ECONOMIC AND MONETARY COMMUNITY OF CENTRAL AFRICA

CENTRAL AFRICA MONETARY UNION

MINISTERIAL COMMITTEE

Regulation N° 01/CEMAC/UMAC/CM

on the Prevention and Suppression of Money Laundering and the Financing of Terrorism and Proliferation in Central Africa

THE MINISTERIAL COMMITTEE

Given the Treaty establishing the Central Africa Economic and Monetary Committee (CEMAC) of 16 March 1994 and the Addendum of 5 July 1996 on the Community's Institutional and Judicial system;

Given the Convention of 5 July 1996 governing the Economic Union of Central Africa (UEAC);

Given the Convention of 5 July 1996 governing the Monetary Union of Central Africa (UMAC);

Given the Convention of 5 July 1996 governing the Community's Court of Justice;

Given the Additional Act No 09/00/CEMAC-086/CCE of 14 December 2000 on the creation of a Task Force on Money Laundering in Central Africa (GABAC);

Given the Additional Act No 26/CEMAC/-CCE-11 of 6 November 2012 on the appointment of MBOCK Désiré Geoffroy as Permanent Secretary of GABAC;

Given the Recommendations of the Financial Action Task Force (GAFI);

Given Regulation No 02/10 of 2 October 2010 on the revision of Regulation No 01/CEMAC/UMAC/CM of 4 April 2003 on the prevention and suppression of money laundering and financing terrorism in Central Africa;

Given Regulation No 02/00/CEMAC/UMAC/CM of 29 April 2000 on harmonising foreign exchanges regulations in the CEMAC Member States;

Given Regulation No 02/CEMAC/UMAC/CM of 14 April 2002 on the organisation and operation of GABAC, as amended on 2 October 2010;

Given Regulation No 02/03/CEMAC/UMAC/CM of 28 March 2003 on the payment systems, methods and irregularities in Central Africa;

Given Regulation COBAC R-2005/01 of 1 April 2005 on the diligence of the Establishments liable on matters of combating money laundering and financing terrorism in Central Africa;

Given the conclusions of the ad hoc Technical Committee of experts extended to representatives of the presidencies of the Republic, Ministers responsible for Finance,

Security, Justice, Foreign Affairs and the NAFI of Member States, BEAC, COBAC, OHADA and CIMA, as approved at the GABAC annual meeting;

Considering that, due to their transnational character and the serious threat that results for the financial and economic system and human rights, the phenomena of money laundering and financing terrorism and proliferation resulted in the mobilisation, without precedent, of the international Community which aimed at implementing a joint and cohesive strategy, in particular the adoption of modern and suitable judicial and institutional methods for combating the above, and on cooperation development;

Considering that, due to the measures to combat money laundering and financing terrorism and proliferation in force in the majority of Member States, criminals are inclined to move these activities to States where the control devices remain unsuitable or insufficient, exploiting, in particular, current globalisation, technological progress, free movement and communication;

Considering, consequently, the need to increase control devices against money laundering, financing terrorism and proliferation in the CEMAC States by adopting a Community legal text to fill the gaps in terms of preventing and suppressing these phenomena, as underlined, in particular, in the recommendations and conclusions of the Awareness-raising seminars held in the Economic and Monetary Community of Central Africa and the joint assessments made by the CEMAC States' systems;

Considering, furthermore, that the credibility and full effect of the fight against money laundering and financing terrorism and proliferation in Central Africa requires the introduction, in the Member States, of a legal framework inspired by the international norms and standards related thereof, including, specifically, those established by the following instruments:

- the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in Vienna on 19 December 1988;
- the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 8 December 1990;
- the Declaration of the Basel Principle for the prevention of criminal use of the banking system for the purpose of money laundering of funds of criminal origin, drawn up by the committee of rules and controls for banking operations;
- the International Convention for the Suppression of Financing Terrorism adopted by the United Nations General Assembly of 9 December 1999;
- the United Nations Convention against Transnational Organised Crime, adopted in New York on 15 November 2000, called the Palermo Convention and its additional protocols;
- Resolutions No 1373 (2001), 1267 (1999) and 1390 (2002) and the subsequent resolutions adopted by the United Nations Security Council;

Seeking to ensure harmonisation of the CEMAC Member States' legislation on matters of preventing and combating money laundering and financing terrorism and proliferation;

Given the assent of the BEAC Board of Directors, given during the meeting on the 24th March 2016.

On the proposal of the Permanent Secretary of GABAC

ADOPT THE REGULATION WHICH READS AS FOLLOWS:

TITLE I: GENERAL PROVISIONS

CHAPTER I: definitions

First Article:

For the purposes of this Regulation, the following definitions shall apply:

1. **Accomplice**: any person who, either by instruction, provocation, provision of means, help and assistance, or by any other means, facilitates the commissioning of one of the acts incriminated by this Regulation;

2. **Actors in the Regional Financial Market**: the central organisations (Stock Exchanges, Central Depositories/Settlement Banks) and commercial actors (Management and Intermediation Companies, Holding Companies, Advisers on Stock Investments, Business Introducers and Agents);

3. **Additional act**: Additional act No 9/00/CEMAC-086/CCE 02 of 14 December 2000 on the creation of GABAC;

4. **BEAC or Central Bank**: Bank of Central African States;

5. **Bearer shares**: the negotiable instruments which assign equity participation of a legal person to the person who holds a bearer share certificate;

6. **Beneficial owner**: natural persons who ultimately own or control a customer and/or the natural or legal person on whose behalf a transaction is being conducted. Also included shall be persons who exercise, ultimately, effective control of a legal person or a legal arrangement;

7. **Business relations**: a situation within which a person, referred to in Article 7 of this Regulation, engages in a professional or commercial relationship which is intended, at the time when the contract is established, for a specific period of time. The business relationship could be provided for in a contract, in accordance with which several successive operations will be carried out between the co-contractors or which creates continuous obligations upon them. A business relationship is also sealed when, in the absence of said contract, a client benefits in a regular way from the involvement of the aforementioned person for carrying out several operations or one continuous operation or, with regard to the persons referred to in point 4 of Article 6 below, for carrying out a legal task;

8. **Cash couriers**: persons who carry out the physical cross-border transportation of cash or negotiable instruments to a carrier or who knowingly lend their support to carrying out these operations;

9. **COBAC:** Banking Commission of Central Africa;

10. **Community or CEMAC**: Economic and Monetary Community of Central Africa;

11. **Competent Authority**: an authority which, pursuant to the legislation of the Member State, is authorised to carry out or order the acts and measures provided for by this Regulation;

12. **Confiscation**: permanent deprivation of a person of property in relation to one of the offences provided for in this Regulation or a national law, or property of an equivalent value, on a ruling by a competent court, a supervisory authority or any other competent authority;

13. **Controlled delivery**: the technique of allowing illicit or suspect consignments to pass through the territory of one or several States with the knowledge and under the supervision of the competent authorities of these States, with a view to the investigation of an offence and the identification of persons involved therein;

14. **Convention**: the United Nations Convention dated 9 December 1999 for the suppression of financing terrorism;

15. **Correspondent banking relationship**: the provision of banking services by a bank called the "correspondent bank" to another bank called the "customer bank";

16. **Criminal activity**: all criminal or tortious acts constituting a predicate offence of money laundering, financing terrorism and proliferation within the meaning of the law of the State or the international legal instruments;

17. **Criminal organisation**: any structured cartel or association with the aim of committing, specifically, offences for financing terrorism;

18. **Dealings in foreign notes and coins**: the immediate exchange of bank notes or coins denominated in different currencies, carried out by transferring or delivering cash, against settlement by another method of payment denominated in another currency;

19. **Designated categories of offences**:

- participation in an organised criminal group and racketeering;
- terrorism, including terrorist financing;
- trafficking in human beings and smuggling illegal migrants;

- sexual exploitation, including enticing and exploiting children;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit arms trafficking;
- illicit trafficking in stolen and other goods;
- corruption and misappropriation of funds by persons holding a public office;
- fraud;
- counterfeiting currency;
- counterfeiting of property (including money and bank notes) and piracy of products;
- illicit trade in organs;
- environmental crime;
- murder and grievous bodily injury;
- kidnapping, illegal restraint and hostage-taking;
- robbery or theft;
- smuggling (including relating to customs and excise taxes and duties);
- taxation offences (connected with direct and indirect taxes);
- extortion; forgery;
- piracy;
- insider trading and market manipulation.

20. **DNFBP:** Designated Non-Financial Businesses and Professions:

- casinos, including internet casinos;

- estate agents and real estate brokers;

- dealers in precious metals and dealers in precious stones and other dealers in high value goods;

- lawyers, notaries and other independent legal professionals when they prepare for, carry out or engage in transactions for their customer concerning the following activities:

  - buying and selling of real estate;
  - management of client money, securities or other assets,
  - management of bank, savings or securities accounts;
  - organisation of contributions for the creation, operation or management of companies or creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

- independent accountants;

- trust and company service providers, that are not covered elsewhere in this Regulation, providing the following services to third parties on a commercial basis, by:

- acting as a formation, registration and management agent of legal persons, specifically of trusts;

- acting as, or arranging for another person to act as, a director or secretary of a company, a partner in a partnership, or a similar position in relation to other legal persons;

- providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;

- acting as, or arranging for another person to act as, a trustee of an express trust or a similar position in relation to other legal persons;

- acting as, or arranging for another person to act as, a nominee shareholder for another person.

Other companies or professions which could be designated by the competent authority;

21. **Financial beneficiary**: economic beneficiary, specifically the true owner of an asset or the person on whose behalf the client acts;

22. **Financial institution**: any person or entity that conducts as a business one or more of the activities or operations listed below for or on behalf of a customer:

    - acceptance of deposits and other repayable funds from the public, including private banking activity;

    - lending, including consumer credit, mortgage credit, recourse or non-recourse factoring, financing commercial transactions;

    - financial leasing, with the exception of financial leasing related to consumer products;

    - transfer of money or value;

    - issuance and management of means of payment;

    - financial guarantees and commitments;

    - trading in:

        - money market instruments;
        - foreign exchange;
        - exchange, interest rate and index instruments;
        - transferable securities;
        - commodity futures trading;

- participation in securities issues and the provision of financial services related to such issues;
- individual and collective portfolio management;
- safekeeping and administration of cash or liquid securities on behalf of other persons;
- otherwise investing, administering or managing funds or money on behalf of other persons;
- underwriting and placement of life insurance and other investment related insurance;
- money and currency changing;
- any other activities or operations determined by the competent authority.

The following are specifically designated under the term of financial institutions:

1) banks and financial bank-like establishments;
2) post office financial services, as well as deposit and consignment offices or the organisations in lieu thereof in the Member States;
3) life insurance and reinsurance companies, and insurance and reinsurance agents;
4) mutual funds and collective investment funds, as well as the structures or organisations not constituted in the form of a mutual or collective fund, but whose purpose is to collect savings and/or grant credit;
5) the central structures of the Regional Financial Market (Central Africa Stock Exchange, Central Depository/Settlement Bank), as well as the Management and Intermediation Companies, Holding Companies and all other commercial actors with the status of a financial organisation, within the meaning of the legal texts governing the Regional Financial Market;
6) Undertakings for Collective Investment in Transferable Securities (UCITS);
7) Investment Companies with Fixed Capital;
8) authorised money and currency exchange;

23. **Financing proliferation**: financing the proliferation of weapons of mass destruction;

24. **Financing terrorism**: the offence defined in Article 9 of this Regulation;

25. **FIU**: Financial Intelligence Unit;

26. **Foreign financial institutions**: financial institutions established in a third State;

27. **Freezing**: prohibiting the transfer, conversion, disposition or movement of funds or other property on the basis of a decision of a judicial or competent authority, under the framework of a freezing mechanism for the duration of the validity of said measure, or until a confiscation or release decision is taken by a competent jurisdiction;

28. **Funds and other financial resources**: all the financial assets and economic benefits of any nature whatsoever, irrespective of how they were acquired, including but not exclusive to, cash, cheques, claims on money, bills, payment orders and other payment instruments, deposits in banks and financial establishments, balances on accounts, debts and debt securities, traded securities and debt instruments, specifically shares and other participating securities, certificates of titles, bonds, promissory notes, warrants, unsecured securities, derivatives contracts, interest, dividends or other shares revenue or capital gains earned on assets, credit, the right to compensation, assurances, performance bonds or other financial commitments, letters of credit, bills of lading, sales contracts, any document attesting the detention of portions of funds or financial resources and any other export financing instrument;

29. **GABAC**: Task Force on Money Laundering in Central Africa;

30. **Instrument**: any property used, or to be used, in whole or in part, and in any way whatsoever, to commit a criminal offence;

31. **Judicial authority**: a body or person authorised, pursuant to the legislation of the Member State, to perform acts for proceedings or examination or to deliver court rulings;

32. **Legal arrangements**: express trusts or similar legal arrangements;

33. **Listed persons**: natural or legal persons, as well as any organisation referred to on the list established by the Sanctions Committee, pursuant to the United Nations' Resolutions relating to the prevention and suppression of terrorist acts or any other lists drawn up by the community or national authorities or of a third country;

34. **Member State**: the State party to the Treaty on the Economic and Monetary Community of Central Africa;

35. **Ministerial Committee:** Ministerial Committee of the Monetary Union of Central Africa;

36. **Monetary authority:** Ministry responsible for money and credit in the Member State;

37. **Money laundering**: offence defined in Article 8 of this Regulation;

38. **Money or value transfer service**: a financial service for which the activity consists of accepting cash, cheques or any other payment instrument or value deposit instead of giving and paying an equivalent sum in cash or any other form to a beneficiary through the means of a communication, a message, a transfer or a compensation system to which the money or value transfer service belongs. This service may be provided by natural or legal persons with recourse to the regulated financial system, or informally;

39. **NAFI:** National Agency for Financial Investigation

40. **Non-profit organisation or body**: any association, foundation or non-governmental organisation formed in accordance with the legislative and regulatory texts in force, with the principal aim of collecting and distributing funds for charitable, religious, cultural, educational, social or fraternal purposes or for other types of good deeds;

41. **Occasional customer**: any person who contacts one of the persons covered under Articles 6 and 7 of this Regulation, with the exclusive aim of preparing or carrying out a specific operation or to be assisted in preparing or carrying out such an operation, whether it is carried out in one sole operation or several operations which appear to be connected to each other;

42. **PEP**: Politically Exposed Person:

- **Foreign PEPs**: natural or legal persons who carry out or who have carried out prominent public functions in a Member State or a third State, specifically:

a) Heads of State or Government, Ministers, Deputy Ministers and Secretaries of State;

b) family members of Heads of State;

c) Director-Generals of ministries;

d) members of parliament;

e) leaders of political parties;

f) members of supreme courts, constitutional courts or any other supreme courts, as well as other high-ranking magistrates;

g) managers or members of the management body of a central bank; ambassadors, chargés d'affaires, Consul-General and Consul-Missus;

h) flag officers and first officers in the public forces, including military, gendarme and high-ranking police officers;

i) members of administrative, management and supervisory bodies of public or semi-public companies;

j) manager or an international public institution created by a treaty;

k) family members of a PEP, specifically:

- a spouse;

- any partner considered as equivalent to a spouse;

- descendants and their spouses or partners;

- relatives in ascending line;

- privileged collateral relatives;

-persons known to be closely associated.

- **National PEPs**: natural persons who carry out or who have carried out prominent public positions in one of the CEMAC States, specifically the natural persons referred to in a) to k) above;

- **PEPs of international organisations**: persons who carry out, or who have carried out, prominent positions within or on behalf of an international organisation, specifically members of senior management, including directors, deputy-directors and members of the Board of Directors and all other persons holding equivalent roles;

43. **Perpetrator**: any person who commits one of the incriminating acts specified in this Regulation;

44. **Predicate offence**: any offence, even that committed on the territory of another Member State or on that of a third State, which generates proceeds from a criminal activity;

45. **Proceeds from criminal activity**: all funds drawn, directly or indirectly, from the commissioning of an offence such as those provided for in Article 9 of this Regulation, or obtained, directly or indirectly, by committing said offence;

46. **Proliferation**: activity aimed at manufacturing, procuring, developing, possessing, transporting, transferring or using nuclear, chemical or biological arms and their vectors, specifically for terrorism purposes;

47. **Property**: assets of any nature, corporeal or incorporeal, moveable or immoveable, fungible or non fungible, as well as legal documents or instruments in any form whatsoever, including electronic or digital, attesting to the property of these assets and the rights thereof;

48. **Prosecuting authorities**: an authority which, pursuant to the legislation of the Member State, is invested, even if only on an occasional basis, with the power to bring an action for enforcement of a sentence or detention order;

49. **Public authorities**: national administrations and local authorities in the Union, and their public institutions;

50. **Requested State**: State to which a request for cooperation is addressed, pursuant to a previously established bilateral or multilateral agreement;

51. **Requesting State**: the State which, during proceedings, sends a request to another State pursuant to a bilateral or multilateral agreement;

52. **Seizure**: prohibiting the transfer, conversion, disposition or movement of property, or temporarily assuming custody or control of the property, on the basis of a decision of a judicial or other competent authority;

53. **Serious offence**: an act constituting an offence punishable by a custodial sentence of no less than three (3) years;

54. **Shell bank**: a bank which is established and accredited in a State where it does not have a physical presence and which is not affiliated to a regulated financial group subject to comprehensive and effective monitoring. The expression 'physical presence' denotes the presence of a management or decision-making power in a country. The simple physical presence of a local agent or junior personnel does not constitute a physical presence;

55. **State or government facility**: any facility or any means of transport, whether permanent or temporary, which is used or occupied by State representatives, members of the Government, Parliament or the judiciary, State agents or personnel or any other public authority or body, or by agents or personnel from an intergovernmental organisation, as part of their official duties;

56. **Supervisory authorities**: national or community authorities authorised, pursuant to a law or regulation, to supervise natural or legal persons;

57. **Terrorist**: any natural person who:

    1) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;

    2) participates as an accomplice in terrorist acts;

    3) organises or directs others to commit terrorist acts;

    4) contributes to the commissioning of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;

58. **Terrorist act**:

a) an act which constitutes an offence under the following treaties and in accordance with their respective definitions: (i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970), (ii) Convention for the suppression of Unlawful acts Relating to International Civil Aviation (1971), (iii) Convention on the prevention and punishment of crimes against internationally protected persons, including agents (1973), (iv) International Convention Against the Taking of Hostages (1979), (v) Convention on the Physical Protection of Nuclear Material (1980), (vi) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988), (vii) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988), (viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (2005), (ix) International Convention for the Suppression of Terrorist Bombings (1997) and (x) Convention for the suppression of financing terrorism (1999);

b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act.

59. **Terrorist organisation**: structured association of more than two persons, existing for a period of time and acting in concert with the aim of:

1) committing, or attempting to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;

2) participating as an accomplice in terrorist acts;

3) organising or directing others to commit terrorist acts;

4) contributing to the commissioning of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

The terms "structured association" denotes an association which was not formed randomly in order to immediately commit an offence and which does not necessarily have formally defined roles for its members, continuity in its composition or a developed structure.

60. **Third State**: any State other than a Member State;

61. **UCITS:** Undertakings for Collective Investment in Transferable Securities;

62. **Wire transfer**: any transaction carried out on behalf of an instructing party, natural or legal person, through a financial institution by electronic means with a view to making an amount of money available to a beneficiary person at another financial institution. The instructing party and the beneficiary could be one and the same person.

Chapter II: Subject and scope of the Regulation

Section I: Subject and application of the Regulation in space

Article 2: Subject

The subject of this Regulation is to define the rules for preventing, detecting and suppressing money laundering and the financing of terrorism and proliferation within the CEMAC States, in order to prevent the use of the Community's economic, financial and banking routes for the purpose of recycling capital or any other property from illegal origin.

It determines the measures aimed at detecting and discouraging money laundering and the financing of terrorism and proliferation, as well as facilitating investigations and related proceedings.

Article 3: Illicit origin of money or property

For the application of this Regulation, the origin of money and property is illicit when they originate from the commissioning of one of the offences detailed in point 20 of Article 1 above or any other offence provided for in national law.

Article 4: Application of the Regulation in space

The provisions of this Regulation shall apply to the offences described in Article 8, 9 and 10 below, attributable to any natural or legal person or any organisation, detained within the Member States, including those committed abroad.

Article 5: Application of the Regulation in time

The offences covered by this Regulation are imprescriptible.

Section II: Scope of the Regulation

Article 6: Persons subject to the obligations of the fight against money laundering and financing terrorism and proliferation

The provisions of this Regulation shall apply to any natural or legal person who, as part of his/her profession, carries out, monitors or advises on operations resulting in deposits, exchanges, investments, conversions or any other movement of funds, specifically:

1) the financial administrations (Customs, Taxation and the Treasury) and those responsible for the regulation, supervision and control of financial institutions in the Member States;

2) BEAC;

3) financial institutions;

4) service providers, companies and trusts;

5) money exchange;

6) insurance companies;

7) estate agents, including rental agents;

8) other natural or legal persons negotiating property, only insofar as the payments are made or received in cash for an amount of no less than five million francs (CFA 5,000,000), whether the transaction is carried out in one go or in the form of several, apparently connected, operations;

9) operators of voluntary sales of furnishings to public auctions;

10) sports agents;

11) gambling and betting providers;

12) business Introducers to financial institutions;

13) persons usually engaged in the trade in, or organising the sale of, precious stones, precious metals, antiques and works of art;

14) companies transporting and transferring funds and securities;

15) security companies;

16) owners, directors and managers of casinos and gambling establishments, including national lotteries;

17) travel agents;

18) car dealers;

19) non-profit making organisations;

20) hardware stores;

21) traders in construction materials;

22) customs-house brokers, freight forwarding companies, stevedoring companies and all the service providers involved in the import-export chain.

Article 7: Other persons subject to these obligations

The following persons shall also be subject to the obligations of the fight against money laundering and financing terrorism and proliferation:

1) external auditors, accounting experts and tax advisers;

2) lawyers, notaries, bailiffs and other members of the independent legal professions, specifically court-appointed administrators, judicial agents and judicial auctioneers;

The persons referred to in point 2 above, shall be subject to the provisions of titles II and III of this Regulation when, as part of their professional activity:

a) they participate, in their customer's name or on the latter's behalf, in any financial or real-estate transaction or act on behalf of a trust or a similar structure;

b) they assist their customer in preparing or carrying out transactions relating to:

- purchasing or selling immovable goods or business enterprises;
- managing funds, securities or other shares belonging to the customer;
- opening or managing bank accounts, savings accounts or portfolios;
- organising contributions for creating, managing or leading companies;
- creating, managing or leading companies, trusts or similar legal arrangements;
- creating or managing endowments.

Lawyers, in carrying out an activity relating to the transactions referred to in point b) above, shall not be subject to the provisions of Titles I and II of this Regulation when the activity is connected with legal proceedings, that the information they hold, either received or obtained before, during or after these proceedings, including as part of advice relating to how to engage or avoid such proceedings.

Lawyers and other members of the independent legal professions (notaries, bailiffs, court-appointed administrators and judicial auctioneers), in carrying out an activity relating to the transactions referred to in point b) above, shall not be subject to the provisions of Chapter III of Title II of this Regulation, when they provide legal consultations, unless they have been provided for the purposes of money laundering or financing terrorism or with the knowledge that the client is requesting them for the purpose of money laundering, and financing terrorism and proliferation.

Accounting experts, as well as employees authorised to carry out the profession of a chartered accountant, in application of the law, shall not be subject to the provisions of

chapter III of Title II of this Regulation, when they provide legal and taxation consultations, unless they have been provided for the purposes of money laundering or financing terrorism or with the knowledge that the client is requesting them for these purposes.

A Member State may, based on the risks presented by a profession, register said profession on the list of professions subjected, listed above.

Chapter II: Incrimination of money laundering or financing terrorism and proliferation

Article 8: Incrimination of money laundering

For the purposes of this Regulation, one of the actions listed hereafter, committed intentionally, shall constitute money laundering:

a) converting or transferring property, by any person who knows that the property originates from criminal activity or from participation in a criminal activity, with the aim of concealing or disguising the illegal origin of said property or of helping any person involved in this activity from escaping the legal consequences of these acts;

b) concealing or disguising the nature, origin or location of the provision, movement or the ownership of property or the rights related thereof, by any person who knows that this property originates from criminal activity or from participation in criminal activity;

c) acquiring, holding or using property when the person benefiting from it knows at the moment when s/he receives it that the property originates from criminal activity or from participation in criminal activity;

d) participating in one of the acts referred to in points a), b) and c), the fact of associating to commit the act, to help or incite someone to commit it, or to advise them to this end, or to facilitate the performance of such an act.

It is money laundering, even if the activities at the origin of the property to be laundered are carried out on the territory of another Member State or that of a third State or which have not resulted in prosecution nor a conviction in that State.

The knowledge or intention of the elements of activities referred to above, may be inferred from objective factual circumstances. The proof of the legality of the origin of the property in question shall be incumbent on the person prosecuted.

Article 9: Incrimination of financing terrorism

For the purposes of this Regulation, financing terrorism consists of the act by any legal or natural person, by any means whatsoever, directly or indirectly, illegally or deliberately, to provide or collect funds with the intention of having them used, or knowing that they will be used, in whole or in part, either;

a) with a view to commissioning one or several terrorist acts, as defined by Article 1, point 58 a) and b);

b) with a view to commissioning, through a terrorist organisation, one or several terrorist acts;

c) with a view to commissioning one or several terrorist acts, by a terrorist or a group of terrorists;

d) with a view to providing support to a terrorist or a terrorist group.

The offence of financing terrorism shall be established and a criminal penalty incurred even if the planned terrorist acts were neither attempted or used, or if the perpetrators of acts to finance terrorism reside in a different territory to that of the perpetrators of the acts of terrorism. It shall also be established even if the funds provided or collected are of legal origin.

The criminal will shall be inferred from objective factual circumstances.

Article 10: Incrimination of financing of proliferation

For the purposes of this Regulation, any act with the purpose of providing funds or financial services which are used as a whole or in part to manufacture, procure, develop, possess, export, tranship or transfer for the brokerage, storage or use of nuclear, chemical or biological arms and their vectors and related elements shall constitute offences against the national legislative provisions and, if applicable, international obligations.

Article 11: Refusal of any justification

No consideration of a political, philosophical, ideological, racial, ethnic or religious nature, nor any other reason, shall be taken into account to justify the commissioning of one of the offences referred to in Articles 8, 9 and 10 above of this Regulation.

Chapter IV - Risk assessment

Article 12: Opinion of the Regulatory Authorities

The supervisory and monitoring authorities of the Community shall provide a joint opinion on the risks of money laundering and terrorist financing within the Community's internal market.

This opinion will be issued within a period of two (2) years from the entry into force of this Regulation. The opinion will be periodically reissued on the basis of reappraisals of the risks of money laundering and terrorism financing.

The opinion will be made available to the Task Force on Money Laundering in Central Africa (GABAC), the National Agency for Financial Investigation (NAFI) and parties under obligation by virtue of this Regulation, in order to assist each one, insofar as

relevant, in the identification, management and mitigation of the risks of money laundering and terrorism financing.

The supervisory and self-regulatory authorities shall ensure the implementation of mechanisms by the private sector for the identification, assessment and understanding of the risks of money laundering and terrorism financing to which their business sector is exposed.

Article 13: National assessment of risks

The competent authority of each State shall take appropriate measures for the identification, assessment, understanding and mitigation of the risks of money laundering and terrorism financing to which the State is exposed, and shall keep its assessment up to date.

Each Member State shall designate an authority with a mandate for coordinating the national response to the risks stated in the first paragraph. All competent authorities, self-regulatory bodies, financial institutions and DNFBP will be informed of the results of the risk assessment.

Each Member State shall apply a risk-based approach for the allocation of resources and the implementation of measures in order to prevent or mitigate money laundering, terrorism financing and proliferation financing.

Article 14: Risk assessment measures issued by parties under obligation

Parties under obligation shall take appropriate measures for the identification and assessment of the risks of money laundering, terrorism financing and proliferation financing to which they are exposed, by considering risk factors, such as customers, countries or geographical areas, products, services, transactions or delivery channels. These measures will be proportional to the nature and size of the party under obligation.

The assessments stipulated in the first paragraph will be documented, kept up to date and made available to supervisory, regulatory and monitoring bodies, National Agencies for Financial Investigation and competent authorities.

Parties under obligation must have policies, procedures and controls for the effective mitigation and management of the risks of money laundering, terrorism financing and proliferation financing, which have been identified by the Community, Member States and parties under obligation. These policies, procedures and controls must be proportional to the nature and size of the party under obligation.

The policies, procedures and controls stated in paragraph 3 will include, in particular:

- the preparation of internal policies, procedures and controls, especially in relation to customer due diligence, reporting, storage of documents and records, internal supervision, compliance management (including, where justified by the

size and nature of the business, the appointment of a compliance supervisor at the executive level) and staff vetting;
- an independent auditor with the task of testing the policies, procedures and controls stipulated in the above sub-paragraph, where considered appropriate due to the size and nature of the businesses;

Parties under obligation must obtain the authorisation of senior management for the policies, procedures and controls that they apply. Said policies, procedures and controls are subject to tracking and upgrading, where required.

TITLE II: PREVENTION OF MONEY LAUNDERING, TERRORISM FINANCING AND PROLIFERATION FINANCING

Chapter I: General prevention provisions in relation to cash and bearer negotiable instruments

Article 15: Obligation to declare and disclose the physical cross-border transportation of cash and bearer negotiable instruments

Any person entering a Member State of the CEMAC from a third-party State or departing such a Member State with destination for a third-party State, must declare amounts of cash equal to or greater than 5 million (5,000,000) CFA francs or its equivalent in foreign currencies to the competent authority of the Member State at the point of entry or departure of the country.

The competent authorities of the relevant Member State shall identify the carrier of cash and bearer negotiable instruments that reach the threshold stipulated in the first paragraph and will demand, if necessary, supplementary information on the origin of said cash or bearer negotiable instruments from the carrier.

The obligation to declare will not be deemed fulfilled if the information provided is incorrect or incomplete.

Any person who provides a false declaration or disclosure shall be liable to penalties stipulated by the regulations in force.

The competent authorities may, where appropriate, seize cash or bearer negotiable instruments that are likely to be connected to money laundering or terrorism financing, for a period no longer than seventy-two (72) hours.

The competent authority shall seize the entire amount of non-declared cash in the event of failure to declare or of a false declaration, in accordance with Articles 130 and 131 of this Regulation.

Article 16: Prohibition on paying certain debts in cash or by bearer negotiable instruments

Without prejudice to the provisions of Article 17, a debt equal to or greater than five million CFA francs may not be paid by means of cash or bearer negotiable instruments.

The payments, stated hereafter, must be made by means of a bank transfer, postal order or cheque, when they relate to a sum equal to or greater than the reference amount set by a directive of the BEAC or by an Order of the National Monetary Authority of each State:

1) remunerations, compensations and other monetary payments owed by the State or its divisions to working or non-working civil servants, agents, other staff or their families as well as to service providers;

2) taxes, levies and other monetary payments owed to the State or to its divisions. The provisions of the first and second paragraphs above do not apply:

    i. to payments made by persons who are incapable of being bound by a cheque or other means of payment as well as by those persons who do not hold a deposit account;

    ii. to payments made between natural persons who are not acting on the basis of professional necessity.

Article 17: Prohibition on paying real property transactions in cash

The sale price of real property whose amount is greater than three million CFA francs may be settled only by means of a transfer or cheque.

Article 18: Obligation to report transactions made in cash or with bearer negotiable instruments

The parties under obligation listed in Articles 6 and 7 of this Regulation must report to the NAFI those cash transactions equal to or greater than five million (5,000,000) CFA francs, whether by means of a single transaction or several seemingly connected transactions.

The provisions stipulated in the first paragraph shall not apply to cash deposits made by a person or a company whose nature of activity requires the usage of such a procedure, notably public transport companies, supermarkets and petrol stations.

Notwithstanding the exemption provided in paragraph 2, the financial institutions and the DNFBP shall perform enhanced due diligence on cash deposits. They shall report to the NAFI any deposit whose amount, whether in a single transaction or in several seemingly connected transactions, is unusual or is not related to the activity in question.

Article 19: Amendment of amounts

The amounts stated in Articles 15 to 18 and in Articles 32 and 35 may be amended by means of a decision by the Ministerial Committee upon the proposal of the Governor of the BEAC. Such amendments must be published in the Official Gazette of the Community and in the Official Gazette of the Member States.

Article 20: Compliance with the regulations on foreign financial relations

Foreign exchange transactions, movements of capital and payments of any kind between a resident and a non-resident must be performed in accordance with the provisions of the applicable foreign exchange regulations.

Chapter II: Due diligence in relation to customers

Section I: General provisions

Article 21: Conditions prior to entering into business relations

Prior to entering into business relations with a customer or to assisting one with the preparation or execution of a transaction, the parties under obligation by virtue of this Regulation shall identify the customer and, where appropriate, the beneficial owner of the business relations by adequate means and also verify the identification details on production of any written proof.

Said parties shall identify, under the same conditions, occasional customers and, where appropriate, the beneficial owner of the business relations, within the meaning of this Regulation.

Notwithstanding the first paragraph of this Article, where the risk of money laundering and terrorism financing seems low in the sense of this Regulation, the verification of the customer's identity and, where appropriate, of the beneficial owner's identity may be performed during the establishment of the business relations.

The legal representatives and directors of gambling operators shall comply with these obligations by applying the measures stipulated in Article 28.

Article 22: Continuous due diligence on business relations

Prior to entering into business relations with a customer, the parties referred to in Articles 6 and 7 of this Regulation shall collect and analyse the identification details, including the details stated in the list prepared by a competent authority to this end, which are necessary for knowing the customer as well as the purpose and nature of the business relations, for the purposes of assessing the risks of money laundering and financing terrorism.

Throughout the entire duration of the business relations, said parties shall collect, update and analyse the identification details, including the details stated in the list prepared by a competent authority to this end, which will continue to provide

sufficient knowledge of their customer. The collection and storage of this information must be performed in line with the objectives of assessing the risk of money laundering and terrorism financing, and of suitable monitoring of such risk.

At all times, said parties must be capable of justifying to the supervisory authorities the suitability of the due diligence implemented against the risks of money laundering and terrorism financing presented by the business relations.

Article 23: Continuous due diligence on all customer transactions

The parties referred to in Articles 6 and 7 of this Regulations must perform continuous due diligence on all business relations and carefully scrutinise executed transactions for the purpose of ensuring that such transactions correspond to what they know of their customers, and the commercial activities, risk profile and, where appropriate, source of funds of the customers.

The holding of anonymous accounts or of accounts under false names is prohibited.

Article 24: Obligation in relation to AML/CFT prevention measures

The parties referred to in Articles 6 and 7 of this Regulation must take specific measures that are adequate for preventing money laundering, the financing of terrorism and the financing of proliferation in the cases where they maintain business relations or execute transactions with a customer who is not physically present for identification purposes.

Article 25: Obligation to establish risk management systems

The parties referred to in Articles 6 and 7 of this Regulation must have suitable risk-management systems for determining whether the customer is a politically exposed person and, where appropriate:

- obtain authorisation from senior management prior to forming or continuing business relations with the customer;
- take all reasonable measures for identifying the origin of the funds or property;
- ensure enhanced, continuous monitoring of the business relations.

The methods for fulfilling this obligation will be specified by decision of the Ministerial Committee upon the proposal of GABAC in collaboration with the COBAC. Observed failures in this regard shall be punishable in accordance with the provisions of this Regulation.

Section II: Obligations of financial institutions

Article 26: Training and information for staff

Financial institutions shall ensure that their staff is trained and regularly informed with respect to complying with the obligations stipulated in Chapters II and III of Title II of

this Regulation. This training should be aimed at an adoption of systems for detecting acts that may be part of a predicate offence for money laundering.

Article 27: Implementation of AML/CFT prevention programmes

Financial institutions must formulate and implement programmes for preventing money laundering and terrorism financing. These programmes will include in particular:

- the centralisation of information on the identity of customers, originators, beneficial owners, beneficiaries and proxy holders, representatives, and on suspicious transactions;
- the appointment of a compliance manager at the head office, each branch and each agency or local office;
- the continuous training of staff in order to assist them in detecting transactions and behaviours that are likely to be connected to money laundering and terrorism financing;
- an internal supervisory mechanism for verifying the compliance, observance and effectiveness of the measures adopted for applying this Regulation;
- the handling of suspicious transactions.

Where necessary, the Supervisory Authorities may, within their respective spheres of competence, specify the content and methods of application of the programmes for preventing money laundering and terrorism financing. They shall conduct, where appropriate, on-site investigations for the verification that such programmes are correctly applied.

Article 28: Procedures and internal supervision

Pursuant to Articles 25 and 27, financial institutions shall:

1) formulate a classification of risks of money laundering and terrorism financing presented by their activities, according to the assessed degree of exposure to such risks on the basis of, notably, the nature of offered products or services, the conditions of the proposed transaction, the delivery channels used as well as the characteristics of the customers;

2) establish a profile of the business relations with the customer, which allows for the detection of deviations in the relations, with regard to the risks of money laundering and terrorism financing.

3) specify the procedures to be applied for the supervision of risks, the implementation of customer due diligence, the storage of records, the detection of unusual or suspicious transactions and the compliance with the obligation to report suspicious activities to the NAFI;

4) implement procedures for the periodic and continuous monitoring of the risks of money laundering and terrorism financing.

The insurance intermediaries under the obligations of due diligence and suspicious activity reporting, and other parties under obligation by virtue of Articles 6 and 7 of this Regulation should not implement the procedures and measures stipulated in the first paragraph of this Article unless such procedures and measures are compatible with their status, tasks and level of activity, and within the conditions described by an order of the Minister for Finance.

The parties under obligation, except for financial institutions, shall implement the procedures and internal supervisory measures, described by their supervisory authorities, for combating money laundering and terrorism financing.

Article 29: Customer identification

Financial institutions must carry out the identification of their customers and, where appropriate, ascertain the identity and authority of the persons acting on their behalf, by means of independent and authenticated documents, sources, data or information during:

- the opening of accounts, the safekeeping of shares, securities or coupons;
- the allocation of a safe-deposit box;
- the establishment of business relations;
- the execution of occasional transactions, where the customer wishes to perform:

    a) a transaction of an amount equal to or greater than five million (5,000,000) CFA francs, whether in a single transaction or several seemingly connected transactions. Identification will also be required even if the transaction amount is less than the fixed threshold should there be any doubt over the lawfulness of the fund's origins.
    b) a national or international fund transfer.

The same will apply in the event of suspicions regarding the veracity or adequacy of the previously obtained identification details of the customer, or of suspicions of money laundering, terrorism financing or proliferation financing.

Identification will also be required in the case of multiple cash transactions, in national and foreign currencies, where the total transaction exceeds the authorised amount, and are performed by and on behalf of the same person within a period of one day, or at an unusual frequency. Such transactions will thus be considered as a single transaction.

Article 30: Identification of a natural person

A natural person shall be identified by the presentation of an original, official document that is still valid and contains a photograph. A photocopy of the identity document must be taken.

Article 31: Identification of a legal person

A legal person shall be identified by the presentation of its articles of association and any document proving its legal incorporation as well as its actual existence at the time of identification. A photocopy of the documents must be taken.

If the verification of the identity cannot take place in the presence of the natural person, or representative of the legal person, the financial institution must conduct supplementary due diligence, pursuant to the provisions of Article 43 of this Regulation.

Financial institutions shall implement mechanisms allowing them to ascertain the intended nature of the business relations. They must also ascertain the nature of the legal person's (and legal arrangement's) activity as well as their ownership and control structure.

Article 32: Identification of the occasional customer

Prior to executing a transaction or providing assistance for the preparation or execution of a transaction, the parties referred to in Articles 6 and 7 of this Regulation shall ascertain, as per the provisions of Articles 30 and 31, the identity of their occasional customers and, where appropriate, of the beneficial owner of the transaction, where:

1) the amount of the transaction or connected transactions exceeds ten million (10,000,000) CFA francs, for persons other than bureaux de change or the legal representatives and directors of gambling operators;
2) the amount of the transaction or connected transactions exceeds five million (5,000,000) CFA francs, for bureaux de change;
3) the amount of the transaction or connected transactions exceeds one million (1,000,000) CFA francs, for legal representatives and directors of gambling operators;
4) the lawful origin of the funds is not certain.

In any event, identification will be required if there is a repetition of different transactions with individual amounts under the set thresholds.

Article 33: Identification of the financial beneficiary

In cases of doubt on whether the customer acts on his own behalf, the financial institution shall, by any means, gather information on the identity of the true originator.

Subsequent to verification, if doubts persist in relation to the identity of the financial beneficiary, the financial institution must stop the transaction without prejudice, where appropriate, to the obligation to report suspicious activities, referred to in Article 83, to the National Agency of Financial Investigation created by Article 65, according to the provisions of Article 83 of this Regulation.

If the customer is a lawyer, notary, accountant or securities broker acting as a financial intermediary, such a customer may not invoke professional secrecy as grounds for refusing to disclose the identity of the financial beneficiary.

Article 34: Customer re-identification

Where financial institutions have good reason to believe that the identity of their customer and the previously obtained identification details are no longer accurate or adequate, they shall carry out the identification of the customer once again.

Article 35: Specific monitoring of certain transactions

Financial institutions must conduct a particular examination of:

1) any payment in cash or through bearer securities, made under normal conditions, for a unit or total amount that is equal to or greater than fifty million (50,000,000) CFA francs;
2) any transaction of a sum that is equal to or greater than ten million (10,000,000) CFA francs, made under unusually complex or unwarranted conditions or which seems to lack a financial reason or lawful purpose.

In the foregoing cases, the financial institutions must gather information on the customer and/or, by all other means, on the origin and destination of the funds as well as on the purpose of the transaction and the identity of the economic parties to the transaction, in accordance with Articles 30 to 33 of this Regulation.

The financial institution shall prepare a written confidential report including all useful information on the characteristics of the transaction as well as on the identity of the originator and, where appropriate, the economic parties involved. This report will be stored according to the conditions stated in Article 38 of this Regulation.

Particular due diligence must be performed in relation to transactions originating from establishments or financial institutions that are not subject to adequate obligations on the identification of customers and the supervision of transactions.

The financial institution must verify that its obligations are fulfilled by its branches or subsidiaries having the registered office located abroad, unless impeded by local legislation in which case the NAFI must be informed.

Article 36: The verification of electronic transfers

The financial institutions whose activities include electronic transfers must obtain and verify the full name, account number and address or, in the absence of an address, the national identification number or the date and place of birth, of the transfer's originator and beneficiary, including where necessary the name of the financial institution of the transfer's originator.

Such information must appear in the payment message or form accompanying the transfer. Where there is no account number, the transfer must be accompanied by a unique reference number.

These provisions shall not apply to transfers performed following payments made by a credit card or debit card if the number of the credit or debit card accompanies the transfer; nor shall they apply to transfers between financial institutions where the originator and the beneficiary are those financial institutions acting on their own behalf.

Article 37: Steps to be taken in the event of incomplete information on the originator

If the financial institutions receive electronic transfers lacking any information on the originator, said financial institutions shall take steps to obtain the missing information from the issuing institution or beneficiary in order to complete and verify the information. Where they do not obtain the missing information, they shall refuse to perform the transfer.

Article 38: The storage of documents and records by financial institutions

Without prejudice to more restrictive provisions, financial institutions shall store documents and records relating to identification for a period of ten (10) years from the closure of accounts or the termination of business relations with their regular or occasional customers. They shall also store all documents and records relating to transactions made and the report referred to in Article 35 for a period of ten (10) years after the execution of the transaction.

Article 39: Disclosure of documents and records

The parties referred to in Articles 6 and 7 of this Regulation shall disclose, upon request, the documents and records relating to the obligations of identification stipulated in Articles 30 to 33 and whose storage is mentioned in Article 38 to judicial authorities, State agents with the task of detecting and suppressing crimes linked to money laundering and acting under court proceedings, supervisory authorities and the NAFI.

The purpose of this obligation is to allow the reconstruction of all transactions, carried out by a natural or legal person, which are connected to a transaction declared as suspicious pursuant to Article 83 of this Regulation and the characteristics of which have been compiled in the confidential register mentioned in Article 46.

Article 40: The management of risks connected to new technologies

Financial institutions must identify and assess the risks of money laundering and terrorism financing that may arise from:

1) the development of new products and new commercial practices, including new distribution mechanisms;

2) the use of new technologies or those in development in connection with new or pre-existing products.

The risk assessment referred to in the first paragraph should occur prior to the launch of the new product or new commercial practices, or prior to the use of the new technology or the technology in development. Financial institutions should take the appropriate measures for managing and mitigating such risks.

Article 41: Cross-border correspondent banking relationships

With regard to cross-border correspondent banking relationships and similar relations, financial institutions must, in addition to normal customer due diligence:

1) identify and verify the identification of the respondent institutions with which they maintain correspondent banking relationships;

2) collect information on the nature of the respondent institution's activities;

3) assess, on the basis of publicly available information, the reputation of the respondent institution and the level of supervision to which it is subjected;

4) obtain authorisation from senior management prior to establishing a correspondent banking relationship;

5) assess the controls implemented by the client institution for countering money laundering and terrorism financing.

Article 42: Specific obligations of insurance companies

Insurance companies, agents and brokers engaged in life assurance activities must identify their customers and verify their identity in accordance with Article 31 of this Regulation whenever the annual payable premiums exceed five million (5,000,000) CFA francs, or if the payment for a single premium is greater than ten million (10,000,000) CFA francs, in the case of pension insurance contracts entered into in connection with an employment contract or professional activity of the insured, when such contracts contain a surrender clause and can be used as collateral for a loan.

Article 43: Supplementary due diligence

The parties referred to in Article 6 of this Regulation shall exercise supplementary due diligence on their customer, in addition to the measures stipulated in Articles 24 and 25, where:

1) the customer or his legal representative is not physically present for identification purposes;

2) the customer is resident in another Member State or a third-party State and is exposed to particular risks due to currently or previously performing political, judicial or governmental functions on behalf of another State or due to the

customer's direct family members or close associates currently or previously performing such functions;

3) the product or transaction favours the anonymity of the customer;

4) the transaction is a transaction on behalf of the customer or a third party which is carried out with natural or legal persons, including their subsidiaries or offices, which are domiciled, registered or established in a State or territory that has deficiencies in its laws or whose practices impede the countering of money laundering and terrorism financing.

An order from the competent authority of the Member State will specify the categories of persons mentioned in sub-paragraph two above, the list of products and transactions referred to in sub-paragraph three, and the supplementary due diligence measures.

Section III: Obligations of non-profit making bodies

Article 44: Monitoring by the competent supervisory bodies

Any non-profit making body that collects, receives, gives or receives funds as part of its philanthropic activity shall be subject to adequate monitoring by the competent supervisory body.

The competent authority shall set out the rules for ensuring that the funds of non-profit making bodies are not used for money laundering or terrorism financing purposes.

Article 45: Monitoring and supervision measures for non-profit making bodies

Non-profit making bodies must:

1) produce, at all times, information regarding:
- the purpose of their activities;
- the identity of the person or persons who possess, control or manage their activities, including managers, members of the board of directors and directors;
2) make available their financial accounts with a breakdown of their income and expenditure to the supervisory authorities;
3) be equipped with mechanisms capable of assisting them in combating money laundering and terrorism financing;
4) be equipped with their own control mechanism for ensuring that all funds are duly accounted for and used in accordance with the purposes of their stated activities;
5) store their transaction records for a period of ten (10) years and make them available to the authorities.

Article 46: The due diligence obligation specific to non-profit making bodies

Any non-profit making body intending to collect funds, or receive or order fund transfers must:

1) be entered into a register that has been established for this purpose by the competent authority The application for the initial entry in this register must include the first names, surnames, addresses and telephone numbers of any person holding responsibility for the operation of the body and, where applicable, of the chairperson, vice-chairperson, secretary, members of the board of directors and treasurer;

2) inform the authority in charge of maintaining the register of any changes to the above-mentioned persons holding responsibility.

Any donation equal to or greater than five hundred thousand (500,000) CFA francs which is made to a non-profit making body must be entered into the register referred to in sub-paragraph 1 of the above first paragraph, including the full contact details of the donor along with the date, nature and amount of the donation.

The register referred to in paragraph one, sub-paragraph one of this Article shall be retained by the competent authority for a period of ten (10) years, without prejudice to longer storage periods prescribed by other applicable legislation or regulations. The register may be consulted by the NAFI, the judicial authority, criminal police offers engaged in a criminal enquiry, upon request, or any other authority engaged in supervising non-profit making bodies.

Any donation equal to or greater than one million (1,000,000) CFA francs to a non-profit making body shall be reported to the NAFI by the register-holding authority referred to in paragraph one, sub-paragraph one above.

Any donation, regardless of the amount, to a non-profit making body shall also be reported to the NAFI by the competent authority in this field, where the funds are likely to be related to a terrorist enterprise or terrorism financing.

Non-profit making bodies must comply with the obligation to keep accounts in accordance with the applicable standards and disclose their annual financial statements for the previous year to the supervisory authority within six (6) months following the close of their financial year. They shall have a bank account opened at a licensed banking establishment for receiving all monies sent to them as donations or as part of transactions to be carried out.

Without prejudice to the proceedings that may be brought against them, the competent authority may order the temporary suspension or dissolution of any non-profit making bodies that knowingly encourages, incites, organises or commits one of the offences referred to in Articles 8, 9 and10 of this Regulation.

In such cases, the competent authority will inform the NAFI of the decision taken along with all details that led to said decision.

Section IV: Additional obligations of Designated Non-Financial Businesses and Professions

Article 47: Obligations of casinos and gambling establishments

Casinos and gambling establishments, including those in which the State holds a share, must:

1) maintain regular accounts along with the related documents for a period of ten (10) years, according to the accountancy standards described by the applicable legislation;

2) verify the identity, by means of a valid and original official document with photograph, of the players who buy, provide or exchange chips or plates equal to or greater than one million (1,000,000) CFA francs. A photocopy of said identification document must be taken.

3) file in chronological order all transactions referred to in sub-paragraph 2 above, their nature and amount along with a reference of the first names, surnames and document number of the players, in a register and store said register for a period of ten (10) years following the last recorded transaction;

4) file in chronological order any transfer of funds between casinos and gambling clubs, in a register and store said register for a period of ten (10) years following the last recorded transaction.

Where the gambling establishment is managed by a legal person with several subsidiaries, the chips must identify their issuing subsidiary. Chips issued by one subsidiary may not, under any circumstances, be reimbursed at another subsidiary, even if it is located abroad.

Article 48: Obligations specific to real-estate transactions

Persons who carry out, monitor or advise on real-estate transactions must identify the parties in accordance with Articles 30 and 31 of this Regulation, where they act in the purchase and sale transactions of real property.

The persons referred to in the above paragraph and in Article 49, shall ensure that the payments connected to the transactions for the purchase of real property are performed in accordance with the provisions of Article 17 of this Regulation.

Article 49: Obligations specific to lawyers, notaries, other independent legal professionals and accountants

Lawyers, notaries, other independent legal professionals and accountants shall observe the obligations relating to customer due diligence described in Articles 21 to 25 of this Regulation, where they prepare or execute, for their customers, transactions relating to the following activities:

a) the purchase and sale of real property;

b) the management of capital, securities or other assets of the customer;

c) the management of bank accounts, savings accounts or securities accounts;

d) the organisation of investments for the creation, operation or management of companies;

e) the creation, operation or executive management of legal persons or legal arrangements and the purchase and sale of commercial entities.

Article 50: Obligations specific to traders in gems or precious metals

Traders in gems and/or precious metals must observe the obligations relating to the identification of the customer where they perform, with a customer, a cash transaction equal to or greater than the limit set by the national authority or, in the absence of such, by the Ministerial Committee.

Article 51: Obligations specific to trust and company service providers

The obligations relating to the customer described in Section I of this Chapter shall apply to trust and company service providers where they prepare or perform transactions for a customer in connection with one of the following activities:

a) they act as an agent for the incorporation of a legal person;

b) they act (or arrange for another person to act) as a director or secretary of a company, a partner in a partnership or a similar position for other types of legal persons;

c) they provide a registered office, business address or premises, correspondence or administrative address for a company, partnership or any other legal person or arrangement;

d) they act (or arrange for another person to act) as a trustee of an express trust or exercise an equivalent function for any other form of legal arrangement;

e) they act (or arrange for another person to act) as a nominee shareholder for another person.

Section V: Simplified due diligence in relation to customers

Article 52: Relaxation of due diligence

Where the risk of money laundering and terrorism financing seems low, the parties referred to in Articles 6 and 7 of this Regulation may decrease the strictness of the measures prescribed in Article 23. In such cases, the parties shall justify the adequacy of the measures for those risks to their relevant supervisory authority.

The parties shall not be subject to the due diligence obligations stipulated in Articles 23, 24 and 25 of this Regulation, insofar as there are no suspicions of money laundering or terrorism financing, for the following cases:

1) for customers and products representing a low risk of money laundering or terrorism financing;
2) for the customer or, where appropriate, the beneficial owner of the business relations, where it is:
   - a financial institution, established or having its registered office in a Member State or in a third-party State that imposes equivalent obligations in combating money laundering and terrorism financing.
   - a listed company whose securities are allowed to be traded on at least one regulated market of a Member State or of a third-party State that imposes disclosure requirement compatible with the legislation in force;
   - a public authority or a government body, designated as such by virtue of the Treaties of the CEMAC, the resulting community law, the administrative law of a Member State or any other international obligation contracted by a Member State, and which fulfils the following three criteria:
     i. its identity is publicly accessible, transparent and indisputable;
     ii. its activities and accounting practices are transparent;
     iii. it is either answerable to a community institution or the authorities of a Member State, or its activity is subject to adequate supervisory procedures;

   - the beneficial owner of the monies lodged in the accounts, held on behalf of a third party, by notaries, judicial officers or other independent legal professionals established in a Member State or a third-party State that imposes equivalent obligations in combating money laundering and terrorism financing, insofar as the identity of the beneficial owner is made available, when requested, to the establishments acting as depositary for those accounts;
3) where the parties referred to in Article 42 of this Regulation engage in insurance operations that do not relate to insurance covering life/death or marriage/birth, nor connected to investment funds, nor pertaining to operations whereby associations of subscribers are set up with a view to capitalising their contributions jointly and subsequently distributing the assets thus accumulated among the survivors or among the beneficiaries of the deceased, nor relating to areas of capital redemption, management of collective funds or any operation of a collective nature.

The parties referred to in Article 42 of this Regulation shall collect sufficient information on their customer for the purposes of verifying that said customer fulfils the conditions set out in the sub-paragraphs one and three of paragraph two of this Article.

Notwithstanding paragraph one of Article 23 of this Regulation, where the risk of money laundering and terrorism financing seems low and insofar as there are no suspicions of money laundering or terrorism financing, financial institutions may abstain from verifying the identity of their customer and, where appropriate, of the beneficial owner of the business relations in the case of said financial institutions providing online payment services, under the conditions and for the categories among them established by the applicable regulations.

Article 53: Products not subject to due diligence

Pursuant to paragraph two of Article 52 above, the parties referred to in Article 42 of this Regulation shall not be subject to the due diligence obligations stipulated in Articles 21 to 25, insofar as there are no suspicions of money laundering or terrorism financing, where the transaction relates to the following products:

1) Life assurance contracts whose annual premiums do not exceed six hundred thousand (600,000) CFA francs or whose single premium does not exceed one million five hundred thousand (1,500,000) CFA francs;

2) Pension insurance contracts without a surrender clause which cannot be used as collateral and whose maturity provides annuities upon retirement;

3) Electronic money with the purpose of being used only for the purchase of goods or services. Nevertheless, once a refund demand relates to a unit amount or a total amount of five hundred thousand (500,000) CFA francs during the same calendar year, the parties referred to in Articles 6 and 7 of this Regulation must comply with the obligations stipulated in Articles 21 to 25;

4) Tangible asset financing where ownership is not transferred to the customer or only upon termination of the contractual relationship, provided that the lease payment does not exceed one hundred million (100,000,000) CFA francs per year, whether in a lump sum or over several seemingly connected transactions, and subject to the payment being made only through an account opened in the name of the customer at a banking institution established in a Member State;

5) Consumer credit operations, insofar as they do not exceed two million five hundred thousand (2,500,000) CFA francs, subject to repayment of the credit being made only through an account opened in the name of the customer at a financial institution established in a Member State;

Article 54: Exemptions for online payments

Pursuant to paragraph four of Article 52 of this Regulation, and insofar as there are no suspicions of money laundering or terrorism financing, financial institutions may abstain from verifying the identity of their customer and, where appropriate, of the beneficial owner of the business relations in the case of said financial institutions providing online payment services which fulfil each of the following conditions:

1) The funds received from the customer originate from an account opened in the latter's name at another financial institution that is established or has its registered office in a Member State or in a third-party State that imposes equivalent obligations in relation to countering money laundering or the financing of terrorist activities;

2) The funds are destined for an account opened in the name of a beneficiary at another financial institution that is established or has its registered office in a Member State or in a third-party State that imposes equivalent obligations in relation to countering money laundering or the financing of terrorist activities;

3) The transaction does not exceed the unit amount of one hundred fifty thousand (150,000) CFA francs; and

4) The total amount of transactions performed for the customer during the previous twelve (12) months does not exceed one million five hundred thousand (1,500,000) CFA francs.

Article 55: Conditions for benefiting from the exemptions

For the exemptions to Articles 21 and 22 of this Regulation to apply, the parties referred to in Article 42 shall collect sufficient information in each case in order to establish whether the customer or product fulfils the conditions for benefiting from said exemptions.

Section VI: Enhanced due diligence in relation to customers

Article 56: Enhanced due diligence within a cross-border correspondent banking relationship

Where a financial institution or an investment company other than a portfolio management company maintains a cross-border correspondent banking relationship or a relationship for the delivery of financial instrument with a financial body located in a third-party State or which is not on the list of third-party States that impose equivalent obligations on combating money laundering and terrorism financing, as described in sub-paragraph two of paragraph two of Article 52 above, the financial institution or company shall perform on the particular foreign financial body, in addition to the measures stated in Articles 24 and 25, enhanced due diligence measures as detailed by a decision of the Ministerial Committee upon the proposal of the COBAC.

Article 57: Increasing the strictness of due diligence measures in relation to customers

Where the risk of money laundering and terrorism financing presented by a customer, product or transaction is high, the parties referred to in Articles 6 and 7 shall increase the strictness of the measures envisaged by Articles 24 and 25 of this Regulation.

Said parties shall conduct enhanced scrutiny on any transaction that is particularly complex, is for an unusually high amount, or does not seem to have an economic

justification or lawful purpose. In such cases, said parties shall ascertain information from the customer on the origin and destination of the funds as well as information on the purpose of the transaction and the identity of the beneficiary of the funds.

Article 58: Prohibition of correspondent banking relationships with shell banks

Financial institutions are hereby forbidden from entering into or maintaining a correspondent banking relationship with a credit establishment or a company engaged in equivalent activities which is incorporated in a State where said establishment does not have a real physical presence allowing for managerial and directional activities to be exercised, and which is unaffiliated with a regulated group or establishment.

Financial institutions shall take the appropriate measures for ensuring that they do not enter or maintain a correspondent banking relationship with any person maintaining a correspondent banking relationship whereby an establishment covered by the terms of the preceding paragraph may use said person's accounts.

Article 59: Enhanced due diligence measures

Where an agreement is entered into for the provision of a service of correspondent banking, cheque collection or discounting, or for initiating a business relationship for the delivery of financial instruments, the parties under obligation mentioned in Article 41 shall:

1) collect sufficient information on the co-contracting establishment in order to know the nature of its activities and assess, on the basis of publicly accessible and useful information, its reputation and the supervision quality to which it is subjected;

2) assess the counter-measures implemented by the co-contracting establishment against money laundering and terrorism financing;

3) ensure that a member of the executive management or any person authorised by the executive body for this purpose makes the decision on initiating business relations with the co-contracting establishment;

4) stipulate the methods of transmitting information upon the request of the party under obligation in the agreement on correspondent banking or delivery of financial instruments;

5) ensure that, when hosting the correspondent accounts that are used directly by third parties to execute transactions on their own behalf as part of the services of correspondent banking, the co-contracting credit establishment has verified the identity of customers having direct access to accounts of the correspondent and has implemented customer due diligence measures in compliance with those envisaged by Articles 24 and 25 of this Regulation.

Article 60: Measures specific to Politically Exposed Persons

Without prejudice to the obligations stipulated in Articles 23 to 25, 31 and 32 of this Regulation, financial institutions shall take specific measures for recognising natural persons who occupy or have occupied an important public function within the meaning of point 42 of Article 1 of this Regulation, when said institutions initiate business relations or perform transactions with or on behalf of Politically Exposed Persons.

The categories of persons referred to in the preceding paragraph shall not cover those persons in middle-ranking or junior functions. The other relevant categories will include, where appropriate, international or community functions. Subject to the application of enhanced due diligence measures on the basis of the assessment of the customer's risk, financial institutions shall not be required to consider a person as politically exposed if said person has not occupied, for a period of at least one (1) year, an important public function within the meaning of the above first paragraph.

The specific measures referred to in the first paragraph of this Article include the following obligations to:

1) implement appropriate risk-based procedures that can determine whether the customer or a beneficial owner of the customer is a politically exposed person;

2) notify senior management prior to the payment of capital, perform enhanced scrutiny on all business relations with the contract holder and consider issuing a suspicious activity report, in the case of life assurance;

3) adopt any suitable risk-based measure for determining the origins of the assets and the origins of the funds involved in the business relations or transaction;

4) ensure continuous enhanced monitoring of the business relations.

Article 61: Recording and storage of the results from the enhanced due diligence measures

The results of the audit of the implementation of the enhanced due diligence measures prescribed by Article 59 shall be recorded in writing and stored according to the terms stated in Article 38.

Section VII: Performance of due diligence by third parties

Article 62: Recourse to third parties for implementing due diligence

Financial institutions may use third parties for the implementation of the due diligence obligations stipulated in Articles 23, 24 and 25 of this Regulation, without prejudice to the financial institutions remaining ultimately responsible for compliance with their obligations.

Article 63: Conditions on third-party implementation of due diligence

For financial institutions, the due diligence obligations stipulated in the first paragraph of Article 23 and in Article 24 of this Regulation may be implemented by third parties under the following conditions:

1) the third party is a financial institution, one of the persons referred to in Article 6, or a person belonging to an equivalent category on the basis of a foreign law, which is located or, where appropriate, has its registered office in a Member State or in a third-party State that imposes equivalent obligations with regard to combating money laundering and terrorism financing as described in the list in paragraph two of Article 52 of this Regulation;

2) the party under obligation has access to the information collected by the third party, under the conditions described by a decision of the Ministerial Committee upon the proposal by the BEAC in consultation with the COBAC.

Financial institutions may disclose the information collected for implementing the due diligence obligations stipulated in the first paragraph of Article 23 and in Article 24 of this Regulation, to another financial institution located or having its registered office in a Member State. They may also disclose such information to an establishment that offers financial activities equivalent to the activities practised by financial institutions, under the following conditions:

1) the recipient third party is located in a third-party State that imposes equivalent obligations with regard to combating money laundering and terrorism financing described on the list in paragraph two of Article 52 of this Regulation;

2) the recipient third party guarantees an adequate level of protection for the privacy and fundamental rights and freedoms of people when processing personal data, in accordance with the relevant regulations in force.

Article 64: Obligation in relation to the transmission of information

Pursuant to Article 62, the third party, implementing the due diligence obligations of Articles 23 and 24, shall make available to the financial institution, without delay, the information on the identity of the customer and, where appropriate, of the beneficial owner as well as the information relating to the purpose and nature of the business relations.

The third party shall, upon initial request, forward to the financial institution a copy of the identity documents of the customer and, where appropriate, of the beneficial owner as well as any relevant document for ensuring the performance of due diligence.

An agreement may be entered into between the third party and financial institutions, which specifies the conditions for the transmission of the information collected and audit information on the implemented due diligence.

TITLE III: DETECTION OF MONEY LAUNDERING, FINANCING OF TERRORISM AND PROLIFERATION

Chapter I: National Agency for Financial Investigation

Section I: Creation and attributions of the NAFI

Article 65: Creation of the NAFI

An administrative authority, the "National Agency for Financial Investigation" (NAFI) has been instituted in each Member State, under the supervision of the Minister for Finance. The NAFI is financially autonomous and has autonomous decision-making powers on matters within its competence.

Article 66: Attributions of the NAFI

The mission of the NAFI is to receive, analyse and disseminate information concerning associated predicate offences and transmit of information in an effort to combat money laundering, the financing of terrorism and proliferation.

As such, it:

1) is responsible for collecting, analysing, developing and exploiting any information likely to establish the source or destination of money or the nature of operations that are the subject of a suspicion of activity report or a referral by the public prosecutor's office, under the provisions of the final paragraph of article 72 of this Regulation;

2) receives all other useful information required to fulfil its mission, in particular information forwarded by Supervisory Authorities and criminal investigation police officers;

3) may request communication of information held by establishments under obligation or any natural or legal person, which may potentially enrich suspicious activity reports;

4) performs or commissions the performance of periodic studies on developments of methods used for money laundering and the financing of terrorism at a national level;

5) may arrange and coordinate, whenever necessary and at national and international level, the investigative resources available to the administrations or departments of the Ministry for Finance, Ministry for Justice and Ministry for Security, together with any associated bodies, for the detection of offences leading to declaration obligations;

6) plays a role in examining measures to be implemented to ensure the failure of illicit financial circuits, money laundering and the financing of terrorism;

7) develops international action to combat illicit financial circuits, money laundering and the financing of terrorism, in relation with the departments concerned under the Ministry for Finance, Ministry for Justice and Ministry for Security.

The NAFI is also in charge of effective cooperation and consultation with national authorities, each acting within its respective area of responsibility, directly or indirectly concerned by combating money laundering and the financing of terrorism.

It issues opinions on the implementation of government policy as regards combating money laundering and the financing of terrorism and proliferation. As such, it proposes any reforms required to reinforce the effectiveness of this combat.

The NAFI draws up regular reports (at least one per quarter) and one (1) annual report, which analyse developments in money laundering activities on the national and international level and assesses the activity reports received. These reports are submitted to the Minister for Finance, the Minister for Justice, the Minister for Security, the Permanent Secretary of the GABAC, establishments under obligation and the Governor of the BEAC.

Section II: Organisation and functioning of the NAFI

Article 67: Composition of the NAFI

The NAFI comprises four members, namely

1) one (1) senior civil servant from the Ministry for Finance;

2) one (1) senior judge from the Ministry for Justice, specialised in financial matters;

3) one (1) senior Police Officer from the Ministry for Security, specialised in economic and financial investigations;

4) one (1) senior customs officer from the Ministry for Finance, specialised in economic and financial investigations;

The head of the National Agency for Financial Investigation is one of the civil servants from the Ministry for Finance. He or she represents the Agency with regards to third parties and ensures implementation of the attributions of the Agency under the conditions set out in this Regulation.

The Director of the NAFI is appointed for a five (5) year non-renewable term. The other members of the NAFI are appointed for a three (3) year term, renewable once.

Only civil servants and judges holding positions in their administrations of origin at the time of their nomination may be appointed to the NAFI. They must be of good character. This excludes:

1) persons able to claim their pension entitlement;
2) persons holding elective office in parliament or any other institution;
3) persons ordered to serve a correctional or criminal sentence.

On appointment, the Director and members of the NAFI shall cease to perform any duties in their administrations of origin.

Article 68: NAFI correspondents

In each Member State, NAFI correspondents are appointed in their official capacity from within the police force, customs service and legal system or any other public service from which assistance is deemed necessary for combating money laundering, the financing of terrorism and proliferation.

The chosen correspondents are appointed by Decree by the Minister for Finance, following a proposition from their supervisory Ministers. They work together with the NAFI in the performance of its attributions.

Article 69: Appointment of a declarant and a correspondent

The financial institutions notify the NAFI and their supervisory authority of the identity of their directors for agents authorised to perform the declarations prescribed in article 83 of this Regulation.

Other persons subject to the Regulation are notified of the identity and Authorised to perform this declaration by means of a separate document, joined in support of the first declaration sent to the NAFI pursuant to article 83 of this Regulation.

The persons specified in paragraphs 1 and 2 of this article remain independent with regards to their professional hierarchy. As such, they are bound by a duty of confidentiality and may not reveal the content of suspicious activity reports they send to the NAFI. They may however report the number of suspicious activity reports made, after an agreed period of time, without revealing either the identity of those concerned or the details of the activity reports.

Any changes concerning the authorised persons, pursuant to paragraph one above, involving the designation of the declarant, must be immediately brought to the attention of the NAFI and their supervisory authority, if appropriate.

Any director of a Corporation specified in articles 6 and 7 of this Regulation, or agent of said Corporation, may take the initiative to report an operation themselves to the NAFI in exceptional circumstances, in particular if they deem it urgent pursuant to article 83. This report is then confirmed as quickly as possible by the authorised person.

Persons specified in article 6 of this Regulation shall personally fulfil the obligation of declaration stipulated in article 83, whatever the terms of their professional practice.

Article 70: Confidentiality

NAFI members and their correspondents specified in articles 67 and 68 above take the following oath before taking up their positions: **"I hereby swear to act as a dignified and loyal member (or correspondent) of the NAFI and to keep all information of which I gain knowledge in the performance of my duties confidential, even after such duties cease."**

Article 71: Disclosure of information transmitted to the NAFI.

Disclosure of information held by the NAFI is prohibited. Such information may not be used for purposes other than those specified in this chapter.

Notwithstanding the provisions of paragraph one above, the NAFI is authorised to communicate information that it holds to the customs, tax and police administrations, subject to said information being in relation to facts potentially the subject of a suspicious activity report.

It may also forward information to specialised intelligence services that is related to facts potentially indicating a threat to the fundamental interests of the nation in terms of public safety and government security.

It may also forward information to the tax authorities (which may then use it in the performance of its assignments) regarding facts potentially involving tax fraud or attempted tax fraud.

The NAFI may also forward information relating to the performance of its mission to government services responsible for preparing and implementing measures for freezing or prohibiting the movement or transfer of funds, financial instruments and economic resources.

Article 72: Processing of suspicious activity reports by the NAFI

The NAFI acknowledges all written suspicious activity reports. It processes and immediately analyses the information received and, if relevant, requests supplementary information from the declarant, as well as from any public and/or supervisory authority.

When facts emerge from its investigations that may potentially involve the laundering of the proceeds of a criminal activity or financing of terrorism or proliferation, the NAFI Centre report to the Public Prosecutor.

Article 73: Referral by the NAFI to the Public Prosecutor

In the event of the NAFI referring a case to the Public Prosecutor, the suspicious activity report and any additional information it received, pursuant to the provisions of articles 82 and 83 of this Regulation, are not included in the case file in order to preserve the anonymity of its authors.

The Public Prosecutor, or any authority in lieu thereof, to which the referral is made, is bound to initiate proceedings and to inform the NAFI of the results of the procedure in cases involving a report.

Any persons other than those listed in articles 6 and 7 of this Regulation may declare operations in their knowledge to the Public Prosecutor, which involve amounts said persons know are potentially a part of money laundering operations or the financing of terrorism or proliferation, or originate from a crime or offence. In this case, the Prosecutor informs the NAFI, which then provides all required information.

Article 74: Opposition to the execution of an operation that is the subject of a suspicious activity report

If circumstances so require, the NAFI may oppose the execution of an operation that has given rise to a suspicious activity report, on the basis of serious, concordant and reliable information, before the expiry of the execution time frame specified by the declarant. The declarant is notified in writing of this opposition, which impedes execution of the operation for a period that may not exceed forty-eight (48) hours.

The emergency judge with territorial jurisdiction may, at the petition of the NAFI, by means of an order issued at the foot of the said petition, extend the period specified in the above paragraph or order the temporary seizure of funds, accounts or titles concerned by the suspicious activity report for a supplementary period that may not exceed eight (8) days.

The order thus issued is subject to appeal according to the procedures provided for in the legislation of the Member State.

The order granting the request is immediately enforceable, prior to any notification to the author of the suspicious activity report and notwithstanding exercise of rights of appeal.

The operation that is the subject of a suspicious activity report may be executed if the NAFI has not issued notification of opposition or if, after the forty-eight (48) hour period stipulated in the first paragraph of this article, the author of the report has not been notified of any decision taken by the judicial authorities.

Article 75: NAFI right to communication

For application of this chapter, the NAFI may request documents kept pursuant to the provisions of articles 38 and 39 above, whatever the media used for storage and within the time frame it stipulates. This right is exercised for the purposes of reconstituting all the transactions performed by a natural or legal person relating to an operation that is the subject of a suspicious activity report or information received by a public service, as well as for the purposes of providing information, under the terms set out in article 82 of this Regulation, to equivalent financial intelligence units abroad.

Under no circumstances can professional secrecy be enforceable upon NAFI petitions.

At the initiative of State administrations, the NAFI receives information required for fulfilling its mission from local authorities, public institutions and any other person granted a public service assignment, or obtains such information at its request, within the time frame it stipulates. In the event of a refusal to communicate information to the NAFI, the Director of the NAFI refers the case to the emergency judge, who may issue an injunction upon the department in question to comply, providing there are no serious grounds for refusal. The judicial authorities, financial jurisdictions and criminal investigation police officers may send the NAFI any information for the same purposes.

Article 76: NAFI duty of information

When the NAFI refers a case to the Public Prosecutor on the basis of a suspicious activity report, it informs the person who filed the report in question.

Article 77: Liability of the NAFI or its members

In the performance of its legal assignments, the civil liability of the NAFI and its members may only be incurred in the cases of wilful misconduct or gross negligence.

Article 78: NAFI financing

NAFI resources come from the budget of the Member State, together with contributions granted by the CEMAC and development partners or any other institution whose assistance of any kind helps to strengthen the mechanism for combating money laundering, the financing of terrorism and proliferation.

Chapter II: Cooperation

Section I: National Cooperation

Article 79: Exchange of information between the NAFI and the supervisory authorities, professional orders at national representative bodies

The NAFI exchanges all information with supervisory authorities, professional orders and national representative bodies that may be useful to them for performing their respective assignments to apply the provisions of this chapter.

When performing their assignments, if the supervisory authorities and professional orders discover facts potentially relating to money laundering or the financing of terrorism and proliferation, they inform the NAFI.

The NAFI acknowledges receipt of such facts and, on request, may keep the authorities specified in paragraph 2 above informed of action taken based on this information.

Section II: Intra-community cooperation

Article 80: Relations between the financial intelligence units of CEMAC Member States

The NAFI must:

1) following a duly substantiated request from a CEMAC Member States NAFI and as part of an investigation, communicate all information and data relating to investigations undertaken following a suspicious activity report at national level;

2) send regular, detailed reports (quarterly and annual) on its activities to the Permanent Secretary of GABAC in charge of producing a summary of NAFI reports for the purpose of informing the Ministerial Committee, together with the Ministries for Finance, Justice and Security.

3) send all legislative and regulatory deeds regarding the combat against money laundering, the financing of terrorism and proliferation taken by Member States.

Article 81: The role assigned to the Permanent Secretary of GABAC

The role of the Permanent Secretary of GABAC is to promote cooperation between NAFIs. As such, it is responsible for coordinating the actions of NAFIs in combating money laundering, the financing of terrorism and proliferation and drafting a summary of information from the reports drawn up by said NAFIs. The Permanent Secretary of GABAC may attend the meetings of international bodies, alongside the NAFIs, discussing issues related to combating money laundering, the financing of terrorism and proliferation.

The summary drafted by the Permanent Secretary of GABAC is sent to the NAFIs of the CEMAC Member States for inclusion in their databases. This summary is one of the items on the report stipulated by the Convention governing the Central African Monetary Union for the purposes of informing the Ministerial Committee, the Conference of Heads of State, the Community Parliament and other Community Institutions, Bodies and Specialised Institutions of developments in the combat against money laundering, the financing of terrorism and proliferation.

This report is made public.

On the basis of legislative and regulatory texts relating to combating money laundering, the financing of terrorism and proliferation adopted by Member States, the Permanent Secretary proposes harmonised texts to the Ministerial Committee.

Section III: International cooperation

Article 82: Transmission of information by the NAFI to foreign FIU

Under the Charter of the Egmont Group of Financial Intelligence Units (FIU), the NAFI may communicate information it holds on amounts or operations that appear to involve the laundering of the proceeds of a criminal activity or the financing of terrorism and proliferation to equivalent foreign financial intelligence units, either at their request or on its own initiative, providing the following conditions are met:

1) the foreign Financial Intelligence Units is subject to obligations of confidentiality of at least the same level;

2) the processing of information communicated guarantees a sufficient level of private data protection, together with the freedom and fundamental rights of individuals, in compliance with regulations in force.

Information specified in the first paragraph of this article may not be communicated in cases where:

1) criminal proceedings have been initiated;

2) the communication breaches sovereignty of the State or national interests, public security or public order.

3) Agreements reached between the NAFI and equivalent foreign FIU render communication subject to prior authorisation from the Minister for Finance.

Chapter III: Suspicious transactions reports

Section I: General provisions

Article 83: Obligation to report suspicious transactions

Under the terms stipulated by this Regulation and using the report model stipulated by the Order of the Minister for Finance as proposed by the NAFI, the persons specified in articles 6 and 7 are bound to declare to the NAFI the amounts registered in their accounts or the transactions or attempted transactions involving amounts that they know, suspect or have good reason to suspect originate from an offence of money laundering, the financing of terrorism and proliferation.

By derogation of paragraph 1 above, the persons specified in articles 6 and 7 of this Regulation declare to the NAFI the amounts or transactions or attempted transactions that they know, suspect or have good reason to suspect originate from customs or tax fraud, when these involve at least one criterion defined by current regulations.

After the close scrutiny prescribed in paragraph 2 of article 57, the persons specified in articles 6 and 7 of this Regulation shall make the declaration stipulated in paragraph 1 of this article, if appropriate.

The persons specified in articles 6 and 7 of this Regulation are also bound to declare to the NAFI any transaction for which the identity of the principal or the actual beneficiary or the constituent of a trust fund or of any other instrument for administering special purpose funds, remains suspicious despite the diligence performed in compliance with the provisions of chapter III of title II of this Regulation.

The NAFI must be immediately informed of any information that may nullify, confirm or modify the elements contained in a suspicious transaction report.

Following a proposal from the NAFI, an Order from the Minister for Finance may extend the declaration obligation stipulated in paragraph 1 of this article to operations in proprietary trading or for third parties performed by financial institutions with natural or corporations, including their subsidiaries or establishments, domiciled, registered or established in any States or Territories where insufficient legislation or practices impede the combat against money laundering and the financing of terrorism. This Order sets out the procedure and minimum amount of operations subjected to declaration.

Financial institutions declare information to the NAFI regarding money transfer operations performed through payment of cash or using electronic money. A Minister for Finance Order specifies the threshold above which declaration is required to the NAFI, together with the terms and procedure for said declaration.

The persons specified in articles 6 and 7 of this Regulation must refrain from performing any operation they suspect to be related to money laundering or the financing of terrorism and proliferation until they issue their suspicious activity report. They may then only proceed with the operation if the conditions specified in paragraph 4 of article 74 are met.

In cases where an operation that should be the subject of a suspicious transaction report has already been performed, either because it was impossible to delay performance, or because postponement would have hindered investigations involving a suspected transaction of money laundering, the financing of terrorism and proliferation, or because it only emerged after it had been performed that it was subject to this declaration, the person under obligation must immediately inform the NAFI.

Article 84: Communication of identity

Financial institutions must communicate the identity of their directors or agents in charge of meeting the requirements of this service and this authority to the NAFI and their supervisory authority, as well as ensuring information, opinions or general recommendations issued by said bodies are distributed to staff members concerned.

Other parties under obligation must submit the same identities to the NAFI in a separate document specified in paragraph 2 of article 69 of this Regulation, accompanying the first suspicious activity report stipulated in article 83.

The NAFI and the supervisory authority must be immediately notified of any change concerning the persons thus designated, known as correspondents.

The parties under obligation ensure that the duty of the correspondent are performed with the continuity required to be able to respond to the requests of the NAFI, within the stipulated deadlines.

Persons other than those specified in articles 6 and 7 of this Regulation are bound to declare transactions in their knowledge to the Public Prosecutor, which involve amounts the said persons know potentially result from a crime or offence or form part of a money laundering operation or the financing of terrorism and proliferation. The Public Prosecutor then informs the NAFI, which provides it with all the information.

The persons declaring this information are bound to keep such declarations confidential.

Article 85: Obligations specific to members of independent legal professions

Statutory auditors, accountants, notaries, bailiffs, legal administrators, legal trustees, lawyers acting as trustees and legal auctioneers are individually responsible, whatever the terms of their professional practice, to respond to any request issued by the NAFI and to receive acknowledgement of receipt of suspicious transactions reports made by the body, pursuant to the provisions of article 72 of this Regulation.

Section II: Provisions regarding the transmission and confidentiality of suspicious activity reports

Article 86: Form and method of transmitting reports to the NAFI

Suspicious transactions reports are drawn up in writing. They are transmitted to the NAFI by the natural persons and corporations specified in articles 6 and 7 of this Regulation, by any written means. Reports made by telephone or electronic means must be confirmed in writing within forty-eight (48) hours.

The reports must specify, depending on the case:

1) the reasons why the operation has already been executed;

2) the time in which the suspicious operation is due to be executed.

The NAFI acknowledges receipt of the suspicious activity report, except if the declaring entity instructs otherwise.

Article 87: Confidentiality of suspicious activity reports

Suspicious transactions reports as detailed in article 83 of this Regulation are confidential.

Subject to the penalties stipulated by the provisions of this Regulation, persons specified in articles 6 and 7 are prohibited from informing the owner of the amounts or the perpetrator of any of the transactions leading to a suspicious transactions report or third parties, other than the supervisory authorities, professional orders and national representative bodies, of the existence and content of a report forwarded to the NAFI or to provide information regarding action taken based on said report.

Should the persons specified in article 6 of this Regulation attempt to dissuade their clients from taking part in an illegal activity, this does not constitute disclosure in the sense of paragraph 2 of this article.

The directors and agents of financial institutions may notify the judicial authorities or criminal investigation police officers acting on their behalf that information has been forwarded to the NAFI pursuant to the provisions of article 83. In this case, the judicial authorities or criminal investigation police officers may ask the NAFI for confirmation of the existence of such a declaration.

The NAFI is divested of cases involving money laundering or the financing of terrorism and proliferation when such cases are referred to judicial authorities, except if notified otherwise by the Public Prosecutor.

Suspicious transactions reports are only accessible to judicial authorities if requisitioned from the NAFI and only in cases where this report is necessary for invoking the responsibility of persons specified in articles 6 and 7 of this Regulation and their directors and agents and when it emerges from the legal investigation that they may be involved in the mechanism of money laundering or the financing of terrorism and proliferation that they have revealed.

Chapter IV: Exemption of liability and incurrence of liability of the State

Section I: Exemption of liability

Article 88: Exemption of liability due to suspicious activity reports issued in good faith

The persons or directors and agents of persons specified in articles 6 and 7 that have transmitted information or made declarations in good faith, in accordance with the provisions of this Regulation, are exempt from all criminal proceedings.

No proceedings may be brought for civil or criminal liability and no professional penalties may be imposed upon persons or directors, agents and employees of the persons specified in articles 6 and 7 of this Regulation, who have acted in the same conditions as those specified in paragraph 1 above, even if the legal rulings handed down on the basis of the reports specified in the aforementioned paragraph do not lead to any convictions.

In addition, no civil or criminal liability proceedings may be brought against the persons specified in the previous paragraph on account of any tangible or moral harm

that may result from blocking an operation pursuant to the provisions of article 74 of this Regulation.

Article 89: Exemption of liability due to the execution of operations

In cases where a suspicious transaction has been executed, and except in cases of fraudulent collusion with the perpetrator(s) of money laundering or the financing of terrorism and proliferation, the persons specified in articles 6 and 7, together with their directors, agents or employees are exempt from any liability and no criminal proceedings for money laundering can be brought against them, if the suspicious transactions report has been issued in compliance with the provisions of this Regulation.

The same applies when one of the persons specified in articles 6 and 7 has performed an operation at the request of the investigation services acting under the terms stipulated in the provisions of article 74 of this Regulation.

Section II: Incurrence of liability of the State

Article 90: Liability of the State due to suspicious transactions reports issued in good faith and certain operations.

The State is liable for any harm caused to persons directly resulting from a suspicious activity report issued in good faith, which nevertheless proves to be inaccurate.

The state is also liable when a person specified in articles 6 and 7 of this Regulation has performed an operation at the request of the judicial authorities or State officials in charge of detection and repression of offences relating to money laundering and the financing of terrorism and proliferation, acting within the framework of legal proceedings or NAFI proceedings.

Chapter V: Obligations of regulatory and supervisory authorities as regards combating money laundering and the financing of terrorism and proliferation

Section I: General provisions

Article 91: Provisions relating to the surveillance and supervisory authorities of financial institutions and Designated Non-financial Businesses and Professions

The surveillance and advisory authorities monitor compliance by the financial institutions and Designated Non-financial Businesses and Professions of the prescriptions set out in title II of this Regulation.

In compliance with applicable regulations, each surveillance and supervisory authority:

1) makes the required provisions to define the appropriate criteria for the possession, control or direct or indirect participation in the management or

operations of an institution or a Designated Non-financial Business and Profession;

2) regulates and monitors observance by Designated Non-financial Businesses and Professions of the obligations set out in titles II and III of this Regulation, including on-site inspections;

3) draws up instructions, guidelines or recommendations aimed at helping financial institutions and Designated Non-financial Businesses and Professions to comply with the obligations set out in titles II and III of this Regulation;

4) cooperates and exchanges information with other competent authorities and provides assistance with investigations, proceedings or procedures related to money laundering, predicate offences and the financing of terrorism and proliferation;

5) in consultation with the NAFIs, draws up the standards or criteria applied to suspicious activity reports that take account of other existing or future national and international standards;

6) ensures that financial institutions and their branches abroad, together with their subsidiaries abroad in which they hold a majority stake, adopt and apply measures that comply with the provisions of this Regulation, insofar as local laws and regulations allow;

7) immediately communicate to the NAFI all information regarding suspicious operations or suspicious facts that may be related to money laundering or the financing of terrorism;

8) provide rapid and effective cooperation to bodies exercising similar functions in other Member States or other States, including the exchange of information;

9) keep statistics concerning the measures adopted and the penalties imposed within the context of applying this chapter.

Article 92: Special provisions concerning services transferring funds or values

In compliance with specific regulations in force, no persons may perform the professional activity of transferring or transporting funds and values if they have not obtained approval from the relevant State authority of the territory in which they wish to conduct their business.

The authority in question sets the conditions for operating by means of an Order or any other legal deed, especially as regards the regular inspection of services transferring funds or values.

The provisions stipulated in paragraph 1 above also apply to any natural or legal person operating as an agent in a CEMAC State.

The providers of services transferring funds and values must communicate the list of their agents to the relevant authority of the country in which they operate.

Article 93: Registration of other Designated Non-financial Businesses and Professions

No persons may exercise as a Designated Non-financial Business and Profession without first being registered by the appropriate regulatory or supervisory authority, in accordance with the conditions set out in current regulations.

Section II: Guidelines and feedback

Article 94: Data protection and the sharing of information

Financial institutions belonging to a group shall implement policies and procedures at group level, in particular data protection policies and policies and procedures regarding the sharing of information within the group for the purposes of combating money laundering and the financing of terrorism. These policies and procedures shall be implemented effectively at the level of branches and subsidiaries established in the Member States and in Third States.

In cases where a financial institution has branches or subsidiaries in Third States in which the minimal obligations in terms of combating money laundering, the financing of terrorism and proliferation are less strict than on the territory in which it is established, the branches and subsidiaries in question shall apply the obligations in force on their territory, including as regards data protection, insofar as the legislative and regulatory provisions of the Third State in question so allow.

The supervisory authorities concerned shall notify each other of cases in which the legislation of a Third State does not permit the measures required in application of paragraph 2 above to be applied, so as to engage in a coordinated action to seek a solution.

When the legislation of a Third State does not permit the measures required pursuant to paragraph 1 of this article to be applied, the financial institutions shall take supplementary measures to effectively handle the risk of money laundering or the financing of terrorism and notify the surveillance authorities of their State of origin of such measures. If the supplementary measures are insufficient, the relevant authorities of the State of origin shall envisage supplementary surveillance measures, in particular requesting the financial group to cease any activities it may be conducting in the host State.

Article 95: Implementation of risk management and assessment systems

Financial institutions shall implement risk management and assessment systems with respect to money laundering and the financing of terrorism.

They shall take measures that are proportionate to the type and extent of their risks, to ensure the employees concerned are aware of the provisions adopted pursuant to this Regulation, including data protection requirements.

The measures stipulated in paragraph 2 above include the employees concerned participating in special continuous training programs aimed at helping them to recognise operations potentially related to money laundering or the financing of terrorism and instructing them as to the procedure to adopt in such cases.

Article 96: Application of vigilance measures in branches and subsidiaries

Financial institutions shall apply measures at least the equivalent of those stipulated in chapter III of Title II of this Regulation, as regards vigilance with respect to clients and the storing of information in their branches located abroad. They shall ensure that equivalent measures are applied in their subsidiaries located abroad.

When applicable local laws do not enable them to implement equivalent measures in their branches and subsidiaries abroad, the financial institutions shall notify the NAFI and their surveillance and supervisory authority.

The financial institutions shall inform their branches and subsidiaries located abroad of the minimum appropriate measures as regards combating money laundering and the financing of terrorism.

Article 97: Feedback

The NAFI shall provide information it holds on the mechanisms of money laundering and the financing of terrorism to the persons specified in articles 6 and 7 and the surveillance and supervisory authorities specified in article 91 of this Regulation.

TITLE IV: INVESTIGATIONS AND PROFESSIONAL SECRECY

Chapter I: Investigations

Article 98: Investigation methods

For the purposes of obtaining evidence of money laundering and the financing of terrorism and proliferation and the location of proceeds of crime, in compliance with this Regulation and for a specific period, the competent judicial authority may order a variety of measures without professional secrecy being enforceable, in particular:

1) the monitoring of bank accounts and other similar accounts in cases where there are strong indications of suspicion that they are used or may be used for operations related to the predicate offence or offences stipulated in this Regulation;

2) access to systems, networks and computers and servers used or potentially used by persons for whom there are strong indications of participation in the predicate offence or offences stipulated in this Regulation;

3) communication or the seizing of notarial or private deeds, back documents, financial and commercial documents;

4) the surveillance or interception of communications;

5) audio or video recording or the photographing of acts, behaviour or conversations;

6) the interception and seizing of mail.

The methods listed in paragraph 1 above may only be used in cases where there are strong indications for believing that the said accounts, telephone lines, computer systems and networks and documents are or could be used by persons suspected of involvement in money laundering or the financing of terrorism and proliferation. The decision of the competent judicial authority shall be substantiated with regard to this criteria.

Article 99: Undercover operations and controlled deliveries

No punishment may be imposed on officials competent to investigate money laundering and financing of terrorism and proliferation who, for the purpose of obtaining evidence relating to these offences or the tracing of proceeds of crime, perform acts which might be construed as elements of money laundering and financing of terrorism in connection with carrying out an undercover operation or a controlled delivery. The designated official must not induce the suspect to commit any offences.

The authorization of the competent judicial authority shall be obtained prior to any operation as described in paragraph 1 above.

Article 100: Anonymous testimonies and witness protection

Either at its own initiative or at the request of a witness, defendant or aggrieved private party, the prosecuting authorities may determine that:

1) certain identifying information shall not be included in the hearing transcript if there is a reasonable presumption that the witness could suffer serious injury following the disclosure of certain information;

2) a witness's identity is kept secret if the competent authority concludes that the witness, a member of his family or one of his associates could reasonably be endangered by the testimony. The witness's identity shall be kept secret only if the investigation of the offence so requires and other investigative methods appear inadequate to uncover the truth. Witnesses whose identity is kept secret shall not be summoned to testify at a hearing without their consent. Anonymous testimony shall not serve as the sole basis or be a determining factor in any conviction.

Chapter II: Professional secrecy

Article 101: Prohibition on invoking professional secrecy

Notwithstanding any legislative or regulatory provisions, professional secrecy may not be invoked by the person specified in articles 6 and 7 to refuse to provide information to either the supervisory authorities or the NAFI or to perform the declaration stipulated in this Regulation. The above also applies to information required within the framework of an investigation involving money laundering and the financing of terrorism and proliferation ordered by the judicial authority or conducted under its control, by State officials responsible for detecting and repressing said offences.

Article 102: Exemption of liability in cases of breaches of professional secrecy

No proceedings may be brought for breaches of professional secrecy against the persons specified in articles 6 and 7, or their directors, agents or employees, who have forwarded information or filed the suspicious activity reports specified in article 83 of this Regulation in good faith, in the conditions prescribed by applicable legislative and regulatory provisions, or when they communicated information to the NAFI pursuant to article 66.

Article 103: Prohibition for NAFI personnel to be called as witnesses in judicial proceedings

NAFI personnel may not be called as witnesses in judicial proceedings as regards any facts of money laundering or the financing of terrorism and proliferation of which they have become aware in the performance of their duties.

TITLE V: REPRESSION OF MONEY LAUNDERING, FINANCING OF TERRORISM AND PROLIFERATION

Chapter 1: Provisional measures

Section I: Provisional measures and execution

Article 104: Provisional measures

In compliance with national law, the judicial authority may impose provisional measures ordering the seizing of funds and property related to offences of money laundering or the financing of terrorism and proliferation that are subject to investigation, together with all elements enabling them to be identified and the freezing of monies and financial operations involving said property. These provisional measures are authorised with a view to preserving the availability of funds, property and instruments that may be subject to confiscation.

In cases where it opposes the execution of measures not specified in the legislation, the judicial authority to which a request has been referred regarding the execution of provisional measures pronounced abroad, may substitute the measures specified by

national law, the effects of which most closely correspond to the measures for which execution is requested.

Such measures may be lifted by the competent judicial authority in conditions provided for by law.

Section II: Freezing

Article 105: Freezing funds and other financial resources

In a written decision and for the purposes confiscating laundered property, the competent authority may order the freezing and seizing of proceeds of money laundering, predicate offences and the financing of terrorism, of terrorists, terrorist organisations or entities designated by the United Nations Security Council acting pursuant to Chapter VII of the United Nations Charter.

The above also applies to funds and other resources of persons or entities designated by the Ministerial Committee or CEMAC Member States under UN Resolution 1373 or a Third State.

This decision is based on criteria of evidence on reasonable grounds or a reasonable basis. Freezing extends to all funds or other property that are owned or controlled by the designated person or entity, and not only those potentially linked to a specific terrorist act, conspiracy or threat.

The decision stipulated in paragraph 1 and 2 above shall set out the conditions and duration of the freeze. Financial institutions and any other person or entity holding these funds shall immediately proceed with freezing on notification of said decision, until decided otherwise by the United Nations Security Council or by another decision taken according to the same procedure or by a competent judicial authority.

The financial institutions and other persons under obligation must immediately inform the NAFI of the existence of funds proceeding from money laundering or linked to terrorists, terrorist organisations or associated persons or organisations, in compliance with the decisions of the Ministerial Committee or the Minister for Finance of Member States with respect to the list of persons, entities or organisms concerned by the freezing of funds and other financial resources, in particular the list drawn up by the United Nations Security Council and its updates.

Persons specified in articles 6 and 7 of this Regulation are strictly prohibited from:

1) directly or indirectly making the frozen funds available to the natural or legal persons, entities or bodies designated by the decisions stipulated in paragraph 1 and 2 of this article, or using them for their own benefit;

2) providing or continuing to provide services to the natural or legal persons, entities or bodies designated by the decisions stipulated in paragraph 1 and 2 of this article, or using them for their own benefit.

Participation in operations, knowingly and intentionally, with the aim or effect of directly or indirectly circumventing the provisions of this article is prohibited.

Article 106: Publishing decisions on freezing or unfreezing funds

Any decision to freeze or unfreeze funds or other financial resources must be made public, notably through publication in the Official Journal or in a Journal of legal announcements. The above also applies to procedures to be adopted by any legal or natural person registered on the list of specified persons, to have this registration removed and, if applicable, have the funds belonging to them unfrozen.

Article 107: Freezing of funds for the execution of contracts

Funds or other financial resources owed pursuant to contracts, agreements or obligations concluded or arising prior to the entry into force of freezing procedures shall be drawn on the frozen accounts. The income and accrued interest from aforementioned funds, instruments and resources shall be paid into the same accounts.

Article 108: Flexibility measures for the freezing of funds

When a measure has been taken to freeze funds, financial instruments and other financial resources based on the provisions of article 105 of this Regulation, the competent authority, under terms it deems appropriate, may authorise the person, entity or body affected, at its request, to obtain a monthly amount of money set by said authority. This amount is intended, subject to availability, to cover day-to-day family expenses for a natural person or, for a legal person, expenses enabling it to continue business that complies with public order requirements. This amount may also cover legal assistance costs and any extraordinary expenses. In all cases, costs must be justified in advance.

The competent authority, under terms it deems appropriate, may also authorise the person, entity or body affected by the freezing, at their request, to sell or transfer the property, providing that the proceedings derived from the sale or transfer are also frozen.

The competent authority shall notify the person, entity or body subject to a freezing order of its decision within fifteen (15) days of reception of the requests stipulated in paragraph 1 above. It shall inform the person concerned under obligation of its decision.

If no notification is issued to the person requesting a decision within the period specified in paragraph 3 above as from reception of the request, it shall be deemed to have been rejected.

Article 109: Obligation to suspend a transfer order

Financial institutions that receive an order from a client, other than a financial institution, to transfer funds or financial instruments on its behalf to a person, entity or

body subject to a freezing order, must suspend execution of this order and immediately inform the competent authority and the NAFI.

The funds or financial instruments for which the transfer has been suspended shall be frozen, except if the competent authority authorises them to be returned to the client.

Financial institutions that receive an order from abroad to transfer the funds or financial instruments of a person, entity or body subject to a freezing order to a client, must suspend execution of this order and immediately inform the requesting authority and the NAFI.

The funds or instruments for which the transfer has been suspended shall be frozen, except if the competent authority authorises the transfer or if a decision by the competent judicial authority orders execution of the transfer.

Article 110: Authorisation of payment or return of funds

The competent authority may authorise the payment or return of funds, financial instruments or other economic resources subject to a freezing order to any person not covered by such an order who files a request, providing this person holds a right over said funds, financial instruments or other economic resources acquired prior to the freezing order or if a final court ruling grants it such a right, following legal proceedings started prior to the pronouncement of the freezing order.

Article 111: Conditions required for authorisations

The authorisations stipulated in articles 108 and 110 above are subject, if applicable, to the conditions or agreements that authorities of Member States are bound to respect or obtain pursuant to resolutions adopted under Chapter VII of the United Nations Charter or acts adopted pursuant to regulations in force.

If authorisation is subject to agreement from an international body, the periods specified in said articles for obtaining such an agreement shall be extended.

Article 112: Procedure for appealing against administrative orders to freeze funds

Any natural or legal person whose funds and other financial resources have been frozen pursuant to the provisions of article 105 paragraph 1 above, who considers that the decision to freeze is the result of an error or is lacking legal basis, has a period of one (1) month to appeal against this decision as from the date of publication in the official Journal or Journal for legal announcements or the date on which notification was received. Appeals are to be made to the competent authority that ordered the freezing, specifying all elements likely to prove the error or to the emergency judge with local jurisdiction if the appeal is based on a lack of legal basis. In the aforementioned case, the opinion of the Public Prosecutor or the equivalent authority is required prior to any decision.

Any appeal against a decision to freeze funds and other financial resources taken pursuant to a Resolution of the United Nations Security Council must comply with the appropriate procedure set out in the Security Council Resolutions.

CHAPTER II: Administrative, disciplinary and criminal sanctions

Section I: administrative and disciplinary sanctions

Article 113: Sanctions for non-compliance with the provisions of titles II and III

In cases where a person specified in articles 6 and 7 has failed to fulfil the obligations imposed by titles II and III of this Regulation, as a result either of serious lack of due diligence or failings in the organisation of its internal control procedures, the supervisory authority with disciplinary power may act ex officio under the terms set out by specific legislative and regulatory texts in force.

It must also inform the NAFI and the Public Prosecutor.

Section II: Applicable penalties

Subsection I: Applicable penalties for money laundering

Article 114: Applicable penalties for natural persons

Natural persons guilty of money laundering shall be punished by a prison sentence of between five (5) and ten (10) years and a fine of between five and ten times the value of the property or funds involved in the money laundering operations, with a minimum amount of 10 000 000 CFA francs.

Attempted money laundering is punishable by the same penalties.

Accomplices and co-perpetrators of money laundering are punished by the penalties stipulated in paragraph 1 above.

Article 115: Criminal penalties applicable to association or conspiracy to commit money laundering

Conspiracy or participation in an association to commit money laundering, association to commit said act, inciting of advising a natural or legal person with a view to performance or facilitating their performance shall be punished by the penalties stipulated in article 118 below.

Article 116: Aggravating circumstances

The penalties stipulated in article 114 are doubled in cases where:

1) the money laundering is committed in a habitual fashion or by using the facilities provided by exercise of a professional activity;

2) the perpetrator of the offence is a repeat offender; in this case, foreign convictions shall be taken into account when establishing recidivism;

3) the money laundering is committed by an organised group;

When the perpetrator of a predicate offence is also the perpetrator of the money laundering and if the predicate offence carries a penalty of deprivation of liberty for a term exceeding that specified pursuant to articles 114 et seq. of this Regulation, the money laundering is punishable by the penalties applying to the predicate offence.

If the predicate offence specified in the previous paragraph is accompanied by aggravating circumstances, the money laundering offence is punishable by the penalties applying to said aggravating circumstances.

Article 117: Penalties applicable to certain acts related to money laundering

The persons and directors or agents of natural or legal persons specified in articles 6 and 7 of this Regulation shall be punished by a prison sentence of between six months and two years and a fine of between one million and five million CFA francs, or one of these two punishments, when they have intentionally:

1) revealed information to the owner of the amounts or the perpetrator of the operations stipulated in article 8 concerning the declaration they are bound to make or action taken based on said declaration;

2) destroyed or removed items or documents relating to obligations of identification stipulated in articles 30 to 34, the safeguarding of which is stipulated by article 38 of this Regulation;

3) performed or attempted to perform one of the operations stipulated in articles 36, 37 and 44 to 58 of this Regulation under a false identity;

4) provided information by any means to the person(s) under investigation for money laundering, which they may have gained knowledge on account of their profession or position;

5) communicated to the judicial authorities or officials authorised to establish predicate and subsequent offences, deeds and documents stipulated in article 39 of this Regulation that they know to be falsified or erroneous;

6) communicated documents or information to persons other than those specified in article 41 of this Regulation;

7) omitted to file the suspicious activity report specified in article 83 of this Regulation, even though circumstances led to the conclusion that monies could proceed from a money laundering offence, as defined in article 8 of this Regulation.

Article 118: Additional penalties applicable to natural persons

Persons guilty of the offences set out in articles 8 may incur the following supplementary penalties:

1) a permanent or 5-year ban on entering the State of the jurisdiction imposing the sentence, if the person guilty of money laundering is a foreigner;

2) a one (1) to five (5) year ban on entering one or more administrative districts in which the jurisdiction imposed the sentence;

3) a ban on leaving the national territory and withdrawal of passport for a period of between six (6) months and three (3) years;

4) a ban on exercising civil and political rights for a period of between six (6) months and three (3) years;

5) a permanent ban or a ban of between six (6) months and three (3) years on exercising the profession or activity under which the offence was committed and a ban on exercising any public function;

6) a ban on issuing cheques other than those for withdrawing funds by the drawer from the drawee or certified cheques, and a ban on using payment cards for a period of between six (6) months and three (3) years;

7) a ban on holding or carrying a weapon requiring authorisation for a period of between six (6) months and three (3) years;

8) confiscation of all or part of the assets of licit origin of the convicted person.

Article 119: Fines applicable to the directors of companies dealing with foreign notes and coins, casinos and gaming establishments

The directors and agents of companies dealing with foreign notes and coins, casinos and gaming establishments that do not comply with the obligation and diligences incumbent upon them pursuant to this Regulation shall be fined between five hundred thousand (500,000) and ten million (10,000,000) CFA francs.

Article 120: Predicate offence

The provisions of this title apply even when the perpetrator of the predicate offence is neither prosecuted or convicted, or when a prerequisite is lacking for the instigation of legal proceedings following said offence. The perpetrator of the predicate offence may also be prosecuted for the offence of money laundering.

Section II: Applicable penalties for terrorism and proliferation financing

Article 121: Penalties incurred by natural persons

Natural persons guilty of an offence of financing terrorism or proliferation shall be punished by a prison sentence of between ten (10) and twenty (20) years and a fine of at least five times the value of the property or funds involved in the terrorism financing operations.

In order for these penalties to be applied, the funds do not need to have been actually used to commit a terrorist act, nor do the acts committed need to be those planned by the provider of funds and the perpetrator of the offences charged.

Attempted financing of terrorism or complicity in the financing of terrorism shall be punished by the same penalties.

Article 122: Aggravating circumstances

The penalties stipulated in article 121 above are doubled in cases where:

1) the offence of financing terrorism or proliferation is committed in a habitual fashion or by using the facilities provided by exercise of a professional activity;

2) the perpetrator of the offence is a repeat offender; in this case, foreign convictions shall be taken into account to establish recidivism;

3) the offence of financing terrorism or proliferation is committed by an organised group.

When the crime or offence from which the property or monies involved in the terrorism financing offence originate is punished by a penalty of deprivation of liberty for a term exceeding that of imprisonment incurred pursuant to article 121 of this Regulation, the financing of terrorism and proliferation shall be punished by the penalties applying to the related offence of which the perpetrator was aware and, if this offence is accompanied by aggravating circumstances, penalties applying solely to the circumstances of which the perpetrator was aware.

Article 123: Incrimination and criminal sanctions for offences related to terrorism financing

The persons and directors or agents of natural or legal persons specified in articles 6 and 7 of this Regulation shall be punished by a prison sentence of between one (1) and four (4) years and a fine of between two hundred thousand (200,000) and three million (3,000,000) CFA francs, or one of these two punishments, when they have intentionally:

1) revealed information to the owner of the amounts or the perpetrator of the acts stipulated in article 9 of this Regulation concerning the declaration they are

bound to make or action taken based on said declaration;

2) destroyed or removed items or documents relating to operations transactions stipulated in articles 37 to 45 of this Regulation;

3) performed or attempted to perform one of the operations stipulated by the provisions of articles 23 and 24, 29 to 45, 46 to 50 and 55 to 63 of this Regulation under a false identity;

4) provided information by any means to the person(s) under investigation for the financing of terrorism, which they may have gained knowledge on account of their profession or functions;

5) made false declarations or communications when performing one of the operations stipulated by the provisions of articles 28 to 43 of this Regulation;

6) communicated information or documents to persons other than the judicial authorities, State officials responsible for detecting and repressing offences relating to the financing of terrorism, acting under a judicial mandate, the supervisory authorities and the NAFI;

7) omitted to file the suspicious transactions report specified in article 83, even though circumstances led to the conclusion that monies could be linked, associated or intended for the purpose of the financing of terrorism, as defined in article 9 of this Regulation.

Article 124: Supplementary penalties incurred by natural persons

Natural persons guilty of the offences set out in articles 9 and 10 may incur the following supplementary penalties:

1) a permanent ban or a ban of between three (3) and seven (7) years imposed on any convicted foreigner;

2) a three (3) to seven (7) year ban on entering certain administrative districts;

3) a ban on leaving the national territory and withdrawal of passport for a period of between two (2) and five (5) years;

4) a ban on exercising civil and political rights for a period of between two (2) and five (5) years;

5) a ban on driving motorised land, sea and air vehicles and withdrawal of permits or licences for a period of between five (5) and ten (10) years;

6) a permanent ban or a ban of between five (5) and ten (10) years on exercising the profession or activity under which the offence was committed and a ban on exercising any public function;

7) a ban on issuing cheques other than those for withdrawing funds by the drawer from the drawee or certified cheques, and a ban on using payment cards for a period of between five (5) and ten (10) years;

Article 125: Exclusion from the benefit of suspended sentences

Persons found guilty of financing terrorism or proliferation may not benefit from the provisions of the law as regards suspended sentences. Likewise, the competent national authorities may not offer amnesty to persons convicted or prosecuted for financing terrorism or proliferation.

CHAPTER IV: Criminal responsibility of legal persons

Section I - Criminal liability of legal persons as regards money laundering

Article 126: Applicable penalties for legal persons

Any legal person on whose behalf or for whose benefit money laundering has been committed by one of their organs or representatives shall be punished by a fine of an amount five times the fines specified for natural persons, irrespective of the conviction of those individuals as perpetrators of or accomplices to the offence.

In addition, a legal person may also be subject to one or more of the following penalties:

1) exclusion permanently or for a period of between six (6) months and five (5) years from any public contracts;

2) confiscation of property that was used or was intended for committing the offence or the property that formed the proceeds or a property of equivalent value;

3) placement under court supervision for a maximum period of five (5) years;

4) a permanent or five (5) year ban from directly or indirectly exercising one or more of the social or professional activities under which the offence was committed;

5) permanent or five (5) year closure of the establishments or one of the establishments of the company used for the commission of the offence;

6) winding up of the companies created to commit the offences.

The sanctions stipulated in points 3, 4, 5 and 6 of paragraph 2 of this article do not apply to financial bodies under a supervisory authority with disciplinary power.

The competent supervisory authority, to which the Public Prosecutor may refer any proceedings instigated against a financial body, may impose appropriate sanctions, in compliance with specific legislative and regulatory texts in force.

Section II: The criminal liability of legal persons as regards terrorism and proliferation financing

Article 127: Penalties incurred by legal persons

Any legal person on whose behalf or for whose benefit the financing of terrorism has been committed by one of their organs or representatives shall be punished by a fine of an amount five times the fines specified for natural persons, irrespective of the conviction of those individuals as perpetrators of or accomplices to the offence.

In addition, a legal person may also be subject to one or more of the following penalties:

1) exclusion permanently or for a maximum period of ten (10) years from any public contracts;

2) confiscation of property that was used or was intended for committing the offence or the property that formed the proceeds or properties of equivalent value;

3) placement under court supervision for a maximum period of five (5) years;

4) a permanent or maximum ten (10) year ban from directly or indirectly exercising one or more of the social or professional activities under which the offence was committed;

5) permanent or maximum ten (10) year closure of the establishments or one of the establishments of the company used for the commission of the offence;

6) winding up of the companies created to commit the offences.

The sanctions stipulated in points 3, 4, 5 and 6 of paragraph 2 of this article do not apply to financial institutions under a supervisory authority with disciplinary power.

The competent supervisory authority, to which the Public Prosecutor may refer any proceedings instigated against a financial body, may impose appropriate sanctions, in compliance with specific legislative and regulatory texts in force.

CHAPTER V: Grounds for exemption and reduction of penalties

Article 128: Grounds for exemption from penalties

Any person participating in an association or conspiracy with a view to committing of the offences stipulated in articles 8, 9 and 10 of this Regulation and, by assisting, inciting or advising a natural or legal person with a view to performing such offences or facilitating their performance, shall be exempt from penalties if, having disclosed the existence of this conspiracy, association, assistance or advice to the judicial authority, they thus enable it to identify the other persons involved and prevent the money laundering and terrorism financing offences from being committed.

Article 129: Grounds for a reduction in penalties

Penalties incurred by any person, perpetrator or accomplice of one of the offences listed in articles 8, 9 and 10 of this Regulation who, prior to any proceedings, enables or facilitates identification of the other guilty persons or, once proceedings have commenced, enables or facilitates the arrest of such persons, shall be halved. In addition, said persons shall be exempt from the fine and any related additional and optional measures and penalties.

CHAPTER VI: Obligatory additional penalties

Article 130: Obligatory confiscation of the proceeds derived from money laundering

In all cases of conviction for offences of money laundering or attempted money laundering, the courts shall order confiscation in favour of the State treasury of proceeds derived from the offence, movable or immovable property in which said proceeds have been transformed or converted and, to an amount equal to their value, property legitimately acquired in which said proceeds have been intermingled, together with the revenue and other benefits derived from these proceeds, property in which they have been transformed or invested or property in which they are intermingled, from any person to whom these proceeds and this property belongs, unless their owner establishes that they are unaware of their fraudulent origin.

Article 131: Obligatory confiscation of funds and other financial resources relating to terrorism financing

In all cases of conviction for offences of money laundering or attempted money laundering, the court shall order confiscation in favour of the State Treasury of funds and other financial resources relating to the offence, together with any movable or immovable property intended or used for committing said offence.

The State may allocate the funds and other financial resources, together with the property specified in paragraph 1 above to a fund for combating organised crime or for compensating victims of the offences stipulated in articles 9 and 10 of this Regulation or their heirs and successors.

The decision ordering confiscation shall identify and specify the location of the funds, property and other financial resources concerned.

When the funds, property and other financial resources to be confiscated cannot be represented, their confiscation may be ordered in terms of value.

Any person claiming a right over a confiscated property or funds may seek redress by applying to the court that took the decision to confiscate within six (6) months of notification of the decision.

Article 132: Obligatory publication of decisions

Publication of the decision pronounced shall always be ordered by means of an insertion in the written press or by any means of audio-visual communication, at the cost of the natural or legal person convicted.

TITLE VI: INTERNATIONAL COOPERATION

Chapter 1: International competence

Article 133: Offences committed outside of national territory

National courts are competent to rule on offences specified in this Regulation, committed by any natural or legal person, whatever their nationality or the location of headquarters, even outside of the national territory, providing the offence was committed in one of the Member States or that the perpetrator(s) of the offence are residents in a Community State. The courts of Community States shall also be competent if, in cases of offences committed by organised groups, one of the perpetrators is a national of the State in which the case has been referred to the courts or is resident or has been found in hiding.

They may also rule on the same offences committed in a Third State, providing an international convention or national law grants them competence.

Chapter II: Transfer of proceedings

Article 134: Requests for transfer of proceedings

In cases where the prosecuting authority of another Member State considers for whatever reason that prosecution or continuation of prosecution already commenced faces significant obstacles and that appropriate criminal proceedings are impossible on national territory, it may, subject to co-operation agreements between the requesting State and the requested State, apply to the competent judicial authority of another Member State to perform the necessary actions against the person(s) concerned.

The provisions of paragraph 1 above also apply in cases where the request is issued by an authority from a Third State and where regulations in force in this State authorise the national prosecuting authority to file a request for the same purpose.

Requests for transfer of proceedings must be accompanied by the documents, exhibits, files, objects and information in the possession of the prosecuting authority of the requesting State.

Article 135: Transmission of requests

Requests made by competent foreign authorities for the purposes of establishing offences involving money laundering and the financing of terrorism and proliferation, enforcing or pronouncing provisional measures or confiscation, or for extradition purposes shall be transmitted by diplomatic means. In urgent cases, they may be

communicated via the International Criminal Police Organisation (ICPO/Interpol) or communicated directly by the foreign authorities to the national judicial authorities by any means of rapid transmission, by any written means or materially equivalent means. In this case, the requesting State authorities must inform their counterparts in the requested State after the act, by diplomatic means.

The requests and their annexes must be accompanied by a translation in the official language of the State to which they are sent.

Article 136: Refusal to instigate proceedings

The competent judicial authority of the requested State cannot take action on the request for transfer proceedings issued by the competent authority of the requesting State if, on the date of sending the request, the time limitation for prosecution has expired according to legislation of the required State or if prosecution of the person concerned is in progress on the territory of the requested State or if a final judgement has already been reached.

Article 137: Acts performed in the requested State prior to the transfer of proceedings

Providing they are compatible with legislation in force, all acts legitimately performed on the territory of the requested State for the purposes of the proceedings or for procedural requirements, shall have the same value as if they were performed on the territory of the requesting State.

Article 138: Information for the requesting State

The judicial authority of the requested State shall perform the proceedings and all other procedural acts in compliance with legislation in force on its territory and inform the prosecution authority of the requesting State of the decision taken or handed down at the end of the procedure.

Article 139: Notification issued to the prosecuted person

The competent judicial authority shall notify the person concerned that a request has been made concerning them and shall prepare the arguments it deems to be relevant prior to a decision being taken.

Article 140: Provisional measures

Following an application by the requesting State, the competent judicial authority may take any provisional measures, in particular the freezing, seizing, suspended execution of a transaction in progress or provisional detention pursuant to its national legislation.

Chapter III: Mutual legal assistance

Article 141: Terms of mutual legal assistance

Upon application by a Member State, requests for mutual legal assistance in connection with the offences stipulated in articles 8, 9 and 10 of this Regulation are executed in accordance with the principles set out in articles 142 to 158.

The provisions of the preceding paragraph apply to requests from a Third State, where the legislation of this State obliges it to respond to requests of the same nature issued by the competent authority.

Mutual legal assistance may include in particular:

1) taking evidence or statements from persons;

2) assisting in making detained persons or other persons available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;

3) effecting service of judicial documents;

4) executing searches and seizures;

5) inspecting objects and sites;

6) providing information and evidentiary items;

7) providing originals or certified copies of relevant documents and records, including bank statements, accounting documents and registers recording corporate operations and business activities.

Article 142: Contents of mutual legal assistance requests

All requests for mutual legal assistance must be sent to the competent authority in writing. They must specify:

1) the name of the authority requesting the measure;

2) the name of the competent authority and the authority conducting the investigation or proceedings to which the request relates;

3) the purpose of the requested measure;

4) details of the facts of the offence and the applicable legislative provisions, except if the request solely concerns the service of writs and records of judicial verdicts;

5) any known details that may facilitate identification of the persons concerned. In particular civil status, nationality, address and occupation;

6) any information necessary for tracing the instruments, funds or property in question;

7) a detailed description of any specific procedure or request that the requesting State wishes to have followed or enforced;

8) an indication of the time period in which the requesting State wishes to have its request processed;

9) any other information required for the efficient processing of the request.

Article 143: Refusal to execute requests for mutual legal assistance

A request for mutual legal assistance may be refused only if:

1) it was not made by a competent authority according to the legislation of the requesting State or if it was not transmitted in accordance with applicable laws;

2) its execution is likely to prejudice the public order, sovereignty, security or other fundamental principles of applicable law in the territory of the requested State;

3) the offence to which it relates is the subject of criminal proceedings or has already been the subject of a final judgement in the national territory;

4) the measures requested or any other measures with analogous effects are not authorised or are not applicable to the offence specified in the request, pursuant to legislation in force;

5) the measures requested cannot be pronounced or enforced due to the expiry of the time limitation for the offence of money laundering or the financing of terrorism and proliferation, pursuant to legislation in force or the law of the requested State;

6) the decision requested is not enforceable under legislation in force;

7) the foreign decision was pronounced in conditions that do not provide sufficient guarantees with respect to rights of defence;

8) there are substantial grounds for believing that the measure or order being sought is directed at the person in question solely on account of that person's race, religion, nationality, ethnic origin, political opinions, gender or status;

9) the decision for which cooperation is requested pronounces the death penalty, which is not stipulated in the law of the requested State.

Professional secrecy cannot be invoked as grounds for refusal to comply with the request.

The public prosecutor can appeal against the decision to refuse execution as ruled by a court, within ten days of said decision being announced.

The authority of the requested State shall promptly inform the requesting State of the grounds for refusal to execute its request.

Article 144: Secrecy of requests for mutual legal assistance

The competent authority shall keep secret the request for mutual legal assistance, its contents and the documents produced, together with the very existence of mutual assistance.

In cases where it is impossible to execute the said request without disclosing the secret, the competent authority shall inform the requesting State, which shall then decide if it wishes to pursue the request.

Article 145: Requests for investigative measures

Investigative measures shall be undertaken in conformity with the current legislation, unless the competent authority of the requesting State has requested a specific procedure not contrary to such rules.

A judge or public official authorized by the competent authority of the requesting State may assist with enforcement of the measures, depending on whether they are performed by a judge or a public official, subject to the express consent of the requested State.

The police or judicial authorities of the requested State may perform any investigative measures in collaboration with the authorities of other Member States.

Article 146: Service of writs and records of judicial verdicts

In cases where requests for mutual assistance involve the service of writs and/or records of judicial verdicts, they must include a description of the specified writs or verdicts in addition to the indications stipulated in article 145 above.

The competent authority shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.

Service may be effected by simple transmission of the writ or record to the person to be served. If the competent authority of the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law.

Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the competent authority that service has been effected and stating the form and date of such service.

The document establishing proof of service shall be sent immediately to the requesting Party.

If service cannot be effected, the reasons shall be communicated immediately by the competent authority to the requesting Party.

Requests for serving a document requiring the appearance of a person must be made no later than sixty (60) days prior to the date of appearance.

Article 147: Appearance of witnesses not held in custody

In cases of prosecution for offences stipulated in this Regulation, where the personal appearance of a witness residing on national territory is deemed necessary by the judicial authorities of a foreign State, the competent authority, acting upon a request sent by diplomatic means, shall ensure the witness undertakes to attend the invitation.

The request seeking to obtain the appearance of a witness must include details of their identification, in addition to the indications stipulated in article 145 above.

However, the request is only received and transmitted on the dual condition that the witness shall not be prosecuted or held for acts or convictions prior to their appearance and that they shall not be obliged, without their consent, to act as a witness in proceedings or assist any investigation not connected to the request for mutual assistance.

No sanctions or measures of constraint may be applied to witnesses refusing to comply with a request seeking to obtain their appearance.

Article 148: Appearance of witnesses held in custody

In cases of prosecution for offences stipulated in this Regulation, when the personal appearance of a witness held in custody on national territory is deemed necessary, the competent authority, acting upon a request sent directly by the competent court, shall proceed with the transfer of the person in question.

However, the request shall only be accepted if the competent authority of the request in State undertakes to keep the transferred person detained until the sentence pronounced by competent national courts has been served in full and to return them to detention at the end of the proceedings or earlier, if their presence is no longer necessary.

Article 149: Judicial records

In cases of prosecution by a jurisdiction of a Member State for offences stipulated in this Regulation, the court of the said jurisdiction may directly obtain an extract of judicial record and any other information regarding the prosecuted person directly from the competent national authorities.

The provisions of paragraph 1 above apply to prosecutions by a jurisdiction of a Third State and in cases where this State reserves the same treatment for requests of the same nature issued by competent national authorities.

Article 150: Requests for searches and seizures

When the request for mutual assistance involves the performance of searches and seizures to collect evidentiary items, the competent authority of the requested State shall uphold the request, insofar as the act complies with its legislation and providing the measures requested to not infringe the rights of bone fide third parties.

Article 151: Requests for confiscation

In the case of a request for mutual legal assistance seeking a confiscation order, the competent authorities of the requesting state shall refer the matter to the competent courts for a ruling.

The confiscation ruling must relate to property that is the proceeds or the instrument of one of the offences stipulated in this Regulation and located on the territory of the requested State, or consist of an obligation to pay an amount of money corresponding to the value of this property.

Requests seeking to obtain a ruling on confiscation shall not be upheld if they infringe the legally constituted rights of third parties over the property stipulated pursuant to this Regulation.

Article 152: Requests for provisional measures for the purposes of preparing confiscation

When the request for mutual assistance relates to the search for the proceeds of offences stipulated in this Regulation located in the national territory, the competent authority may conduct investigations, the results of which shall be communicated to the competent authority of the requesting State.

To this end, the competent authority shall make all necessary provisions, notably with the assistance of the NAFI, to track down the origin of assets, conduct investigations into the appropriate financial operations and collect all other information or testimonials likely to facilitate the placing of the proceeds of the offence under court administration.

When the investigations stipulated in paragraph 1 of this article produce positive results, the competent authority of the requested State, by request of the competent authority of the requesting State, shall take all measures to prevent the negotiation, transfer or disposition of the proceeds in question, whilst awaiting the final decision of the competent court of the requesting State.

Any demand seeking to obtain the measures specified in this article must list, in addition to the indications stipulated in article 145 above, the reasons leading the competent authority of the requesting State to believe that the proceedings or

instruments of the offences are on its territory, together with the information enabling them to be located.

Article 153: Effect of confiscation rulings pronounced abroad

In accordance with legislation in force, the competent authority enforces or ensures enforcement of any final judicial decision concerning the seizing or confiscation of proceeds of the offences stipulated in this Regulation issued by a court of a Member State.

The provisions of paragraph 1 above apply to decisions issued by courts of law of a Third State, in cases where this State reserves the same treatment for decisions issued by competent national courts of law.

Notwithstanding the provisions of the two previous paragraphs, the enforcement of decisions issued abroad may not infringe legally constituted rights of third parties over the stipulated property, pursuant to legislation. This rule does not preclude application of the provisions of foreign decisions relating to the rights of third parties, except if said third parties have been unable to enforce their rights before the competent court of law of the foreign State in conditions similar to those stipulated by current law.

Article 154: Disposal of confiscated property

The State shall have power of disposal of property confiscated on its territory at the request of foreign authorities unless provided otherwise under an agreement concluded with the requesting State.

Article 155: Requests for enforcement of foreign decisions

Sentences involving penalties of deprivation of liberty, fines and confiscations, together with disqualifications pronounced for offences stipulated in this Regulation by a final decision issued by a court of law of a Member State, may be enforced on national territory at the request of the competent authorities of this State.

The provisions of the previous paragraph apply to sentences pronounced by the courts of law of a Third State, when this State reserves the same treatment for decisions issued by national courts of law.

Article 156: Terms of enforcement

The sentences pronounced abroad shall be enforced in appliance with the applicable legislation in the required State.

Article 157: End of enforcement

Enforcement of the decision pronounced abroad is ended when, on account of a decision or writ issued by the State that pronounced the sanction, said decision loses its enforceable character.

Article 158: Refusal of enforcement

The request to enforce the sentence pronounced abroad shall be rejected if the penalty is time-barred under the law of the request in State or has already been executed.

Chapter IV: Extradition

Article 159: Conditions for extradition

The following persons may be extradited:

1) persons prosecuted for offences stipulated by this Regulation, whatever the length of the penalty incurred on national territory.

2) persons who have been convicted with final effect of offences stipulated by this Regulation by the courts of the requesting State, without the requirement to take into account the penalty pronounced, excluding the death penalty

Rules of ordinary extradition law remain unaffected, in particular those regarding double criminality.

Article 160: Simplified procedure

When the request for extradition concerns a person who has committed one of the offences stipulated by this Regulation, the request shall be directly sent to the Public Prosecutor of the requested State, with a copy to the Minister for Justice for information purposes.

The request specified in the aforementioned paragraph shall be supported by:

1) the original or an authenticated copy either of the enforceable conviction decision or of an arrest warrant or any other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting State, including precise details of the time, place and circumstances of the acts constituting the offence and their qualification;

2) a certified copy of the applicable legal provisions, with details of the penalty imposed;

3) a document including as accurate a description as possible of the person sought, together with any other information helping to establish the identity, nationality and whereabouts of the person.

Article 161: Supplementary information

In cases where the information communicated by the competent authority of the requesting State is shown to be insufficient to take a decision, the requested State shall apply for the necessary supplementary information. In this respect, it may set a

deadline of fifteen (15) days for obtaining said information, unless this deadline is incompatible with the nature of the case.

Article 162: Provisional arrests

In urgent cases, the competent authority of the requesting State may request the provisional arrest of the person sought, whilst awaiting presentation of an extradition request. A decision shall be taken regarding this request in accordance with legislation in force.

The request for provisional arrest shall specify the existence of the documents stipulated in article 163 of this Regulation, together with the intention to send an extradition request. It shall state the offence for which extradition is requested, when and where the offence was committed, the penalty which is or may be imposed or which has been pronounced, the whereabouts of the person sought, if known, and, insofar as is possible, a description of said person.

The request for provisional arrest shall be sent to the competent authorities, either by diplomatic means or directly by post or electronic means, either by the International Criminal Police Organisation (ICPO/Interpol), or by any other written means or means authorised by legislation in force in the State.

The competent authority of the request in State shall be immediately informed of the decision taken regarding its request.

The detention shall end if, after twenty (20) days, the competent authority has not been provided with the extradition request and the documents specified in article 163.

The possibility of provisional release at any time is not excluded, but the requested authority shall take any measures which it deems necessary to prevent the person absconding.

Release shall not preclude further arrest and extradition, should the extradition request be presented at a later date.

Article 163: Provision of objects

When there are grounds to extradite, all objects which could be used as evidence or objects derived from offences involving money laundering or the financing of terrorism, found in the possession of the person sought at the time of arrest, or discovered at a later date, shall be seized and handed over to the competent authority of the requesting State upon its request.

These objects can be provided even if the extradition is not performed following the escape or death of the individual claimed.

Any rights however which third parties may have acquired over said objects shall be preserved and the objects shall be returned without charge to the requested State, as early as possible after the procedures exercised in the requesting State.

The competent authority may temporarily keep the seized objects if it considers it necessary within the framework of criminal proceedings.

When forwarding them, it reserves the option of requesting their return on the same grounds, undertaking to send them back as soon as possible.

Article 164: Obligation to extradite or prosecute

In the case of a refusal to extradite, the case shall be brought before the competent national courts of law in order to take appropriate action against the person in respect of the offence for which extradition had been requested.

TITLE VII: FINAL PROVISIONS AND DATE OF EFFECT

Article 165: Procedures under investigation or under trial prior to this Regulation taking effect shall remain governed by the law under which they were commenced.

Article 166: This Regulation, established in English, French and Spanish, the three versions being equally authentic, and which repeals and replaces all previous provisions to the contrary, in particular those of Regulation N° 02/CEMAC/UMAC/CM of 2 October 2010 amending Regulation N°. 01/03/CEMAC/UMAC/CM of 4 April 2003 on the prevention and repression of money laundering and the financing of terrorism in Central Africa shall take effect from the date of its signature and will be published in the Official Community Gazette.

Bangui, on the 11 APR 2016

The Minister of Finance and Budget

President

COMMUNAUTE ECONOMIQUE ET MONETAIRE DE L'AFRIQUE CENTRALE C E M A C

YANINDJI Célestin