribed by this Law.

The damage, inflicted on a legal entity or a natural person by illegal actions of the state bodies as a result of taking actions to counteract the legalization (laundering) of the proceeds and terrorist financing, shall be compensated from the State Budget of Ukraine.

**SECTION VII. FINAL PROVISIONS**

1. This Law shall come into force after six months from the date of its publication.

2. Until the laws of Ukraine and other regulations are brought in line with this Law, they shall apply only in the part not running counter to this Law.

3. Before the entry of this Law into force, the Cabinet of Ministers of Ukraine shall:
   - submit proposals to the Verkhovna Rada of Ukraine on making necessary amendments ensuing from this Law to other legislative acts;
   - harmonize its own regulations with this Law;
   - decide on the matters ensuing from this Law;
   - provide that the ministries and other central executive authorities revise their regulations that run counter to this Law;

4. The National Bank of Ukraine shall harmonize its regulations with this Law and submit its proposals regarding amendments ensuing from this Law and other legislative acts for review by the Verkhovna Rada of Ukraine.

5. Articles 5, 6, 7 and 8 of this Law shall apply to casinos, gambling houses and pawnshops after approval of relevant procedures by the Cabinet of Ministers of Ukraine, but no later than on 1 January 2004, and shall apply to other entities of initial financial monitoring from the moment of entry of this Law into force.

6. The Administrative Code of Ukraine shall be amended as follows:

   1) The Code shall be supplemented by Article 166⁹ of the following wording:

   "Article 166⁹. Violation of legislation on the prevention and counteraction to legalization (laundering) of the proceeds from crime"
Violation of requirements on identification of any person who conducts a financial transaction, violation of the procedure for registration of financial transactions subject to primary financial monitoring, failure to submit, untimely submission or submission of false information on such financial transactions to the specially authorized executive body in charge with financial monitoring, as well as failure to comply with the requirements for safekeeping of the documents related to identification of the persons that conduct financial transactions, and the documents related to financial transactions conducted by them,

shall be punishable by a penalty of fifty to one hundred untaxed minimum incomes of citizen imposed on officials of the entities of initial financial monitoring.

Disclosure of information submitted to the specially authorized executive body in charge of financial monitoring and of the fact that such information was submitted,

shall be punishable by penalty of one hundred to three hundred untaxed minimum incomes of citizens.”

2) In Article 221 and paragraph 1 of Article 294, numbers “166⁷ and 166⁸” shall be replaced with numbers “166⁷ to 166⁹”.

3) Subparagraph 1 of paragraph 1 of Article 255 shall be supplemented by the following sentences:
“Specially authorized executive body in charge of financial monitoring (Article 166⁹); the State Commission for Securities and Stock Exchange (Article 166⁹),”

and, in subparagraph "The National Bank of Ukraine" (Articles 164¹¹, 166⁷, 166⁸), the numbers “166⁷ and 166⁸” shall be replaced with the numbers “166⁷ to 166⁹”.

7. The Law of Ukraine on Banks and Banking shall be amended as follows:

1) In Article 62:
the following subparagraph shall be added to paragraph 1:

“5) to the Specially Authorized executive Agency in charge of financial monitoring at its request in writing in matters related to financial transactions subject to financial monitoring pursuant to the legislation on the prevention and counteraction to the legalization (laundering) of the proceeds from crime.”

the words “to the special anti-organized crime units” in paragraph 8 shall be replaced by the words “to the Specially Authorized executive Agency in charge with financial monitoring.”

2) Subpoint 2 of point 7 of section VII is excluded.

President of Ukraine

Kyiv, 28 November 2002

L. Kuchma

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