

**LAW No. 05/L-096**

**ON THE PREVENTION OF MONEY LAUNDERING AND COMBATING TERRORIST  
FINANCING**

**The Assembly of the Republic of Kosovo;**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON THE PREVENTION OF MONEY LAUNDERING AND COMBATING TERRORIST  
FINANCING**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose and Scope**

1. This Law stipulates measures, competent authorities and procedures for detecting and preventing money laundering and combating terrorist financing.
2. Provisions of this Law shall be obligatory to all institutions and their respective units, and to all non-public entities subject to activities that may relate to money laundering and terrorist financing, according to the provisions of this Law.
3. This law aims to implement the EU Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on prevention of the use of the financial system for money laundering and terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and the Council, and repealing Directive 2005/60/EC of the European Parliament and the Council and the Commission Directive 2006/70 /EC.

**Article 2  
Definitions**

1. For purposes of this Law, the following definitions shall mean:

1.1. **Terrorist act** – the definition as prescribed in the Criminal Code of the Republic of Kosovo.

1.2. **Suspicious act or transaction** – an act or transaction, or an attempted act or transaction, that generates a reasonable suspicion that the property involved in the act or transaction, or the attempted act or transaction, is proceeds of crime or is related to terrorist financing and shall be interpreted in line with any sub legal act issued by the FIU-K on suspicious acts or transactions.

1.3. **Criminal activity** – any kind of criminal involvement in the commission of a criminal offense as defined under the legislation in force in the Republic of Kosovo.

1.4. **Auditor** - a natural person who is licensed in accordance with the Law on Accounting, Financial Reporting and Audit.

1.5. **Lawyer** - any person who is registered in the register of attorneys in accordance with the Law on the Bar in Kosovo.

1.6. **Bank** – an entity defined as a bank according to the Law on Banks, Microfinance Institutions and Non-bank Financial Institutions.

1.7. **Shell bank** - a bank or institution engaged in equivalent activities, established in a country where it has no physical presence, which makes possible to exercise an actual direction and management without being affiliated with any regulated financial group;

1.8. **Corresponding bank** - the bank that provides banking or similar services for another bank (respondent bank).

1.9. **The Oversight Board of FIU-K** – the Board comprised of members from different institutions, as defined under this Law, who shall provide oversight and ensure the independence of FIU-K.

1.10. **CBK** – Central Bank of the Republic of Kosovo.

1.11. **Immovable property right** - a right pertaining to immovable property, including ownership, mortgages, servitudes and rights of use of socially owned, publicly-owned and state-owned property;

1.12. **Payable through** - correspondent accounts used directly by a third party to transact business on their own behalf.

1.13. **FATF** - the “Financial Action Task Force”, which is an independent intergovernmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of mass destruction weapons;

1.14. **Terrorist financing** - the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or with the premeditation that they are to be used, in full or in part, or for the benefit of a terrorist or a terrorist organisation, or in order to carry out any of the offences within the meaning of Articles 138 and 143 of the Criminal Code of Kosovo.

1.15. **Funds or other assets** - assets of every kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, bank and traveller’s cheques, money orders, shares, securities, bonds, drafts and letters of credit, and any interest, dividends or other incomes on or value accruing from or generated by such assets or funds, however acquired.

**1.16. Financial institution**- a person or entity that conducts one or more of the activities for or on behalf of a customer including activities shown below:

1.16.1. lending, including but not limited to consumer credit; mortgage credit; factoring (business for buying cheques, obligations or similar), with or without recourse; and finance of commercial transactions, including forfeiting;

1.16.2. financial leasing, except financial leasing arrangements related to consumer products;

1.16.3. transfer of currency or monetary instruments, by any means, including by an informal money transfer system or by a network of persons or entities which facilitate the transfer of money outside of the conventional financial institutions system;

1.16.4. money and currency exchanging;

1.16.5. issuing and managing means of payment, including but not limited to credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, or electronic money;

1.16.6. granting of financial guarantees and commitments;

1.16.7. trading on behalf of other persons or entities in one or more of the following:

1.16.7.1. money market instruments, cheques, bills, certificates of deposit, derivative products coming from another activity;

1.16.7.2. foreign currency exchange;

1.16.7.3. exchange, interest rate and index instruments;

1.16.7.4. transferable securities; and

1.16.7.5. commodity futures trading;

1.16.8. individual and collective portfolio management;

1.16.9. participation in securities issuances and the provision of financial services related to such issuances;

1.16.10. safekeeping and administration of cash or liquid securities on behalf of other persons;

1.16.11. otherwise investing, administering or managing funds or money on behalf of other persons or entities;

1.16.12. acting as an insurance company, life insurance company or intermediary of life insurances as defined in the Law on Insurances in Kosovo;

1.16.13. acting as a fiduciary as defined in the Law on Pensions Funds of Kosovo.

1.17. **Monetary instruments**- shall include currency, travellers' cheques, personal cheques, bank cheques, payment orders, money orders, cashier's cheques of any description, and investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

1.18. **Casino** – any licensed facility that houses and accommodates certain types of casino games most commonly built near or combined with hotels, restaurants and other tourist attractions in accordance with the applicable law on Games of Chance in Kosovo;

1.19. **Client** - any person that conducts, or attempts to conduct a transaction or use the services of a reporting subject as defined in this law, and shall include any owner or beneficiary or other person or entity on whose behalf the transaction is conducted or the services are received;

1.20. **Accountant** - a person who is qualified as an accountant certified by a licensed professional accounting and auditing association and continues to be a member with regular status at a professional association of accounting and auditing, and has the right to use the title of certified accountant, as defined Law on Accounting, Financial Reporting and Audit.

1.21. **Games of chance** – any game physically played with cards, dices, device or machine for money, property, cheques, loans or any other equivalent value including but not limited to the games roulette, keno, bingo, blackjack, poker, baccarat, pay gow, slot machines, or any other game or device approved by the Tax Administration of Kosovo, but does not include the games which are excluded by the applicable Law on Games of Chance in Kosovo.

1.22. **Business relationship** – a business, professional or commercial relationship, which is connected with the professional activities of a reporting subject, with another natural person or entity and which is expected, at the time when the contract is established, to have an element of duration.

1.23. **Correspondent relationship** - means:

1.23.1. provision of banking services by a bank (correspondent) to another bank (respondent), including but not limited to ensuring the responsibility of current or others accounts and related services, such as administration of cash, transfers of international funds, clearing, paid through foreign exchange accounts and services;

1.23.2. relationships through financial institutions and between financial institutions that provide similar services, including but not limited to those relationships established for the transactions of securities or fund transfers;

1.24. **Legal arrangements** – trusts and other similar legal arrangements;

1.25. **Sectoral supervisors** - for the purposes of this Law means the competent authorities specified by the applicable laws in Kosovo that license, regulate and supervise the work of reporting subjects under their competence for the purpose of implementing this Law.

1.26. **Freezing**- prohibiting the transfer, conversion, disposition or movement of funds or other property on the basis of, and for the duration of the validity of, a decision of a judicial or other competent authority. The frozen funds or other property shall remain the property of the persons or entities that held an interest in the specific funds or other property at the time of freezing, and may continue to be administered by the financial institution.

1.27. **Notary** - a professional lawyer, public official, appointed by the Ministry of Justice to perform the activities defined in accordance with the Law on Notaries in Kosovo.

1.28. **FIU-K** - the Financial Intelligence Unit of the Republic of Kosovo;

1.29. **Non-Governmental Organisation (NGO)** - any legal person organised as a non-governmental organisation in Kosovo according to the Law on Freedom of Association in the Non-Governmental Organizations in Kosovo.

1.30. **Cash** – the currency as the means of exchange in the form of coin or bill, which is circulated as cash money.

1.31. **Money laundering** - any of the conducts specified in Article 56 of this Law.

1.32. **Immovable property** - land, buildings and apartments.

1.33. **Politically Exposed Person** – means:

1.33.1. domestic or foreign natural persons who are or have been entrusted with prominent public functions, that includes the following categories:

1.33.1.1. head of state, government leader, minister, deputy minister, political advisor, chief of staff;

1.33.1.2. members of parliament or members of similar bodies and elected by the parliament;

1.33.1.3. management board members of political parties;

1.33.1.4. members of the Constitutional Court, Supreme Court or any other high-level judicial or military adjudicating body whose decisions cannot be appealed except in extraordinary circumstances;

1.33.1.5. members of the national audit office, court of auditors and boards of central banks;

1.33.1.6. ambassadors or chargés d'affaires or high ranking military officials;

1.33.1.7. board members, administrators, managers or supervisors of state owned enterprises;

1.33.1.8 directors, deputy directors and members of boards or equivalent positions in international organisations.

1.33.2. Family members of categories referred in paragraph 1.33.1 include the following:

1.33.2.1. Spouse or any person who is considered as spouse equivalent;

1.33.2.2. Children and their spouses or persons considered equivalent to the spouse;

1.33.2.3. Parents.

1.33.3. A person known as close associate to categories referred in paragraph 1.33.1 means:

1.33.3.1. Any natural person who is known to be joint beneficial owner of legal persons or legal arrangements, or any close business relationship with persons specified in paragraph 1.33.1;

1.33.3.2. Any natural person who is the beneficial owner of a legal person or legal arrangement which is known to have been established for de facto benefit of persons specified under paragraph 1.33.1.

1.34. **Covered professional** - lawyers, notaries, accountants, auditors and tax advisors.

1.35. **Police** – the Kosovo Police as defined in the Law on Kosovo Police and Criminal Procedure Code of Kosovo.

1.36. **Beneficial owner** - the natural person who ultimately owns or controls a customer and/or a natural person on whose behalf a transaction or activity is being conducted, or the person who ultimately exercises effective control over a legal person or arrangement.

1.36.1. In case of legal person, the beneficial owner shall include at least:

1.36.1.1. The natural person who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of shares or voting rights in that legal entity, including also bearer share holders, other than a company listed on a regulated market that is subject to disclosure requirements, consistent with international standards which ensure adequate transparency of ownership information; a percentage of twenty five percent (25%) or more shares shall be deemed sufficient to meet this criterion; A shareholding of

twenty five percent (25 %) or more shares or an ownership interest of more than twenty five percent (25 %) in the customer held by a natural person shall be an indication of direct ownership. A shareholding of twenty five percent (25 %) or more shares or an ownership interest of more than twenty five percent (25 %) in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.

1.36.1.2. the natural person who otherwise exercises control over the management of a legal entity;

1.36.2 in the case of legal entities, such as foundations, and legal arrangements, such as trusts, that administer and distribute funds:

1.36.2.1 when future beneficiaries have already been determined the natural person who is the beneficial of twenty five percent (25%) or more of the property of legal arrangement or legal entity;

1.36.2.2. when where individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

1.36.2.3. the natural person who exercises control over twenty five percent (25%) or more of the property of a legal arrangement or entity;

1.36.3. In the case of life or other investment related insurance business the beneficiaries that are identified as specifically named natural or legal persons or legal arrangements or that are designated by characteristics or by class;

1.37. **Seizure** - prohibiting the transfer, conversion, disposition or movement of funds or other property on the basis of a decision of a judicial or other competent authority and for the duration of its validity. The seized funds or other property shall remain the property of the person or entities that held an interest in the specific funds or other property at the time of seizure, but shall continue to be administered by the competent authority;

1.38. **Entity** - a natural or legal entity that exists in a legally recognized form, including but not limited to; a legal person, a business organization, an NGO, a political subject, a trust, a socially-owned enterprise and a publicly-owned enterprise;

1.39. **Reporting entity** - a natural or legal person required to make reports to the FIU-K, as defined in Article 16 of this Law.

1.40. **Business organisation** - has the meaning as defined according to the Law on Business Organisations in Kosovo.

1.41. **Proceeds of crime** - any property derived directly or indirectly from a predicate criminal offence. Property derived indirectly from a predicate criminal offence includes property into which any property directly derived from the predicate criminal offence was later converted, transformed or intermingled, as well as income, capital or other

economic gains derived or realized from such property at any time since the commission of the predicate criminal offence;

1.42. **Transaction** – for the purposes of this Law a transaction means a business relationship or an exchange that involves two (2) or more parties in a business relationship one of whom is a reporting subject under this Law.

1.43. **Occasional transaction** - any transaction other than a transaction carried out in the exercise of a business relationship formed by a reporting subject and another person or entity.

1.44. **Wire transfer** - any transaction carried out on behalf of an originator person both natural and legal through a financial institution by electronic means with a view to making an amount of money available to beneficiary person at another financial institution.

1.45. **Trust** - an agreement in good faith in which the ownership rests with the trustee on behalf of the beneficiary.

1.46. **Currency** - banknotes and coins that are in circulation as a medium of exchange. The amount set out in euro in this Law implies the equivalent value in other foreign currency.

1.47. **Predicate criminal offence** - any offence, which generates proceeds of crime.

1.48. **Compliance officer** – director, officer, employee of any reporting subject who is appointed in writing form, as defined in this law and who prepares or transmits reports according to Article 26 and other provisions of this Law.

1.49. **Senior management** - an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of the directors.

### **Article 3**

#### **Prosecution Competencies**

1. Money laundering and terrorist financing criminal offences described in Article 56 and 57 of this Law fall within the exclusive competence of the Special Prosecution Office of the Republic of Kosovo, established by Law on Special Prosecution Office of the Republic of Kosovo.

2. Other criminal offences described in this Law fall under the competence of state prosecutors as described by Law on State Prosecutor and Criminal Procedure Code of Kosovo.



## **CHAPTER II THE FINANCIAL INTELLIGENCE UNIT**

### **Article 4**

#### **Status of the Financial Intelligence Unit**

1. FIU-K is a central independent national institution within Ministry of Finance, responsible for requesting, receiving, analysing and disseminating to the competent authorities, disclosures of information which concern potential money laundering and terrorist financing.
2. The FIU-K has autonomous budget provided by the Budget of the Republic of Kosovo in accordance with the Annual Budget Law. FIU-K shall independently decide on the use of budget, in accordance with Law on Public Financial Management and Accountability.
3. The FIU-K professional staff are not civil servants. However, legislation governing civil service issues shall apply to the staff of the FIU-K, unless otherwise regulated by this law and other sub-legal acts which will be in accordance with the basic principles of civil service law.
4. The sub-legal acts on internal administrative organization and other administrative issues of FIU-K shall be proposed by the director of FIU-K and shall be approved by the Board of FIU-K.

### **Article 5**

#### **The Oversight Board of FIU-K**

1. The Oversight Board of the Financial Intelligence Unit (hereafter the Board) shall oversee and ensure independence of the FIU-K. The Board has no executive or enforcement powers vis-à-vis the FIU-K.
2. The Board is comprised of the Minister of Finance who shall serve as the Chair of the Board. Other members of the Board shall include, ex officio, the Minister of Internal Affairs, the Chief Prosecutor of Kosovo, the Director-General of the Kosovo Police, the Director of the Tax Administration of Kosovo, the Director-General of the Customs of Kosovo and the Governor of the CBK.
3. The Board shall convene as often as required by the FIU-K, but not less than two (2) times per year.
4. The Boards' meetings are convened by the Chair of the Board who decides upon the agenda, taking into consideration also the proposals of the FIU-K director. Meetings may also be convened at the written request of four (4) members of the Board.
5. Board's meetings shall be convened by communicating the time, venue and the meeting's agenda to all Board members, at least five (5) working days before the date set for the meeting. In urgent cases, meetings may be convened at a shorter notice.

### **Article 6**

#### **Duties and Competences of the Board**

1. The Board is authorised to:

- 1.1. review, approve and reject the reports of the FIU-K prepared according to paragraph 1. Article 10 of this Law. If the Board refuses such a report, it shall provide the Director of the FIU-K with a detailed written explanation of the reasons for such refusal;
- 1.2. oversee and periodically assess the performance of the Director of the FIU-K;
- 1.3. appoint and dismiss the Director of the FIU-K;
- 1.4. approve the FIU-K internal organisation regulation upon the proposal of the FIU-K Director;
- 1.5. determine the budget of the FIU-K upon proposal of the Director FIU-K and shall proceed it according to the Annual Budget Law;
- 1.6. control and oversee the wealth stated by the Director of the FIU-K and the conflict of interest cases, in accordance with the applicable law foreseen to Prevent Conflict of Interest in Exercising Public Function on Declaration of Assets and Gifts of the Senior Public Officials and other relevant articles of the applicable legislation in Kosovo.
- 1.7. perform the function of a coordinating mechanism responsible for determining the orientation of state policies to prevent money laundering and terrorist financing based on identified risks, as well as enhancing cooperation among institutions in accordance with the purposes of this law. For this purpose, it may invite other stakeholders from the public and private sector.
- 1.8. for the purposes of sub-paragraph 1.7. of this Article, the Board may establish working groups to coordinate activities in the field of public policies to prevent money laundering and terrorist financing and setting long and short term priorities.

#### **Article 7**

#### **Operational Independence of FIU-K**

The Board has no right to interfere in any way in FIU-K operational on-going cases.

#### **Article 8**

#### **Organisation of the Board and Decision-making Procedures**

1. The Chair shall represent the Board in public and shall appoint an official of Ministry of Finance to serve as the Secretary of the Board.
2. The Board shall make decisions by majority vote. The Board shall have a quorum to make a decision if at least five (5) Board members are present at a duly called and noticed meeting at the time the decision is made.
3. The Board's meetings are run by the Chair, or by the Minister of Internal Affairs, in absence of the chair.
4. The Board shall prepare and adopt its own rules and procedures that are necessary for exercising its duties and competencies.

## **Article 9**

### **Competencies of the Chair of the Board**

The Chairperson shall be responsible for performing all functions vested in him/her by law and delegated to him/her in written by the Board and conducting the ordinary business of the Board in accordance with any decisions and instructions duly adopted by the Board.

## **Article 10**

### **Competencies and Responsibilities of the Director FIU-K vis-a-vis the Board**

1. Once (1) a year, the Director of the FIU-K shall provide each and every member of the Board with an up-to-date written report, 15 (fifteen) days before Board's meeting, summarizing the administrative, executive, and regulatory activities of the FIU-K and all aspects of FIU-K financial management, revenues and expenditures.
2. If a majority of the members of the Board determine that there are reasons to believe that the FIU-K is not complying or has not complied with one or more provisions of the present law or another sub-legal act applicable in Kosovo, the Board shall refer the respective matter of non-compliance to the Auditor General of Kosovo and request him/her to carry out an audit. The audit report shall be presented to the Assembly of Kosovo.
3. The FIU-K director is not under any obligation to disclose any information which could jeopardize the operational side of the work of the FIU-K.

## **Article 11**

### **Director of FIU-K**

1. The FIU-K is headed by a Director who is responsible for all aspects of directing and managing the FIU-K, in accordance with this Law, internal sub-legal acts and other applicable legislation in force.
2. In the discharge of duties and tasks, the Director of the FIU-K shall be assisted by the Deputy Director of FIU-K. Deputy Director of FIU-K shall be nominated by the Director of the FIU-K who delegates tasks to him/her in written form. Procedures, criteria and other issues related to the Deputy Director will be determined by sub legal acts.
3. The Director of the FIU-K shall be appointed by the Board and must fulfil the following criteria:
  - 3.1. be a citizen of the Republic of Kosovo;
  - 3.2. be a person with high moral integrity and professionalism;
  - 3.3. to be impartial, honest and worthy to perform the function;
  - 3.4. have a university degree in the field of economy, finance or justice;
  - 3.5. have at least seven (7) years of experience in management field;
  - 3.6. should not have had a political position in the Government of Kosovo, Assembly of

Kosovo, municipal authorities, political parties or trade unions;

3.7. have no direct or indirect interest in a reporting entity; and

3.8. have no conflict of interest in accordance with the Law on Prevention of Conflict of Interest.

4. The Board shall ensure open and transparent selection process of the Director, according to the procedures set in Article 12 of this law.

5. No person may be appointed or remain a Director if he/she has been convicted of a crime which is punishable by a sentence of imprisonment of six (6) months or more.

6. The Director of the FIU-K shall be an "official" in compliance with the Law on Preventing Conflict of Interests.

7. The Director of the FIU-K is appointed for a term of three (3) years, which may be extended once by the Board.

8. Six (6) months prior to expiration of the mandate of the serving Director, the Ministry of Finance, in co-ordination with the FIU-K Board Secretary shall initiate the procedure for the selection of new Director through an open, public, impartial and transparent selection and interviewing process for candidates including:

8.1. widely publicizing the vacancy in official languages with details of the post, its location, job description, duration of contract, a brief description of the qualifications, skills, expertise and personal qualities required and a clear explanation of the application and selection procedures which will be followed;

8.2. ensuring that the selection procedure is open, competitive, non-discriminatory, fair, objective and transparent based upon a pre-determined set of essential qualifications and skills in this law.

## **Article 12**

### **Selection Procedures for FIU-K Director**

1. The Ministry of Finance, in co-ordination with FIU-K Board Secretary, shall make a pre-selection of most suitable candidates that meet the criteria established by the Law and shall shortlist at least two (2) candidates.

2. The Board Secretary shall submit to Board the names of the short listed candidates with a report detailing based on which criteria the pre selection took place.

3. The Board after voting appoints the Director of the FIU-K among the short listed candidates.

4. The Chair of the Board shall officially publish the selection of the FIU-K Director.

### **Article 13**

#### **Dismissal and Suspension of FIU-K Director**

1. The Director of the FIU-K shall be dismissed through the same process by which he or she was appointed.
2. The Director of the FIU-K may be dismissed:
  - 2.1. if he is convicted of a criminal act;
  - 2.2. as a result of permanent loss of the ability to perform his job for a period of more than three (3) months;
  - 2.3. if he/she is found to have exercised the duties of the office in contravention of the law or in a manner likely to bring the FIU-K into public or judicial disrepute because of serious professional misconduct or grossly improper personal behaviour.
3. The Director of the FIU-K may be suspended:
  - 3.1. if he/she does not seek the prior approval of the Board before joining any organisation or group;
  - 3.2. if he/she fails to report as defined in this law;
  - 3.3. if he/she holds any other employment during their tenure as FIU-K Director;
  - 3.4. if he/she is engaged in any industrial action or any other form of collective work stoppage;
  - 3.5. if he/she without the prior agreement of the Board, gives public statements or otherwise comments on the work of the FIU-K, or in any case provides information to unauthorised persons on data, documents, contacts, knowledge or personnel of the FIU-K;
  - 3.6. if he/she pursues or accepts any gain, benefit, monetary advantage, or illegal service for themselves or others, other than those provided by this Law;
  - 3.7. if he/she violates any of the provisions of this Article or of this Law, which otherwise shall be considered grounds for suspension and/or termination of employment pursuant to this Law.

### **Article 14**

#### **Duties and Competencies of FIU-K**

1. The FIU is authorised to:
  - 1.1. receive and analyse reports and information:

- 1.1.1. made or kept under Articles 16 to 33 of this law;
- 1.1.2. provided to the FIU-K by bodies from FIU of foreign countries with similar functions, from courts or responsible authorities for implementation of the Law including intergovernmental and international organizations, the public or governmental bodies; and
- 1.1.3. voluntarily provided to the FIU-K concerning suspicions of money laundering or predicate criminal offences and/or of the terrorist financing.
- 1.2. collect information that is relevant to money laundering activities and associated predicate offences or the financing of terrorist activities and that is publicly available, including through commercially available databases;
- 1.3. conduct strategic analysis of the information it collects and receives, to prevent and combat money laundering, predicate offences and terrorist financing;
- 1.4. request from reporting subjects any data, documents or information needed to undertake its functions under this Law. The data, documents or information shall be provided within the timeframe established by FIU-K;
- 1.5. request from public or government bodies data, documents and information it needs for the purpose of exercising its functions under this Law and have access to the databases maintained by those bodies. Such information shall be provided without delay;
- 1.6. create and maintain a database of all information collected or received relating to suspected money laundering, predicate offences or terrorist financing and such other similar materials as are relevant to the work of the FIU-K;
- 1.7. compile information, statistics and reports and based thereon make recommendations to the Ministry of Finance, Ministry of Justice, Kosovo Police, the Kosovo Customs and/or other relevant persons or bodies regarding measures which may be taken and legislation which may be adopted to combat money laundering, predicate offences and the terrorist financing;
- 1.8. make such reports public as will be helpful in carrying out its functions;
- 1.9. organize and/or conduct regular training, including awareness and outreach regarding the prevention of money laundering, predicate offences, terrorist financing and the obligations of reporting subjects;
- 1.10. disseminate, in accordance with provisions of this Law the outcome of its analysis and any necessary report or information to the relevant authorities;
- 1.11. adopt sub-legal acts, issue directives and instructions on the matter related to ensuring or promoting compliance with this Law, including but not limited to:
  - 1.11.1. the use of standardized reporting forms;

1.11.2. suspicious acts or transactions, including the nature of suspicious acts or transactions for the purposes of this Law, and compiling the lists of indicators of such acts and transactions;

1.11.3. the exemption of persons or entities or categories of persons or entities from reporting obligations under this Law and the methods of reporting such exemptions.

1.12. issue orders to not execute the transactions in compliance with this Law, or demand from the reporting subjects to monitor accounts or the business relationship for a period of time up to three (3) months; or for an additional period as defined by FIU-K;

1.13 supervise and monitor reporting subjects on compliance with this law, sub-legal acts, directives and orders issued there under as provided for in this Law both on an on-site and off-site basis;

1.14. participate in events for international cooperation in the area of detection and prevention of money laundering, predicate offences and terrorism financing;

1.15. perform other functions in accordance with this Law.

2. The staff of the FIU-K shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within the FIU-K. Such information may only be used for the purposes provided for in accordance with this law.

3. The FIU-K and other bodies and institutions in Kosovo shall be obliged to mutually cooperate and assist one another in performing their duties and shall coordinate activities within their competence, consistent with the applicable laws. For this purpose FIU-K may enter into agreements or memoranda of understanding.

## **Article 15**

### **Disclosure, dissemination and exchange of information by FIU-K**

1. The FIU-K may disclose, at its own initiative or upon request, only the following information to public and governmental bodies or to reporting subjects, if such disclosure is deemed necessary by, or of assistance to the FIU-K for the performance of its functions:

1.1. any data concerning a person or entity that would directly or indirectly identify the person or entity, including but limited to a name or address;

1.2. any identifying data concerning a transaction, including but not limited to the date, location, amount or type of property, account number, or transaction number; and

1.3. any other data that the FIU-K deems appropriate in order to prevent and combat money laundering, predicate offences and terrorist financing.

2. The information referred to in paragraph 1. of this Article and the result of analysis for suspected money laundering, predicate offenses and terrorism financing, can be disclosed and disseminated on its own initiative or upon request by the FIU-K to:

2.1. local authorities and those with local competences, if such information is relevant to investigations within their competences;

2.2. bodies responsible for law enforcement or a body outside Kosovo with similar function to the FIU-K.

3. All the data, information and records are disclosed by the FIU-K for intelligence purposes only, in order to provide a ground basis for investigations. They cannot be utilized as evidence before a Court unless the prior written approval of the Director of FIU-K, who shall authorise such disclosure only in case there are no other possibilities for the law enforcement bodies to obtain the relevant evidences elsewhere and in another way.

4. The FIU-K may exchange internationally, all information accessible or obtainable directly or indirectly by the FIU-K, spontaneously or upon request, with any foreign counterpart that performs similar functions and is subject to similar confidentiality obligations, regardless of the nature of the counterpart and within the framework of each counterpart's domestic legislation. The exchanged information shall be used only for the requested purpose, with the prior consent of the providing agency and only for the purpose of fighting money laundering, predicate offences and terrorist financing. To this purpose, the FIU-K may also sign agreements or memoranda of understanding.

5. FIU-K may refuse the request as provided in paragraph 4. of this Article, if it considers that the exchange of such data risks or could jeopardize the course of criminal proceedings in Kosovo and it shall notify in writing the competent foreign counterpart who filed the request, stating the reasons for refusal.

### **CHAPTER III REPORTING SUBJECTS AND THEIR LEGAL OBLIGATIONS**

#### **Article 16 Reporting Entities**

1. Reporting entities for the purposes of this law shall mean:

1.1. banks;

1.2. financial institutions;

1.3. casinos, including internet casinos and licensed objects of the games of chance;

1.4. real estate agents and real estate brokers;

1.5. natural or legal persons trading in goods when receiving payment in cash in an amount of ten thousand (10.000) Euros or more;

1.6. lawyers and notaries when they prepare for carrying out or engage in transactions for their client concerning the following activities:



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

1.7. accountants, auditors and tax advisers;

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

- 1.8.1. acting as a formation agent of legal persons;
- 1.8.2. acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- 1.8.3. providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- 1.8.4. acting as, or arranging for another person to act as, a trustee of an express trust;
- 1.8.5. acting as, or arranging for another person to act as, a nominee shareholder for another person;

1.9. NGOs; and

1.10. sellers of precious metals and precious stone traders;

### **Article 17**

#### **The actions and measures to be undertaken by reporting entities**

1. Actions and measures for the prevention and detection of money laundering and terrorism financing shall be taken by all reporting entities, before, during the course of, and following the execution of a transaction or establishing of a business relationship.

2. The actions and measures referred to in paragraph 1. of this Article shall be undertaken by all reporting subjects. For this purpose, the reporting subjects shall issue internal written policy and procedure, establish controls to prevent and detect money laundering and terrorist financing and shall implement them. These policy, procedures and controls shall include, but not limited to:

- 2.1. procedure for customer due diligence, including procedures for customer identification and verification;
- 2.2. reporting procedure to FIU-K according to Article 26 of this Law and sending information, data, and documentation to FIU-K;
- 2.3. procedure for processing, or taking further action in connection with, the suspicious act or transaction, including measures to prevent further action in connection with suspicious act or transaction in accordance with paragraph 5. of Article 26 of this law;
- 2.4. nominate the compliance officer to implement the obligations defined in this law as well as providing conditions for their work;
- 2.5. ensure the organization and financing of the program for the training of employees on the responsibilities imposed by this law;
- 2.6. establishing of adequate bodies of regular internal control for the implementation of the obligations defined in this law and audit function to test the reporting and identification system, except the reporting subject with limited staff number;
- 2.7. implementing the list of indicators issued by FIU-K and supplementing and keeping up to date that list with specific indicators for a reporting subject to identify persons and transactions with respect to which there is reason to suspect money laundering or terrorist financing;
- 2.8. procedures for collecting and keeping data, protection and data retention in accordance with the law and procedure to prevent unauthorized access;
- 2.9. implementation of actions and other measures in accordance with this law.

### **Article 18**

#### **Assessment and Prevention of Risk**

1. The FIU-K shall periodically ensure and co-ordinate a national risk assessment of money laundering and the financing of terrorism to identify, assess and evaluate risks and make recommendations to the Government for the establishment of policies, strategies and risk management measures to mitigate the identified risks. The national risk assessment shall be undertaken at least every three (3) years and the Ministry of Finance may issue sub legal acts in accordance with Article 66 of this Law establishing the procedures to be followed.
2. All reporting subjects shall periodically determine the risk of money laundering and terrorist financing that they are exposed to through the provision of their services, products, geographic location and delivery mechanisms and channels. The risk assessment shall be provided to the FIU-K and, for banks and financial institutions also to the CBK, upon request.
3. To this effect all reporting subjects shall further identify and assess money laundering and terrorist financing risks that may arise in relation to the development of new products and new business practices, including new distribution mechanisms and channels and use of new or developing technologies for new or existing products prior to the introduction of such new products, business practices, distribution channels or use of new or developing technologies.

4. Moreover, all reporting subjects shall pay particular attention to any risk of money laundering or terrorist financing related to products or transactions which promote anonymity and take any necessary measures to prevent its use for the purpose of money laundering or terrorist financing.

5. All reporting subjects shall determine, on on-going basis, the risk for money laundering and terrorist financing presented by their clients and other persons to whom they provide financial and professional services. When reporting subjects determine that the risk of money laundering and terrorist financing is high they shall take measures set forth under paragraph 1. of Article 22, in addition to the measures set forth in this Article.

6. All reporting subjects shall apply enhanced due diligence measures in accordance with paragraph 1. of Article 22 that are effective and proportionate to the risks identified for business relationships and transactions with natural and legal persons, including financial institutions, from countries as may be stipulated by the FIU-K on the basis of international measures against such countries and the FIU-K shall determine appropriate, effective and proportional countermeasures to be applied against such countries.

### **Article 19**

#### **Customer Due Diligence**

1. Customer due diligence measures that shall be applied by all reporting subjects includes:

1.1. identifying the client and verifying the client's identity through independent sources, documents, data or credible information;

1.2. identifying the beneficial owner and/or natural person or persons who directly or indirectly control twenty five percent (25%) or more of a legal person. Where reporting subjects consider that the risk of money laundering or terrorist financing is high, they shall take reasonable measures to verify his or her identity so that the institution or person covered by this law is convinced that it knows who the beneficial owner is, including, as regards legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer;

1.3. understanding and obtaining information on the purpose and targeted nature of the business relationship such that reporting subjects may develop the business and risk profile of their customers, as well as monitor business relationships;

1.4. conducting continuous monitoring of the business relationship, including the supervision of transactions performed during this entire relationship to ensure that the performed transactions, are compliant to the insights of the client, business profile and risk, including, where necessary, source of funds and guarantee that documents, data or information are kept up to date;

2. Reporting subjects shall apply the customer due diligence measures in the following cases:

2.1. when establishing businesses relationship;

2.2. when carrying out occasional transactions in cash in an amount of ten thousand (10.000) Euros or more, or equivalent value in foreign value, whether it is performed

as a single transaction or several transactions that are related. If the amount of the transaction is unknown at the time of the operation, the identification shall be done as soon as the amount becomes known or the threshold is reached;

2.3. when there are suspicions about the accuracy and adequacy of the customer identification data obtained;

2.4. when there is a suspicion of money laundering or financing of terrorism.

3. All reporting subjects shall identify their clients specified under sub-paragraph 1.1. and 1.2. of paragraph 1. of this Article as follows:

3.1. a natural person shall be identified by presentation of an original, unexpired official document that bears a photograph of such person. The person's address and date of birth shall be verified by the presentation of a document or documents capable of providing proof thereof.

3.2. the identity of a legal entity shall be verified by the presentation of:

3.2.1. a business registration certificate issued pursuant to the Law on Business Organisations of Kosovo;

3.2.2. an NGO registration certificate issued pursuant to Law on Freedom of Association in Non-Governmental Organisations;

3.2.3. proof of registration of a political subject pursuant to the legislation in force;

4. Where an entity is not a business organization, NGO or political subject, the reporting subject shall take any other document or documents which enables the verification of the identity of the entity, legal form, address, directors, trustees and provisions regulating the power of agents, officers or directors that are engaged in the relevant entity.

5. For life and other investment related insurance business reporting subjects shall, in addition to the customer due diligence measures in accordance with this Article and Article 22 of this Law identify the beneficiaries and:

5.1. where the beneficiary is identified as a named natural or legal person reporting subjects shall record the name of the person;

5.2. where the beneficiary is designated by characteristics or by class or by other means, reporting subjects shall obtain and maintain sufficient information regarding the beneficiary such that the reporting subject will be able to establish the identity of the beneficiary at the time of payout;

5.3. in both cases verify the identity of the beneficiaries in accordance with the provisions of this Article at the time of payout;

5.4 where the identified beneficiary is a legal person or a legal arrangement and the reporting subject determines that such beneficiary presents a higher risk, then the

reporting subject shall take reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary at the time of payout.

6. A person engaging in an activity under sub-paragraph 2.1. and 2.2. of this Article and in the cases specified in sub-paragraphs 2.1., 2.2., 2.3. and 2.6. of Article 24 of this Law, shall certify to the reporting subject, in a manner specified by the sectoral supervisor, the source of funds and/or that he/she is acting:

6.1. on his/her own behalf as both the owner and the beneficiary of any property that is the subject of the transaction; or

6.2. as an authorized agent of one or more persons or entities identified pursuant to sub-paragraphs 3.1. and 3.2. of this Article, having taken reasonable steps to verify that each identified person or entity is the owner or the beneficiary of any property that is the subject of the transaction, and believing in good faith that each identified person or entity is the owner and/or beneficiary of any property that is the subject of the transaction.

7. Any person acting as an authorised agent shall present documents in accordance with sub-paragraph 3.1. and 3.2. of this Article for him/herself and for the authorising person or entity and shall provide a document authorising him or her to conduct transactions on behalf of such person or entity.

8. Notwithstanding compliance with paragraph 3. to paragraph 7. of this Article, a reporting subject shall take any additional reasonable measure necessary to identify every person and entity on behalf of which a person engaging in a transaction shall act under paragraph 2. of this Article, including the owner and beneficiary of the property.

9. Where a reporting subject is unable to complete the customer due diligence measures of a client, the beneficial owner or the beneficiaries of life and other investment related insurance business in accordance with this Article the transaction should not be performed. Any business relationship should be terminated or not commenced and any account closed with any property returned to its source. Such action is without prejudice for the reporting subject to report such circumstances as suspicious acts or transactions to the FIU-K pursuant to sub-paragraph 1.1. of Article 26 of this Law and to report additional material/information pursuant to paragraph 2. of Article 26 of this Law.

10. Pursuant to paragraph 2. of Article 66 of this Law, the FIU-K, the CBK or a sectoral supervisor shall specify procedures for the application of customer due diligence in accordance with this Article and Article 22 of this Law.

## **Article 20**

### **Record Keeping**

1. Reporting subjects shall keep all data on the information collected pursuant to this Law and shall ensure that the documentation and following information are ready and available to FIU-K, and to other competent authorities:

1.1. copies of documents that attest the identity of a client, property holders, taken in compliance with this law, file's accounts and business correspondence, for at least five (5) last years, upon termination of business relation;

1.2. information received in compliance with provisions of this law, to enable reconstruction of transactions, which are executed or tried to be executed, by clients and written reports established in compliance with Article 25 of this Law, for at least five (5) years after the attempt to execute or the execution of a transaction.

1.3. when transaction data refer to a series of interrelated repeated transactions, the five (5) year preservation period shall commence with the execution of the last transaction of the series.

1.4 when the transaction information relates to a report filed to the FIU-K in relation to a suspicious act or transaction, the five (5) year period shall commence with the date of the filing of the report in accordance with Article 26 of this Law.

2. In the case of wire transfers, banks and financial institutions carrying out this activity shall maintain a registry of all relevant information on the payer and that accompany a transfer, all information that is received on the payer and all other information that accompanies a transfer when they act as originator, intermediary or beneficiary institution respectively for a period of five (5) years from the date of execution of the transaction.

3. In special cases specified by the FIU-K for the purpose of exercising its competencies, the FIU-K may extend the five (5) year period as provided under this Article with a written order to the respective reporting subjects.

4. Reporting subjects shall provide the necessary measures to protect the data from damage and to prevent unauthorised access.

5. In accordance with paragraph 2. of Article 66 of this Law, the FIU-K, CBK or a sectoral supervisory shall specify the procedures for records keeping in accordance with this Article including the exercise of internal controls for data storage.

## **Article 21**

### **Compliance Function for Prevention of Money Laundering and Terrorist Financing**

1. The reporting subjects shall appoint a compliance officer. In his/her absence, they shall appoint his/her deputy to perform actions and take measures to prevent and detect money laundering and terrorist financing, in accordance with the laws and sub legal acts adopted pursuant to this law. Exceptionally, for banks the position of deputy compliance officer is a permanent position.

2. The compliance officer shall be employed by reporting subject in a position with powers allowing for an effective, efficient and quality performance of all the duties specified in this law and should be responsible for interaction and information exchange with FIU K, and in the case of banks and financial institutions, with CBK, and shall be subject to reporting obligations and record keeping and confidentiality under this law.

3. The compliance function for the prevention of money laundering and terrorist financing shall operate without interference. The compliance function for banks is led by senior manager and shall be independent from all other functions of the reporting subject and for other reporting subject provided that there are adequate administrative capacities for this purpose.

4. The reporting subjects shall provide the compliance officer with the following:

- 4.1. unrestricted access to data, information and documentation required for the discharge of duties;
- 4.2. appropriate human, material, IT, and other work resources;
- 4.3. adequate office space and technical conditions for an appropriate level of protection of confidential data accessible to the compliance officer;
- 4.4. ongoing professional training for prevention of money laundering and terrorism financing;
- 4.5. replacement during absence;
- 4.6. protection with respect to disclosure of data about compliance officer to unauthorised persons, as well as protection of other procedures which may affect an uninterrupted performance of duties and unauthorised access to data;

5. FIU-K shall issue sub legal acts to define the “fit and proper” criteria for compliance officers, the requirements to be met by the person to be appointed as the compliance officer and the powers and responsibilities of the compliance function and other issues related to the implementation of the obligations under this law. In case of banks and financial institutions, these criteria shall be determined in consultation with the CBK, and if appointed compliance officer does not meet the “fit and proper” criteria, FIU-K may reject his appointment to this position.

6. The deputy compliance officer in accordance with paragraph 1. of this Article shall meet the same requirements as compliance officer.

7. The compliance officer shall be appointed and dismissed by the written decision of the director or responsible person in the reporting subject, whereas for banks and financial institutions with the decision of the Management Board or equivalent responsible person under the relevant law under which the reporting subjects operates. In case of dismissal of compliance officer, the reporting subject shall immediately inform the FIU-K, for banks and financial institutions also CBK, regarding the decision of dismissal, specifying the reasons.

8. All reporting subjects shall notify the FIU-K, and in the case of banks and financial institutions also the CBK, on the identity of the compliance officer within a period of thirty (30) days after the establishing of the reporting subjects, unless otherwise stipulated in this Law and continuously for any changes of compliance officer.

## **Article 22**

### **Enhanced Due Diligence**

1. When the reporting subjects determine, in accordance with paragraph 5. of Article 18 of this Law, that the risk of money laundering or terrorist financing is high, they shall take reasonable measures to keep up to date the information collected pursuant to Article 19 of this Law, and apply necessary enhanced due diligence measures to monitor the business profile and risk, including the source of funds, and ensure that records and other information held are kept up to date. The sectoral supervisor may issue mandatory instructions in this regard in accordance with paragraph 2. of Article 66 of this Law.

2. When the customer is not “physically present”, the reporting subjects that are subject to this

law shall take specific and adequate measures to offset the higher risk by taking one or more of the following measures in addition to the measures under paragraph 1. of this Article:

2.1. verify the identity of the customer through documents, data or information;

2.2. take additional measures to verify or certify the documents supplied, or requiring confirmatory certification by a bank or financial institution covered by this law; and

2.3. ensuring that the first payment of the operations is carried out through an account opened in the customer's name in a bank.

3. The requirements for identification and customer due diligence is deemed to be fulfilled, even without the physical presence of the customer, in the following cases:

3.1. whether the customer is already identified in relation to an ongoing bank relationship, provided that the existing information is updated;

3.2. whether operations are carried out by systems of night saves or ATMs, through correspondence or entities engaged in transport of valuables or through credit/debit cards; such transactions are charged to the owner of the account whom they relate to; and

3.3. for customers whose identification data and other information are to be acquired by a public or private deed or authenticated by qualified certificates used to generate a digital signature associated with electronic documents.

4. In case of cross border correspondent banking or other similar relationships, the banks and financial institutions, in addition to the measures under paragraph 1. of this Article shall:

4.1. gather sufficient information in order to fully understand the nature of its business and to determine, based on public registers, lists, documents or records knowable by anyone, its reputation and the quality of control to which it is subjected;

4.2. assess the quality of controls in relation to combat money laundering or the financing of terrorism to which the corresponding entity is subjected;

4.3. obtain approval of the Director-General, to his designated person or employee performing an equivalent functions before establishing new banking relationships;

4.4. define in writing the terms of the agreement with the institution and their corresponding obligations; and

4.5. ensure that the bank and financial institution has verified the identity of customers who directly access the transitory accounts, which has consistently fulfilled the requirements of adequate verification of clients so that, upon request, the intermediary can provide the financial counterpart data obtained as a result of the performance of such obligations.

5. Reporting entities shall take reasonable measures to determine if their customers, beneficial owners and beneficiaries of life or other investment related insurances business or where



appropriate the beneficial owner of the beneficiary (latest at the time of payout) are domestic, foreign or international organisation politically exposed persons, as defined by this Law. If such determination results in a client or beneficial owner being determined to be a domestic, foreign or international organization politically exposed persons defined by this Law, then reporting subjects shall, in addition to the measures set out in paragraph 1. of this Article, take the following measures in respect of clients and their beneficial owners.

5.1. obtain the approval of a senior manager of the reporting subject to establish or to continue the business relationship or to perform the occasional transaction;

5.2. take adequate measures to establish the source of wealth of the customer and the origin of the assets used in the relationship or transaction; and

5.3. ensure continuous and strengthened monitoring of the account and the relationship.

6. In case of beneficiaries of life or other investment related insurance business or, where applicable, the beneficial owner of the beneficiary, where it is determined that they are domestic, foreign or international organisation politically exposed persons as defined in this law and there are higher risks identified, in addition to the customer due diligence measures under this Article and Article 19, shall:

6.1. inform a senior manager of the reporting subject before the payout of the policy proceeds; and

6.2. conduct enhanced scrutiny on the whole business relationship with the policyholder, and consider making a suspicious transaction report.

7. Financial intermediaries cannot open or maintain correspondent accounts with a shell bank or a bank which is known to allow the use of its accounts by shell banks.

### **Article 23**

#### **Simplified Due Diligence**

1. When the reporting subjects identify areas with lower risk, FIU-K may allow the reporting subjects to apply the simplified due diligence customer measures.

2. Before seeking the exception and apply for simplify due diligence measures reporting subjects shall determine that the customer relationship or transaction represents a low level of risk.

3. Reporting subjects shall ensure that they will perform adequate monitoring of transactions or business relationships to enable detection of suspicious or unusual transactions.

4. In assessing the risk of money laundering and financing of terrorism risks associated with the types of clients, the geographical location of countries, specific products, services, mechanisms and channels of distribution, reporting subjects shall consider at least, factors and situations that potentially present a lower risk which shall be determined by the FIU-K in cooperation with sectoral supervisors.

5. FIU-K in cooperation with sectoral supervisors shall issue sub legal acts to reporting subjects related to associated risk factors that shall be taken into consideration and/or action that shall be taken in situations where simplified due diligence is appropriate. Specific account shall be

taken into due to the nature and size of the business, and where appropriate and proportionate, specific measures shall be defined.

6. The CBK shall issue sub-legal act in accordance with paragraph 2. of Article 66 of this Law to identify the risk factors that shall be taken into consideration and/or action to be taken in situations where simplified due diligence is appropriate for banks and financial institutions.

#### **Article 24**

##### **Additional Obligations of Banks and Financial Institutions**

1. Banks and financial institutions shall not keep anonymous accounts or accounts under fictitious names.

2. Banks and financial institutions, other than obligations of Article 19 of this Law, shall verify the identity, and, in the case of natural persons, also verify the date of birth, of all clients when:

2.1. opening bank accounts;

2.2. taking stocks, bonds, or other securities into safe custody;

2.3. granting safe-deposit facilities;

2.4. performing a domestic or international bank transfer of funds;

2.5. prior to performing occasional transactions; and

2.6. engaging in any single transaction in currency of ten thousand (10.000) Euros or more. Multiple currency transactions shall be treated as a single transaction if the bank or financial institution has knowledge that the transactions are conducted by or on behalf of one person or entity and a total of ten thousand (10.000) Euros or more is made in a single day.

3. Banks and financial institutions shall submit to the FIU-K and the CBK policies and procedures set forth in Article 17 of this Law not later than thirty (30) days after the establishment of the bank or financial institution and not later than fifteen (15) days after the adoption of amendments to such procedures, or according to the timeline specified by the FIU-K.

4. Banks and financial institutions shall ensure that natural or legal persons that act as branches, subsidiaries or agents on their behalf are included in the programs for the prevention and fighting of money laundering and terrorist financing, as well as monitor their compliance with the provisions of this law.

5. Banks and financial institutions shall implement programs within the group that cover their foreign branches and majority ownership subsidiaries, against money laundering and terrorist financing, including information exchange policies and procedures within the group for the purpose of this law.

6. Banks and financial institutions whose activities include wire transfers shall obtain and verify the full name, account number, the address, or in absence of address the national identity number or date and place of birth, including when necessary the name of the financial institution,

of the originator of such transfers. The information shall be included in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer.

7. Banks and financial institutions shall maintain all such information and transmit it when they act as intermediaries in chain of payments.

8. The sectoral supervisor may issue sub-legal acts regarding international and domestic transfers executed as batch transfers.

9. Paragraphs 6. and 7. of this Article shall not apply to transfers executed as a result of credit card or debit card transactions, provided that the credit card or debit card number accompanies the transfer resulting from the transaction, nor shall they apply to transfers between banks and/or financial institutions where both the originator and the beneficiary are banks or financial institutions acting on their own behalf.

10. If the banks or the financial institutions receive wire transfers that do not contain the complete originator information they shall take measures to obtain and verify the missing information from the ordering institution or the beneficiary, should they not obtain the missing information they shall refuse acceptance of the transfer and report it to the FIU-K.

#### **Article 25**

##### **Special monitoring of certain transactions**

1. Reporting entities shall pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

2. Reporting entities shall pay special attention to business relations and transactions with persons, including legal persons and arrangements and financial institutions, from or in countries that do not or insufficiently apply the relevant international standards to combat money laundering and financing of terrorism.

3. Reporting entities shall examine to the extent possible the background and purpose of such transactions and shall set forth in writing their findings and the specific information regarding transactions as referred to in paragraphs 1. and 2. of this Article and the identity of all parties involved. These data shall be maintained as specified in this law and shall be made available if requested by the FIU-K, sectoral supervisory and other competent authorities.

#### **Article 26**

##### **Reporting to FIU-K**

1. All reporting entities shall report to the FIU-K, in the manner and format specified by the FIU-K:

1.1. all suspicious activities or transactions within twenty four (24) hours from the time the activity or transaction was identified as suspicious; and

1.2. all single transactions in cash of ten thousand (10.000) euro or more or in equivalent value in foreign currency. Multiple transactions shall be treated as a single transaction if the reporting entity is aware that the transactions are conducted by or on behalf of one

person or entity and reach the amount of ten thousand (10.000) Euros or more in one (1) single day.

2. Reporting entities shall continue to report to the FIU-K all additional important information regarding the transaction(s) that is acquired by the reporting entities after the report specified in paragraph 1. of this Article, as well as other information as required by the FIU-K.

3. FIU-K may exempt, either upon a written request or on its own initiative, certain transactions or categories of transactions from the obligations under sub-paragraph 1.2. of paragraph 1. of this Article, when transactions or categories of bank transactions are routine or serve a legitimate purpose, or are otherwise not of interest to the mandate of the FIU-K.

4. Reporting entities, directors, officers, temporary or permanent employees of the reporting entity that prepare or transmit reports pursuant to this Law shall not disclose the fact that a report has been submitted or is in the process of being submitted, neither provide this report, nor communicate any information contained in that report or regarding that report, including where such information is being prepared to be submitted accordingly, or that a money laundering or financing of terrorism investigations are being or may be carried out, to any person or entity, including any person or entity involved in the transaction which is included in the report, other than the FIU-K, unless authorized in writing by the FIU-K, a public prosecutor, or a court.

5. The reporting entity shall notify the FIU-K prior to taking any action in relation with any suspicious act or transaction, including the action under paragraph 9. of Article 19 of this Law, which would result in the release or transfer of the property subject to the transaction from the control of the reporting entity. The notification may be made orally, but such notification does not abrogate the duty to submit the written report pursuant to paragraph 1. of this Article.

6. Upon admission of notification, in compliance with paragraph 5. of this Article, the FIU-K within a forty eight (48) hour time limit shall instruct the reporting entity to permit the execution of the transaction or carry out a temporary freezing pursuant to Article 27 of this law. When FIU-K does not respond within the stipulated time limit, the reporting entity proceeds with the execution of the transaction. Such instruction of the action pursuant to this Article shall not be communicated to any person or entity, including the client, without the consent of the FIU-K.

7. The FIU-K, any investigating, prosecuting, judicial or administrative authority and reporting entities or other persons and entities that are in possession of personal information of employees and other officers of reporting entities who report suspicions of money laundering or the financing of terrorism or who provide related information, either internally or to the FIU-K, in accordance with this Law shall protect and keep confidential such personal information.

## **Article 27**

### **Temporary Freezing of Transaction**

1. The FIU-K may issue a written order to reporting entities to temporary freeze the execution of transactions, if it estimates that there is a reasonable ground to suspect money laundering or terrorist financing in relation to a transaction or person that performs the transaction, for which the prosecution and authorities in charge shall be notified so that they can undertake measures within their responsibilities.

2. The FIU-K Director or the authorized person may, in urgent cases, give a verbal order for the temporary freezing of transactions which shall be confirmed in writing not later than the next working day.

3. The temporary freezing, pursuant to paragraphs 1. and 2. of this Article may last for a maximum period of forty eight (48) hours from the moment the order for the temporary freeze of the transaction is issued. If the time limit specified in this paragraph occurs during holidays, FIU-K may issue an order to extend this time limit for an additional twenty four (24) hours.
4. During the temporary freezing period of the transaction, the reporting entities shall be subject to FIU-K order.
5. Competent authorities mentioned in paragraph 1. of this Article shall undertake without any delay measures within their competencies for which they shall immediately notify the FIU-K.
6. If within the period mentioned under paragraph 3. of this Article, the FIU-K decides that there are no reasonable grounds to suspect money laundering or terrorist financing, it shall notify the reporting entity that it may complete the transaction.
7. If the FIU-K fails to notify the reporting entity in relation to the results of its actions within the time limit specified under paragraph 3. of this Article, the reporting entity shall be considered cleared to execute the transaction.

#### **Article 28**

##### **Temporary Freezing of Transaction within the International Co-operation**

1. The FIU-K may issue a written order to temporary freeze the execution of transactions, on the basis of a written and grounded request of any foreign counterpart that performs similar functions to the FIU-K, under the conditions laid down in this law and under the conditions of reciprocity.
2. The provisions of Article 27 of this Law shall apply, as appropriate, to the temporary freezing of the execution of transactions referred to in paragraph 1. of this Article.
3. The FIU-K may refuse the request from paragraph 1. of this Article, if it considers that such request jeopardizes the criminal investigations in Kosovo or for security reasons, for which it shall inform in writing the competent foreign counterpart, stating the reasons for the refusal.
4. FIU-K may request from each foreign counterpart conducting similar functions to those of FIU-K to order the temporary freezing of transactions if there are reasonable grounds to suspect for money laundering or terrorist financing in relation to the transaction or the person.

#### **Article 29**

##### **Specific NGO Obligations**

1. All incomes and expenditures of NGOs shall be executed through bank and financial institutions licensed by the CBK, through bank accounts opened on behalf of NGOs, with the exception of what is provided in paragraph 2. of this Article.
2. NGOs may:
  - 2.1. receive/accept contributions in cash in the value which does not exceed the amount of five hundred (500) Euros or the equivalent value in a foreign currency, from a single source within one (1) single day. The total amount of the contribution received,

according to this paragraph, during the year shall not exceed the value of one thousand (1.000) Euros.

2.2. pay/give to a single receiver cash that shall not exceed the amount of five hundred (500) Euros or the equivalent value in a foreign currency, within one (1) single day. The total amount of payments according to this paragraph during the year shall not exceed the amount of five thousand (5.000) Euros.

3. NGOs shall maintain financial data/ledgers that document all incomes and expenditures. These data shall identify the income by source, the amount, and manner of payment, and will identify the paid amount by the recipient, intended use of funds, and the manner of payment. Documents for financial data shall be maintained for five (5) years and shall be available upon request of the FIU-K and the competent body under the Law on Freedom of Association in the Non-Governmental Organizations.

4. NGOs shall report all suspicious acts or transactions to the FIU-K in accordance with the provisions of sub-paragraph 1.1. of Article 26 of this law within twenty four (24) hours from the time when the act or the transaction is identified as suspicious.

5. Upon submission of the annual report in agreement with the respective Law on Freedom of Association in Non-Governmental Organizations, an NGO shall disclose in the report the details and information provided by paragraph 2. of this Article.

6. Notwithstanding any other legal provision, the reports filed by NGOs pursuant to the Law on Freedom of Association in Non-Governmental Organizations, shall be made available upon request to the FIU-K.

7. The authorised representative pursuant to the Law on Freedom of Association in Non-Governmental Organizations shall in principle be a compliance officer and a contact person with the FIU-K, unless the NGO does not specify it differently with a written decision any other director, officer or employee of the NGO and duly notifies the FIU-K. The authorised representative who prepares or forwards reports pursuant to this Law shall be bound by the provisions of paragraph 4. of Article 26 of this law.

8. In accordance with their obligations as reporting entities under this law, the board members and the staff with responsibility for the management of the NGO under the Law on Freedom of Association in Non Governmental Organisations shall take appropriate due diligence measures to ensure that the NGOs shall not be used for money laundering or as distribution channels of funds or resources to individuals or entities associated with terrorist groups or organizations.

9. The FIU-K and the sectoral supervision authority may adopt, amend or repeal the sub-legal acts consistent with the policies, objectives and purposes of this Law, as applied to Non-Governmental Organisations pursuant to paragraph 2. of Article 66 of this Law.

### **Article 30**

#### **Additional Obligations of Casinos and Other Licenced Premises of Games of Chance**

1. As reporting entities identified under Article 16 of this law, the casinos and other licensed premises of games of chance (hereafter "Games of Chance"), and thus subject to the provisions of this law, are obligated to take specific measures to address the risk of money laundering and financing of terrorism inherent in providing gambling services as provided for under Article 18

of this law.

2. In accordance with the provisions of Articles 19 and 22 of this law, casinos and games of chance shall verify and record in permanent fashion the identity of a client before entering into a single, multiple or linked transaction(s) to sell, purchase, transfer, or exchange gambling chips, tokens, or any other evidence of value in an amount of two thousand (2.000) Euros or more or the equivalent value in foreign currency. The identity verification and recording also extends to financial transactions such as the opening of an account including the saving account, an electronic transfer or a currency exchange in the amount of two thousand (2.000) Euros or more or the equivalent value in foreign currency. If the casino and the games of chance are not able to verify the identity of a client, it shall not enter into the transaction.

3. Games of chance shall not engage in any of the following transactions:

3.1. exchange cash for cash with a client, or with another recipient on behalf of the client, in any transaction in which the amount of the exchange is two thousand (2.000) Euros or more;

3.2. issue a check or other negotiable instrument to a client, or to another recipient on behalf of the client, in exchange for cash in any transaction in which the amount of the exchange is two thousand (2.000) Euros or more;

3.3. transfer funds electronically or through other methods to a client, or to another recipient on behalf of the client, in exchange for cash in any transaction in which the amount of the exchange is two thousand (2.000) Euros or more.

4. These prohibitions do not restrict games of chance from paying a client's winnings by check or other negotiable instrument or by electronic transfer if the check, the negotiable instrument, or the electronic transfer made is paid by the order of the client.

5. The compliance officers of casinos and games of chance who prepare or forward reports pursuant to this law shall be bound by the provisions of paragraph 4. of Article 26 of this Law.

6. FIU-K and the sectoral supervision authority may adopt, amend or repeal sub legal acts in accordance with the policies, objectives and goals of this law, as applicable to casinos and other licensed games of chances in accordance with paragraph 2. Article 66 of this Law.

### **Article 31**

#### **Additional Obligations of Lawyers, Notaries, Accountants, Auditors and Tax Advisors**

1. When lawyers, notaries, accountants, auditors and tax advisors (hereafter "covered professionals") at any time come into possession of assets on behalf of a client or third party, the covered professional shall:

1.1. hold the assets in an account, or in the safekeeping, of a bank subject to the supervision of the CBK, unless the client explicitly agrees that the asset should be treated differently, or when the nature of the asset does not permit it;

1.2. indicate in the title or on description of the account that the asset is held on behalf of a client or clients of the covered professional;

1.3. in the case of cash or liquid securities, maintain an amount in the account that at all times equals or exceeds the amount of the client's asset held by the covered professional; and

1.4. keep full and accurate records, available to the client upon request, showing all dealings with the client's asset and distinguishing the client's asset from other assets held by the covered professional.

2. In accordance with the provisions of sub-paragraph 1.2. of Article 26 of this Law, any covered professional which, in the course of performing services for a client, receives ten thousand (10.000) Euros or more or an equivalent value in foreign currency for a transaction or related transactions, shall file a report to the FIU-K within fifteen (15) working days from the reportable transaction. A transaction shall also be reported if the covered professional receives the money as an intermediary, that is, he or she intends to transfer money to a third party on behalf of the client. A transaction shall not be divided into multiple transactions in order to avoid reporting under this Article.

3. For the purposes of paragraph 2. of this Article, a transaction includes, but is not limited to:

3.1. a sale of goods or services;

3.2. a sale of real property;

3.3. a sale of intangible property;

3.4. a rental of real or personal property;

3.5. an exchange of currency for other monetary instruments, including other currency;

3.6. the payment of a pre-existing debt;

3.7. compensation of expenses paid;

3.8. the making or repayment of a loan; or

3.9. the payment of fees in currency to the covered professional for his or her services.

4. For the purposes of paragraph 2. of this Article the term "related transactions" means all transactions conducted between the client and the covered professional within a twenty four (24) hour period or all transactions conducted between the client and the covered professional during a period of more than twenty four (24) hours if the recipient is aware or has reasons to be aware that each transaction is one of a series of connected transactions. Numerous payments made to a lawyer for representation in a single case are related transactions.

5. The form and manner of reporting shall be defined by the FIU-K, and shall include, but not limited to the following:

5.1. the name, the address, and such other identifying data defined by the FIU-K, of the person or the entity from whom the money was taken and any agent on whose behalf



the person or entity is acting;

5.2. the amount of money received;

5.3. the date and nature of the transaction; and

5.4. other information, including the identification of the person or the entity filing the report, as the FIU-K has defined.

6. In addition to the cases as provided in paragraph 7. of this Article, and in accordance with the provisions of sub-paragraph 1.1. of Article 26 of this Law, the covered professionals engaged in specified activities shall report any suspicious act or transaction to the FIU-K within twenty four (24) hours and prior to taking further action in connection with any such act or transaction. Specified activities include:

6.1. assistance or representing of a client or clients in:

6.1.1. purchasing or selling of immovable property or business organizations;

6.1.2. handling of clients' money, securities, or other assets;

6.1.3. opening or managing bank accounts, passbooks or securities accounts;

6.1.4. organization of contributions necessary for the creation, operation or management of companies;

6.1.5. creation, operation or management of companies, trusts or similar structures; or

6.2. acting on behalf of or for the client in any financial or immovable property rights transaction.

7. A lawyer shall not, without authorization from the client or by court order, provide information he or she received from a client or obtained on a client in order to represent the client in criminal or judicial proceedings, unless the lawyer reasonably believes that the client is seeking the lawyer's advice or assistance to commit a criminal offence.

8. Records collected pursuant to this Article shall be maintained in accordance with the provisions of Article 20 of this Law. The records maintained pursuant to the present Article shall be maintained separately from files containing information subject to lawyer-client privilege.

9. The Kosovo Bar Chamber, Chamber of Notaries of Kosovo, Kosovo Board on Financial Reporting and any other relevant professional association of covered professionals shall inform their members of the approved procedures and other obligations and the sanctions of this law relating to covered professionals.

10. Compliance officers at covered professionals who prepare or send out reports pursuant to this law shall be bound by the provisions of paragraph 4. of Article 26 of this Law.

11. FIU-K and the sectoral supervisor may adopt, amend or repeal sub legal acts in accordance with the policies, objectives and goals of this law, as applicable to covered professionals in accordance with paragraph 2. Article 66 of this Law.

### **Article 32**

#### **Additional Obligations on Immovable Property Transactions**

1. When conveyance of immovable property rights involves a transaction or transactions of a monetary value of ten thousand (10.000) Euros or more or equivalent value in foreign currency, unless otherwise specified by law, each transaction shall be made by payment order or bank transfer.

2. The Municipal Cadastral Office (MCO) shall not register a transfer of immovable property rights unless it receives, in addition to the other documents that are presented in accordance with law for the registration of the transfer, a statement in the manner and in the format specified by the FIU-K, that certifies:

2.1. the registration of the transferor and transferee;

2.2. the identity of any person or entity which has a financial interest or is a user of the property being transferred, and the nature of that interest or the beneficiary status;

2.3. the purchase price and the manner of payment, including, if the payment is made, in whole or in part, by transfer of property other than cash, a description and an estimate of the value of the property;

2.4. if the transfer is subject to paragraph 1. of this Article, the financial account number or numbers from which the payment was or will be debited and to which it was or will be transferred, and the names in which the accounts are held.

3. The MCO shall maintain the declaration together with the other documents that are presented in accordance with the law for the registration of the transfer. In addition, the MCO shall, in the manner and format specified by the FIU-K, forward copies of all declarations received on a monthly basis.

4. The decision of the MCO to reject registration on the grounds of failure to comply with the present Article, shall be made, and may be reviewed, in accordance with the applicable Law on the Establishment of the Immovable Property Rights Register.

### **Article 33**

#### **Obligation to Declare the Movement of Monetary Instruments into and out of Kosovo**

1. Every person entering or leaving Kosovo and carrying monetary instruments of a value of ten thousand (10.000) Euros or more or an equivalent value in a foreign currency must declare in writing the amount of the monetary instruments and their verifiable source in a format to be prescribed by the Kosovo Customs, to a customs officer, and, if so requested by the customs officer, shall present these monetary instruments. For the purposes of this Article, a person shall be considered to be carrying monetary instruments, if, inter alia, they are in the physical possession of such person or in a private vehicle or in any other transport means being utilized by such person. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete.

2. Every person sending from Kosovo to a place outside of Kosovo, or receiving in Kosovo from a place outside Kosovo, via post, cargo shipments or commercial courier, monetary instruments of a value of ten thousand (10.000) Euros or more or equivalent value in foreign currency, must declare in writing the amount of the monetary instruments and their verifiable source in a format to be prescribed by the Kosovo Customs, to a customs officer, and, if so requested by the customs officer, shall present the monetary instruments. The person may meet his or her reporting obligation under the present paragraph by means of a notification of the contents of a parcel in a customs declaration or in international freight documentation. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete.

3. The obligation to declare under paragraphs 1. and 2. of this Article shall not be considered to have been fulfilled if the information provided is incorrect or incomplete. If the person for the total amount of monetary instruments in possession cannot provide their verifiable source, then a customs officer shall seize the entire amount of monetary instruments in their possession.

4. Kosovo Customs submits to FIU copies of all declarations filed pursuant to paragraphs 1. and 2. of this Article and shall notify the FIU-K for all incorrect or incomplete declarations.

5. Any person who fails to comply with the provisions of paragraph 1. or 2. of this Article commits a minor offence punishable by a fine of twenty five percent (25%) of the total amount of monetary instruments in his/her possession for which he/she is obliged to declare.

6. The customs officer shall issue to a person who has committed such a minor offence a written notification on a standard form stating the nature of the minor offence and the fine imposed which shall be payable to Kosovo Customs immediately.

7. If the fine imposed is not paid immediately, the customs officer shall seize and retain twenty five percent (25%) of the monetary instruments. If the monetary instruments are not divisible in the manner that permits the seizure and retention of the exact amount of the monetary instruments to be seized and retained, the customs officer shall seize the greater amount which shall be as close in value as possible to such amount.

8. Upon seizure under paragraph 7. of this Article, the custom officer shall issue a written receipt stating the relevant facts and the amount of the monetary instruments seized and retained.

9. The monetary instruments seized and retained in accordance with the present Article, shall, where possible, be held in the special non-interest bearing account in the name of the Kosovo Customs to the CBK or otherwise be held in safe custody with CBK until such time as the fine is paid in full or as otherwise ordered by a competent Court respectively in agreement with the procedure defined by the Law on Offence.

10. The fine, seizure and the retention imposed pursuant to paragraph 5. and 7. of this Article is without prejudice to any criminal proceedings against a person.

11. A fine imposed pursuant to paragraph 5. of this Article or the seizure and retention of monetary means pursuant to paragraph 7. of this Article shall remain valid and in effect notwithstanding any contest of such fine, seizure or keeping it pending up to the solution of the contest.

12. Against the decision made on the grounds of this Article for committing a minor offence in accordance with this Article this law, the party has the right to submit a request for review of decision to the Customs within thirty (30) days from the date the customs decision is received.

13. Kosovo Customs shall take all appropriate measures to prevent money laundering and terrorist financing and shall report to the FIU-K any suspicious acts and transactions related to money laundering and terrorist financing it detects in the course of its duties. Kosovo Customs communicates with the FIU-K, prosecutors, police and other relevant bodies for the purpose of performing these duties.

14. In the course of their duties, the Customs officers may question and search natural persons, their baggage and means of transport and may seize and retain monetary instruments in accordance with this Article. The applicable Kosovo Customs and Excise Code shall apply equally in relation to monetary instruments as in relation to goods.

15. Kosovo Customs shall:

15.1. detain any monetary instruments carried by a person entering or leaving Kosovo if they are in the value of ten thousand (10.000) Euros or more or the equivalent value in foreign currency, and have not been declared in accordance with paragraph 1. and 2. of this Article;

15.2. seize any monetary instruments carried by a person entering or leaving Kosovo if there is a reasonable suspicion that such monetary instruments are the proceeds of crime or were used or intended to be used to commit or facilitate money laundering or the predicate criminal offence from which the proceeds of crime were derived or are related to terrorist financing, also if the obligation to declare has not been fulfilled as defined under paragraph 3. of this Article.

16. Upon seizure under paragraph 15. of this Article, Kosovo Customs shall issue to the person concerned a written receipt stating the amount of the monetary instruments seized and retained, the relevant facts, also specifying whether any fine has been deducted from the amount seized in accordance with paragraph 5. of this Article.

17. Upon seizure of monetary instruments under paragraph 15. of this Article, Kosovo Customs, without delay, shall:

17.1. notify the competent Prosecutor to enable further investigations/actions and shall provide the competent Prosecutor with a copy of the written receipt given to the person concerned and with all other information required;

17.2. report the matter to the FIU-K.

18. The monetary instruments seized and retained by Kosovo Customs in accordance with this article shall, if possible, be held in a special non-interest bearing account in the name of the CBK or otherwise be held in safe custody with the CBK until such time as the fine is paid in full or as otherwise ordered by a court of competent jurisdiction or as otherwise provided by this Law.

19. Where monetary instruments have been seized pursuant to paragraph 15. of this Article, within ten (10) days of notification under paragraph 17. of this Article the Prosecutor shall:

19.1. submit a motion for confiscation of the monetary instruments;

19.2. submit a motion for a temporary measure for securing the monetary instruments;

19.3. in writing, notify the person concerned, Kosovo Customs and the FIU-K that no action will be taken in relation to the seized property and that the person concerned may apply for the return of the monetary instruments in accordance with paragraph 20. of this Article.

20. If the Prosecutor gives a notification under sub-paragraph 19.3. of this Article that no action shall be taken in relation to the seized monetary instruments, the Kosovo Customs shall return the monetary instruments to the person concerned.

21. If a person concerned is unable to collect in person the monetary instruments, he or she may:

21.1. grant a power of lawyer to another person authorizing such person to collect the seized monetary instruments on his or her behalf and/or provide the competent authority with a signed written and notarized document instructing such authority to return the monetary instruments to another named individual; or

21.2. submit a request in writing, addressed to the CBK, to deposit the monetary instruments in a special Kosovo Customs account on the name of such person until such time as the monetary instruments are collected personally by the person concerned or by a person authorized to do so in accordance with sub-paragraph 21.1. of this paragraph.

22. If no application for return of monetary instruments is made in accordance with sub-paragraph 21.1 of this Article or the monetary instruments are not collected within twelve (12) months from the date of closure of the procedure set forth in this Article, the monetary instruments shall be forfeited to Kosovo Customs and deposited in the Kosovo Budget.

23. In the course of their duties and especially when acting in accordance with paragraph 15. of this Article, customs officers can arrest and detain a person under conditions prescribed in Article 100 of the Criminal Procedure Code.

## **CHAPTER IV COMPLIANCE SUPERVISION**

### **Article 34 Compliance Supervision**

1. Compliance supervision is the assessment of the compliance of legal obligations by the reporting entity in accordance with this Law.

2. Compliance supervision is carried out;

2.1. as on-site inspection of the reporting entity; or

2.2. as off-site inspection (supervision from distance) of the reporting entity.

3. FIU-K, CBK and other sectorial supervisors shall supervise the compliance with the provisions of this Law during the exercise of their competencies pursuant to this law and other relevant

laws.

4. CBK shall conduct compliance supervision for the reporting entities in the sub-paragraph 1.1. and 1.2. of Article 16 of this Law, according to the competencies vested to by this Law.

5. FIU-K, for the purposes of putting into effect the provisions of the paragraph 3. of this Article for other sectorial supervisors, shall enter into specific written individual arrangements in order to establish a supervisory competence and responsibilities, procedures and relevant co-operation.

6. CBK and other sectorial supervisors shall take into account the risk of money laundering and terrorist financing in the sector in which the reporting entity is acting, in taking into consideration the approval, renewal and refusal of license or other indispensable authorisation for the Reporting entity to act as required by this Law and other Laws.

7. Following the compliance supervision, FIU-K, CBK and other sectorial supervisors as defined in this Law may:

7.1. recommend improvement measures;

7.2. impose administrative sanctions; or

7.3. proceed with the criminal procedure.

### **Article 35**

#### **On-site Compliance Inspection by FIU-K**

1. For reporting entities as determined in sub-paragraphs 1.3 to sub-paragraphs 1.10, of Article 16 of this Law, an official or officials of the FIU-K who have been authorised by the Director of the FIU-K for this purpose (hereafter an "authorized official or officials"), may, at any time during ordinary business hours, with or without notice, enter any premises other than a residence or an apartment, if there is a reasonable suspicion that it contains records which are maintained pursuant to provisions of Articles 16 to 32 of this Law or the relevant documents to determining whether obligations under provisions of Articles 16 to 32 of this Law have been complied with.

2. For purposes of paragraph 1. of this Article, the authorised official or officials may demand and inspect the records or documents; copy or otherwise reproduce any such record or document and ask questions in order to locate and understand such records or documents. The authorised official or officials shall limit the inspection to that part of the premises in which the relevant records or documents are reasonably likely to be found and they shall only perform actions which are necessary for, and proportionate to, the purpose of inspection of such records.

3. FIU-K may conduct on-site compliance inspections by applying the competences granted to by this Law also on the reporting entities set forth under sub-paragraphs 1.1. and 1.2. of Article 16 of this Law, for assessing the compliance of these reporting entities pursuant to Article 18 and Article 26 of this Law.

4. The owner or person in charge of the premises being inspected and every person present in the premises shall give to the authorised officials all reasonable assistance to enable them to carry out their responsibilities, including identifying the relevant records or documents and providing any information requested to enable the authorised officials to locate and understand such records or documents. Such persons shall also assist the authorised officials in accessing

and copying or reproducing records and documents maintained electronically, and shall permit the use of any copying equipment located on the premises.

5. A person in premises subject to an inspection may refuse to allow the inspection or copying of a record or document if he or she asserts that:

5.1. it is not held pursuant to provisions of Articles 16 to 32 of this Law and is not relevant to determining whether obligations under provisions of Articles 16 to 32 of this Law have been complied with; or

5.2. it contains information that is subject to lawyer-client privilege.

6. In the event of such refusal, an authorised official conducting the inspection shall place the disputed record or document in an envelope or other appropriate container, which shall be sealed in the presence of the person or his or her representative, and signed by the official and the person or representative. The sealed record or document shall be presented within ten (10) days to a Pre Trial Judge of the competent Court, who shall inspect it, and determine whether it, or any part of it, is subject to inspection and copying pursuant to this Article.

7. If a person considers that he or she has been the subject of actions which are unlawful, he or she may submit a complaint within thirty (30) days of the inspection to a Pre Trial Proceeding Judge of the competent Court who shall adjudicate on the lawfulness of the actions referred to in the complaint and decide on compensation where appropriate. Authorized officials of the FIU-K shall provide to the investigating judge with such documents as he or she shall request and shall, on request, provide oral testimony.

### **Article 36**

#### **On-site Compliance Inspection by CBK and Other Sectorial Supervisors**

1. CBK and other sectorial supervisors with a supervisory mandate in accordance with paragraph 4. and 5. of Article 34, for the purposes of supervising the reporting entity with regards to the compliance with this Law and with related rules and regulations and who have a prudential supervisory mandate conferred upon them through specific laws for such reporting entities shall apply such prudential supervisory powers as are conferred upon them by the respective laws, if they are applicable for exercising the supervisory mandate pursuant to this Law, with the exception of the competences for supervision of the reporting entities regarding the compliance with the obligations set in Article 26 of this Law.

2. Where such supervisory competences are not contemplated by a special law, the provisions of supervisory competencies of FIU-K set in paragraphs 2., 4., 5., 6. and 7. in Article 35 of this Law shall be applied.

### **Article 37**

#### **Off-Site Supervision**

1. For the purposes of undertaking off-site supervision and monitoring of the reporting entities for assessing the compliance with the provisions of this Law of any rule or regulation issued in accordance with this Law, FIU-K and CBK may, by notice in writing served on a Reporting entity, require that the reporting entity to produce, within the time and at a place as may be specified in that notice, any documents, including those related to internal procedures under this Law or any regulation issued to fulfil their responsibilities under this Law, and provisions of paragraphs

3., 4. and 5. of Article 35 shall be applied in accordance with the situation.

2. Other sectorial supervisors may conduct off-site supervision, if this competence was given to them in accordance with paragraph 5. of Article 34.

### **Article 38**

#### **Co-operation on Compliance Supervision**

1. FIU-K, CBK and other sectorial supervisors shall co-operate and co-ordinate their activities for compliance supervision with the provisions of this Law in connection with:

1.1. planning and implementation of compliance supervision;

1.2. joint activities of compliance supervision on-site and off-site;

1.3. documentation, assessment, reporting and monitoring of activities of compliance supervision;

1.4. administrative sanction and other supervision measures; and

1.5. assessment and follow up activities of compliance supervision.

2. CBK and other sectorial supervisors, when during the exercise of the duties within their competences suspect of or identify activities which are or which may be associated with money laundering and terrorist financing, shall immediately inform FIU-K in writing.

3. CBK and other sectorial supervisors shall immediately inform FIU-K in writing on all measures undertaken for the implementation of compliance supervision and shall submit to FIU-K a copy of each report they issue to the Reporting entity, no later than three (3) days from the date of their issuance.

### **Article 39**

#### **Statistical Data and feedback**

1. FIU-K, CBK, and other sectorial supervisors with whom the FIU-K has entered into specific individual arrangements pursuant to paragraph 5. of Article 34 of this Law and other competent authorities with a responsibility for combating money laundering and the financing of terrorism, reporting entities as well as persons or other entities with obligations or functions in accordance with this Law shall maintain relevant comprehensive statistical data on their area of responsibility.

2. In maintaining statistical data, persons, entities and authorities referred to in paragraph 1. of this Article shall liaise with FIU-K which, in co-operation with the CBK or other relevant sectorial supervisors, as the case may be, may determine the type of statistical data that may be required.

3. To this effect, the FIU-K, the CBK or a sectoral supervisory authority shall issue sub legal acts on the maintenance of statistics to those sectors under their supervisory remit pursuant to paragraph 2. of Article 66.

4. Statistical data maintained under this Article shall be made available to the FIU-K within time



periods as the FIU-K may determine to enable it to review the effectiveness of the national system and to make recommendations accordingly as required under Article 14 of this Law.

5. The FIU-K shall inform the reporting entities, that reported to the FIU-K a person or transaction with respect to which there are reasons for suspicion of money laundering or terrorism financing, of the results brought about by their reporting.

6. The notice referred to in paragraph 5. of this Article shall apply to:

6.1. data on the number of the sent reports on transactions or persons in relation to which there are reasons for suspicion of money laundering or terrorism financing;

6.2. results brought about by such reporting; where applicable;

6.3. information on trends and techniques related to money laundering and terrorist financing;

7. The FIU-K, the Central Bank of Kosovo and other sectoral supervisors under this Article shall cooperate for the purposes of fulfilling their responsibilities under this Article.

## **CHAPTER V ADMINISTRATIVE SANCTIONS AND REMEDIAL MEASURES**

### **Article 40 Administrative Sanctions**

The failure of the reporting entities specified in Article 16 of this Law to comply with legal obligations prescribed in this Law, which are not criminal offence, shall constitute administrative violations, which are classified as very serious violations, serious violations and minor violations.

### **Article 41 Very serious violations**

1. The following violations of the provisions of this Law shall constitute very serious violations:

1.1. failure to comply with the reporting obligations defined in Article 26 of this Law;

1.2. failure to comply with the obligation to co-operate on the basis of paragraph 1.4. of Article 14 following the official written request made by FIU-K;

1.3. failure to comply with the obligations of sub-paragraph 1.12 of Article 14 of this Law;

1.4. failure to comply with the obligation to undertake remedial actions according to the official recommendation of FIU-K, CBK or other sectorial supervisors issued after the compliance supervision as defined in Article 34 of this Law, in case of non compliance with the recommendation.

1.5. repetition of a serious violation for which an administrative sanction was imposed to the reporting entity during five (5) last years for the same nature of violation; and

1.6. violation of the obligation to freeze or block funds as defined in Article 27 of this Law.

## **Article 42**

### **Sanctions for very serious violations**

1. FIU-K may impose an administrative sanction for very severe violations defined in Article 41, as follows:

1.1. written public warning;

1.2. a fine in amount of:

1.2.1. a minimum of fifty thousand (50.000) Euros;

1.2.2. a maximum amount that can be set up to a higher amount of these figures: ten percent (10%) of the net worth of the reporting entity according to the latest accounts available approved by the Management Board, but not less than fifty thousand (50.000) Euros;

1.2.3. two (2) times the economic volume of transaction, but not less than fifty thousand (50.000) Euros;

1.2.4. up to three hundred fifty thousand (350.000) Euros; or

1.2.5. up to seven hundred thousand (700.000) Euros for the banks and financial institutions.

1.3. In the case of institutions requiring licence, certificate or whatever administrative authorisation for their operation, withdrawal of this authorization may be requested. A fine provided under sub-paragraph 1.2. of this Article which will be compulsory in all events, may be imposed simultaneously with one of those listed under sub-paragraph 1.1. and in sub-paragraph 1.3 of this Article.

2. Except the fine applicable imposed on the reporting entity for very serious violations, one or more of the following sanctions may be imposed to natural persons responsible for violation and who are holding administrative or managing posts in the reporting entity:

2.1. a fine for each of them in the amount of ten thousand (10.000) Euros up to one hundred thousand (100.000) Euros;

2.2. dismissal from duty with disqualification from the holding of administrative or managing positions in the same reporting entity for a maximum period of ten (10) years;

2.3. dismissal from duty with disqualification from the holding of administrative or managing positions in all reporting entities for a maximum period of ten (10) years.

3. The penalty envisaged under sub-paragraph 2.1 of this Article, which will be compulsory in all events, may be simultaneously imposed with one of those listed in sub-paragraphs 2.2 and 2.3. of this Article.

### **Article 43** **Serious Violations**

1. Violations of the following provisions of the law constitute serious violations:

1.1. failure to comply with the obligation to issue written policies and internal procedures in setting controls for prevention and detection of money laundering and terrorist financing and their implementation as set under the terms of Article 17 of this Law;

1.2. failure to comply with formal identification obligations under the terms of Article 19 of this Law;

1.3. failure to comply with the obligations for identification of the beneficial, under the terms of sub-paragraph 1.2 of Article 19 of this Article;

1.4. failure to comply with the obligation to obtain information on the purpose and the nature of business relationship, under the terms of sub-paragraph 1.3 of Article 19 of this Law;

1.5. failure to comply with the obligation of the implementation of measures for on-going monitoring of business relationship, under the terms of sub-paragraph 1.4 of Article 19 of this Law;

1.6. failure to comply with the obligation in applying the measures of due diligence for the existing clients as defined under the transitional provisions, under the terms of paragraph 1. of Article 68 of this Law;

1.7. failure to comply with the obligation in applying the measures of enhanced due diligence, under the terms of Article 22 of this Law;

1.8. failure to comply with the obligation of special monitoring of certain transactions, as defined under the terms of Article 25 of this Law;

1.9. failure to comply with the obligation of risk assessment, as defined under the terms of Article 18 of this Law;

1.10. failure to comply with the obligation of reporting to FIU-K, as defined under paragraph 9. of Article 19 of this Law;

1.11. failure to comply with the obligation of reporting, as defined under the terms of paragraph 3. of Article 25 of this Law;

1.12. failure to comply with the obligation of co-operation under the terms of paragraph 4. of Article 35 of this Law, following the official written notice from FIU-K, CBK or other sectorial supervisors;

1.13. failure to comply with the obligation of record keeping, under the terms of Article 20 of this Law;

1.14. failure to comply with the obligation of establishing adequate bodies to regulate internal control for the implementation of the obligations defined in this law and testing of the reporting and identification system, as defined under the terms of sub-paragraph 2.6. of Article 17 of this Law;

1.15. failure to comply with the obligations on obtaining information on the payments for wire transfers, as defined under the terms of Article 24 of this Law;

1.16. failure to comply with the obligation of notifying FIU-K on appointment of the compliance officer of the reporting entity or his/her deputy, or refusal to address objections or remarks made in accordance with terms of Article 21 of this Law;

1.17. failure to comply with the obligation to provide the compliance officer with the necessary conditions for exercising the function, as defined under the terms of paragraph 4. of Article 21 of this Law;

1.18. failure to comply with the obligation of training the employees, as defined under the terms of sub-paragraph 2.5. of Article 17 of this Law;

1.19. failure to comply with the obligation of approval and making available to FIU-K the necessary updated policies and procedures for prevention of money laundering and terrorist financing, as defined under the terms of paragraph 3. of Article 24 of this Law;

1.20. failure to comply with the obligation of the application of measures in relation to majority branches and ownership subsidiaries located in third countries as defined under the terms of Article 24 of this Law;

1.21. failure to comply with the obligation to undertake remedial measures following written formal request as set out in sub-paragraph 7.1. of Article 34 of this Law, when there is non-readiness to fulfil the recommendations;

1.22. entering or continuing the business relationship or the execution of payment and transactions which are prohibited by this Law;

1.23. resistance or obstruction of inspections, when there is no written notice and preliminary request from authorised officers to inspect, as defined in paragraph 1. of Article 35 of this Law;

1.24. failure of NGOs to comply with the obligation in accordance with Article 29 of this Law; and

1.25. repetition of minor violations for which an administrative sanction was imposed to the reporting entity during the three (3) last years for the same type of violation.

2. Except if there are indicators or suspicions for money laundering or terrorist financing, the violations prescribed under sub-paragraphs 1.1., 1.2., 1.3., 1.4., 1.5., 1.6. and 1.13., of this Article, may be classified as minor violations, when the violation made by the reporting entity

or the person responsible in accordance with this law may be merely considered, as random or isolated violations depending on the percentage of the pattern incidents of compliance.

#### **Article 44** **Sanctions for Serious Violations**

1. For serious violations set forth in Article 43 of this Law, FIU-K, CBK and other sectorial supervisors if this competence is given pursuant to paragraph 5. of Article 34 of this Law, may impose the administrative fine defined as follows, unless a more serious fine is prescribed in accordance with Article 41 of this Law:

1.1. private warning;

1.2. a fine;

1.2.1. at a minimum of twenty thousand (20.000) Euro;

1.2.2. a maximum amount that can be set up to five percent (5%) of the net worth of Reporting entity according to the latest accounts available approved by the Management Board, but not less than twenty thousand (20.000) Euros

1.2.3. the amount of economic volume of transaction plus fifty percent (50%), of that amount; but not less than twenty thousand (20.000) Euros; or

1.2.4. thirty thousand (30.000) Euros.

1.3. the fine provided in sub-paragraph 1.2., 1.2.1., 1.2.2., 1.2.3. and 1.2.4. of this paragraph, which will be compulsory in all events, shall be imposed simultaneously with one of those listed in sub-paragraph 1.1. of this paragraph.

2. Except the applicable fine imposed on the reporting entity for serious violations, one or more of the following fines may be imposed to those persons responsible for violation and who are holding administrative or managing posts in the reporting entity:

2.1. private warning;

2.2. public warning;

2.3. a fine for each of them in the amount of one thousand (1.000) Euros up to twenty thousand (20.000) Euros;

2.4. temporary suspension from duty for a period not exceeding one (1) year. The fine prescribed under this sub-paragraph, which will be compulsory in all events, may be imposed simultaneously with one of those listed under sub-paragraphs 2.1, 2.2, and 2.4. of this paragraph.

**Article 45**  
**Minor Violations**

Failure to comply with the obligations specified in this Law, which do not constitute very serious violations or serious violations, shall constitute minor violations.

**Article 46**  
**Sanctions for Minor Violations**

1. For minor violations, FIU-K, CBK and other sectorial supervisors if this competence is given pursuant to paragraph 5. of Article 34 of this Law, may impose:

- 1.1. private warning;
- 1.2. a fine up to fifteen thousand (15.000) Euros; and
- 1.3. recommendations for remedial measures.

**Article 47**  
**Administrative Liability of Directors and Managers**

In addition to the obligation corresponding with the reporting entity, persons holding administrative or management positions in the reporting entity, whether sole administrators or collegiate bodies, shall be liable for any violation which is attributed to the latter.

**CHAPTER VI**  
**PROCEDURES FOR ADMINISTRATIVE SANCTIONS**

**Article 48**  
**Verification of Suspicion for Non-Compliance with the Law**

1. In cases when FIU-K, CBK and other sectorial supervisors (only if this competence is given under terms of paragraph 5. of Article 34), suspect that a reporting entity under their supervision has failed to comply with obligations set forth in this law, there shall immediately start the process of verification of suspicion for non compliance and existence of conditions for imposing the administrative sanction.

2. If necessary, a compliance inspection may be carried out, as defined under this Law, in order to verify the suspicion for failing to implement this Law and the existence of conditions for imposing the administrative sanction.

3. Following the verification of suspicion, findings and ascertainment identified, FIU-K, CBK and other sectorial supervisors shall provide the reporting entity concerned with an opportunity to submit written observations on its findings within two (2) weeks, prior to giving a written notification on non-compliance in accordance with the provision of this law.

4. Notice on the failure to comply with obligations defined in this Law shall be signed by the

head of relevant department/division for supervision of compliance within FIU-K, CBK or other sectorial supervisors, and shall be protocolled and submitted to the reporting entities in a manner which is verifiable.

5. Based on findings and the review of observations received, FIU-K, CBK and other sectorial supervisors for violations made within the competencies given under this Law, shall determine whether the reporting entity has failed to comply with the obligations under in this Law.

6. A failure of the reporting entity to submit their observations within the timeline of two (2) weeks does not prevent from making the final decision for the administrative sanction.

### **Article 49**

#### **Procedure for Administrative Sanctions**

1. The FIU-K, CBK and other sectorial supervisors shall, upon determining the existence of a failure to comply with obligation under this law, make a decision on imposing an administrative sanction for the violations for which a competence was given in accordance with this law.

2. In determining the administrative sanction under this law, all the relevant circumstances shall be taken into account, including the gravity and duration of the non-compliance, the degree of responsibility, the financial strength of the reporting entity, the losses caused as a consequence of non compliance, previous violations and the level of cooperation of the reporting entity.

3. The FIU-K, CBK and other sectorial supervisors, shall notify the failure to comply with the provisions of this law the reporting entity concerned, by submitting the decision on imposing the administrative sanction. Notice on imposing the administrative sanction shall be made, through the submission of a decision, in a manner which is verifiable, to the reporting entity in accordance with the requirements of the Law on Administrative Procedure.

4. Immediately upon the receipt of the decision for imposing administrative sanction, the reporting entity shall undertake actions to ensure compliance with this Law. The reporting entity shall undertake these measures within the period set forth in the decision.

5. Compliance of the reporting entity with the provisions of this Law shall be verified and for this purpose, FIU-K, CBK and other sectorial supervisors may conduct on site inspections during the period of time set out in the decision for administrative sanction or based on the requirements of the reporting entity.

6. If the reporting entity, to which an administrative sanction was imposed in accordance with this Article, has not undertaken compliance actions within a period of time specified in the decision for administrative sanction, then FIU-K, CBK and other sectorial supervisors may impose a monetary daily fine, for each day of non compliance, until the compliance required achieved is set. Same administrative sanction procedure and notices defined under this Article shall be applied in this case.

7. For every day of non-compliance, from the time period defined in the decision of FIU-K, CBK and other sectorial supervisors, the reporting entity shall be subject to a daily fine of five hundred (500) Euro.

8. The FIU-K, CBK and other sectorial supervisors for the administrative sanction issued in accordance with paragraph 6. of this Article, for which the daily monetary fine shall be imposed,

shall take a decision which shall define the number of days during which the reporting entity was not in compliance with the Law, within the time period defined in the decision, as defined in paragraph 4. of this Article. The written decision on daily monetary fine shall determine the existence of failure to undertake compliance actions in accordance with the decision and provisions of this Law, and on imposing of this fine according to the number of days of non-compliance.

9. FIU-K, CBK and other sectorial supervisors shall not take decisions for administrative sanction for the same non-compliances of the reporting entities, since the violation repeated is preceded as defined under Article 41 and Article 43 of this Law.

10. The reporting entities which act based on a licence, certificate or another authorisation, FIU-K shall inform the competent licensing or authorisation authority on the failure to comply with the Law as defined in Article 42 of this Law. FIU-K may also recommend the licensing or authorisation authority to start with the process for determining whether to suspend or revoke the licence or authorisation.

#### **Article 50** **Administrative appeal to FIU-K**

1. The reporting entity may complain against the decision on administrative sanction imposed by FIU-K, thereby filing a written complaint to FIU-K Director within thirty (30) days, from the day of the receipt of the decision on administrative sanction, due to non-compliance with the provisions of this Law. The reporting entity may require revocation, abolishment or modification of FIU-K decision.

2. The FIU-K Director shall establish a committee comprised of three (3) FIU-K officers, which shall review the decision regarding the administrative sanction, taking into account all relevant information provided as well as provisions of this Law.

3. For the purpose of preventing conflicts of interest, FIU-K officers who took part in preparing and rendering the first instance decision, cannot be part of the committee set up by the FIU-K Director pursuant to paragraph 2. of this Article.

4. Pending appeals on the basis of this Article shall suspend the payment and the enforcement of the administrative sanction until the appeal body established pursuant to paragraph 2. of this Article renders a decision in relation to the appeal.

5. FIU shall decide on the appeal in writing within thirty (30) days after the receipt of the appeal, except cases which due to their complexity, require additional time but no longer than ninety (90) days.

6. The committee established by FIU-K director may decide to:

- 6.1. reject the appeal as inadmissible;
- 6.2. confirm the validity of the decision and reject the appeal;
- 6.3. annul/revoke the decision and approve the appeal;



6.4. modify the decision by partially approving the appeal;

6.5. instruct the responsible authority within the FIU-K to render a decision when its issuance was rejected as illegal.

#### **Article 51**

##### **Administrative Appeal to CBK and Other Sectorial Supervisors**

1. The reporting entity may appeal against the decision on administrative sanction set forth in accordance with this law, from CBK or other sectorial supervisors for decisions issued by the under the competences given in accordance with this Law, thereby filing a complaint within thirty (30) days from the day of the receipt of the decision on administrative sanction from CBK or other sectorial supervisors, due to non-compliance with provisions of this Law.

2. CBK or other sectorial supervisors shall issue sub-legal acts for the sectors which are under their remit of supervision in accordance with paragraph 2. of Article 66 of this Law, in relation to the procedure of for handling appeals in accordance with this Law.

#### **Article 52**

##### **Complaints to the Court**

1. The imposition of administrative sanction by the FIU-K, CBK or other sectoral supervisor may be disputed in the Department for Administrative Issues at the Basic Court of Pristine, thirty (30) days from the date of final submission of the decision for administrative sanction.

2. The pending appeal to the Court shall not suspend the payment of the administrative sanction defined in Article 50 of this Law.

#### **Article 53**

##### **Payment and enforcement of administrative sanctions**

1. The reporting entity shall pay the administrative sanction through bank transfer within fifteen (15) days from the day of delivering the final decision. The fine payment instructions shall be attached to the decision.

2. The FIU-K, CBK or other sectoral supervisors, in co-ordination with the Ministry of Finance shall ensure the reimbursement of the payment of the administrative sanction in case of the enforceable approval of the reporting entity appeal by the Court.

3. In the event of non-payment within fifteen days (15) from the day of delivering the FIU's final decision concerning the administrative sanction, the FIU-K, CBK and their sectoral supervisors shall request enforcement in accordance with the Law on Enforcement Procedure. The FIU-K, CBK and sectoral supervisors shall request the reporting entity to compensate the procedural expenses and all other expenses incurred during the enforcement procedure.

#### **Article 54**

##### **Impact of criminal proceedings on administrative sanctioning procedure**

Should parallel criminal investigations or proceedings occur, the FIU-K, CBK and other sectoral

supervisors shall suspend the administrative sanction procedure until completion of the criminal proceedings.

#### **Article 55**

##### **Publication of Decisions on Administrative Sanctions**

1. FIU-K, CBK or other sectoral supervisors shall publish in the official web page, the final executable decisions related to administrative sanctions by stating the type and nature of non-compliance, identity of the reporting entity and administrative sanction.

2. FIU-K, CBK or other sectoral supervisor may decide to not publish the administrative sanction, delay its publication or publish the administrative sanction so that the sanctioned reporting entity or natural person cannot be identified, if the publication specified under paragraph 1. of this Law:

2.1. is not proportional to the gravity of the failure to comply;

2.2. may threaten the stability of the financial market; or

2.3. may threaten ongoing criminal investigations.

3. FIU-K, CBK and other sectoral supervisors, shall keep the published information pursuant to paragraph 1. Of this Article for a minimum of five (5) years.

### **CHAPTER VII CRIMINAL OFFENCES**

#### **Article 56**

##### **Criminal Offences of Money Laundering**

1. Whoever, knowing or having cause to know that certain property is proceeds of some form of criminal activity, and which property is in fact proceeds of crime, or whoever, believing that certain property is proceeds of crime based on representations made as part of a covert measure conducted pursuant to Chapter IX of the Criminal Procedure Code of Kosovo, conducts the following actions, commits a criminal offence punishable with imprisonment of up to ten (10) years and a fine of up to three (3) times higher in the value of the property which is the subject of the criminal offence, as following:

1.1. converts, transfers or attempts to convert or transfer the property for the purpose of concealing or disguising the nature, source, location, disposition, movement or ownership of the property;

1.2. converts, transfers or attempts to convert or transfer the property for the purpose of assisting any person who is involved in, or purportedly involved in, the commission of the criminal offence that produced the property to evade the legal consequences, or apparent legal consequences, of his or her actions;

1.3. converts, transfers or attempts to convert or transfer the property for the purpose

of promoting the underlying criminal activity;

1.4. acquires, possesses, uses or attempts to acquire, possess or use the property;

1.5. conceals or disguises the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, or from an act of participation in such activity;

1.6. participates in, associates to commit and aids, abets, facilitates and counsels the commission of any of the actions mentioned in sub-paragraphs 1.1. to 1.5. of this paragraph;

2. For purposes of paragraph 1. of this Article, representations may be a basis for the belief that certain property constitutes the proceeds of crime, even if those representations only indirectly support the belief that the property constitutes the proceeds of crime.

3. Without prejudice to the applicable criminal law with regard to a person who has committed related criminal offences outside the scope of the present paragraph:

3.1. a person may be convicted of the criminal offence of money laundering, even if he or she has not been convicted at any time of the predicate criminal offence from which the proceeds of crime in the criminal offence of money laundering were derived;

3.2. the same person may be prosecuted and convicted in separate proceedings of the criminal offences of money laundering and the predicate criminal offence from which the proceeds of crime in the criminal offence of money laundering were derived; and

3.3. the Courts of Kosovo may have jurisdiction over a criminal offence of money laundering, even if they do not have territorial jurisdiction over the predicate criminal offence from which the proceeds of crime in the criminal offence of money laundering were derived, since it has been committed outside Kosovo.

## **Article 57**

### **Criminal offence of Terrorist Financing**

1. Whoever, when committed intentionally, participates as an accomplice, provides or collects funds or organizes or directs others to provide or collect funds, or attempts to do so, by any means, directly or indirectly, with the intention that they should be used or having cause to know that they are to be used in full or in part to commit a terrorist act by a terrorist, or by a terrorist organization will be deemed to have committed the act of terrorist financing.

2. The offence is committed irrespective of any occurrence of a terrorist act referred to in paragraph 1. of this Article, or whether the funds have actually been used to commit such act.

3. Terrorist financing shall be punishable with imprisonment from five (5) to fifteen (15) years, and with a fine up to five hundred thousand (500.000) Euros.

4. An attempt to commit the offence of financing of terrorism or aiding, abetting, facilitating or counselling the commission of any such offence shall be punished as if the offence had been completed.

## **Article 58**

### **Intimidation regarding Reporting Suspicious Activity or Transaction**

Whoever uses force or serious threat, or any other means of compulsion, or a promise of a gift or any other form of benefit to induce another person to refrain from making a report required under Article 26 of this Law, or to make a false statement or to otherwise fail to state true information to the FIU-K, investigative agency, a prosecutor or a judge, when such information relates to the reporting obligations of Article 26 of this Law shall be punished by a fine of up to one hundred and twenty-five thousand (125.000) Euros and by imprisonment of two (2) to ten (10) years.

## **Article 59**

### **Other Criminal Offences**

1. Whoever, in providing any information, or in making reports, certifications or declarations pursuant to this Law, knowingly makes any false statement or willfully omits to disclose important information; or makes or uses any document knowing that the document contains a false statement or important notes, commits a criminal offence punishable by imprisonment of up to five (5) years and a fine of up to one hundred thousand (100.000) Euros.

2. Whoever willfully destroys or removes any record which must be maintained pursuant to paragraph 3. to 7. of Article 19, paragraph 1., 2. and 3. of Article 20, paragraph 7. of Article 24, paragraph 3. of Article 25, paragraph 1. and 3. of Article 26, paragraph 3. of Article 29, paragraph 8. of Article 31 and paragraph 3. of Article 32 of this Law; or fails to make a report in accordance with paragraph 1. and 2. of Article 26, paragraph 4. of Article 29, paragraph 2. and 6. of Article 31, commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to one hundred thousand (100.000) Euro. If any criminal offence provided for in this paragraph is committed with the intent to obstruct a regulatory or law enforcement function, the offender shall be punished by imprisonment of up to five (5) years and a fine of up to one hundred thousand (100.000) Euros.

3. The reporting entity or its officer, director, agent or employee who wilfully violates paragraph 4. Article 26 of this Law commits a criminal offence punishable by imprisonment of up to two (2) years and/or a fine of up to one hundred thousand (100.000) Euros. If any criminal offence specified in this paragraph is committed with the intent to obstruct any regulatory or law enforcement function, the offender shall be punished by imprisonment of up to five (5) years and/or a fine of up to one hundred thousand (100.000) Euros.

4. Whoever wilfully accepts or disburses currency in violation of Article 29 of this Law commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to five thousand (5.000) Euros or twice the amount of the currency accepted or disbursed, whichever is greater.

5. An official of the FIU-K who wilfully reports information or discloses information pursuant to paragraph 1. of Article 15 of this Law, or discloses information to a Prosecutor or a court, knowing that such information to contain a material falsehood, a material omission or a material error; destroys or removes any record which shall be collected by the FIU-K pursuant to this Law, other than as provided for in a document retention and destruction policy established by the FIU-K; or discloses any information described in paragraph 1. of Article 15 of this law other than as provided by paragraph 2. of Article 15 of this law, unless authorized in writing by the Director of the FIU-K, commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to one hundred thousand (100.000) Euros. If the criminal offence set forth in this paragraph is committed with the intent to obstruct a regulatory or law enforcement

function, the offender shall be punished by imprisonment of up to ten (10) years and a fine of up to one hundred thousand (100.000) Euros.

6. Information or the failure to provide information may be material even if the recipient is not influenced or misled by it.

7. Whoever unlawfully refuses or obstructs an inspection lawfully undertaken pursuant to Articles 34, 35 and 36 of this Law, or wilfully conceals records which shall be kept and presented pursuant to this Law, commits a criminal offence punishable by imprisonment of up to one (1) year and a fine of up to one hundred thousand (100.000) Euros.

8. Whoever wilfully violates an order of a temporary measure for freezing property under Article 27 of this law, commits a criminal offence punishable by imprisonment of up to five (5) years of imprisonment and a fine of up to one hundred thousand (100.000) Euros.

9. Whoever wilfully fails to declare pursuant to paragraph 1. and. 2 of Article 33 of this Law, commits a criminal offence punishable by imprisonment of up to five (5) years of imprisonment or a fine of up to one hundred thousand (100.000) Euros.

#### **Article 60**

##### **Criminal Liability of Legal Persons**

1. A legal person is liable for the criminal offence of the person responsible, who has committed a criminal offence acting on behalf of the legal person within his/her jurisdiction, unless that person proves that:

1.1. the criminal offence was committed without his or her consent; and

1.2. the person took reasonable steps to prevent the commission of the offence as ought to have been exercised by that person having regard to the nature of his or her functions in that capacity.

#### **Article 61**

##### **Exemption from Liability**

No civil or criminal liability action may be brought nor any professional sanction taken against any person or entity or a reporting entity under this Law or to any of their directors, officers and employees whether temporary or permanent based solely on the good faith transmission of information, submission of reports, or other action taken pursuant to this Law, or the voluntary good faith transmission of any information concerning a suspicious act or transaction, suspected money laundering or terrorist financing to the FIU-K.

## **CHAPTER VIII INTERNATIONAL CO-OPERATION**

### **Article 62 International Co-operation**

1. The competent authorities of Kosovo undertake to afford the widest possible measure of cooperation to the authorities of foreign jurisdictions for purposes of information exchange, investigations and court proceedings, in relation to temporary measures for securing property and orders for confiscation relating to instrumentalities of money laundering and proceeds of crime, and for purposes of prosecution of the perpetrators of money laundering and terrorist activity.
2. The procedures for affording cooperation under paragraph 1. of this Article are set forth in the Criminal Procedure Code and in such other relevant provisions of the applicable law as do not conflict with it.
3. A request under this Article shall be sent through diplomatic channels pursuant to laws and agreements in force, who shall forward it to the Department for International Legal Co-operation or other competent authority.

## **CHAPTER IX PROFESSIONAL SECRECY, PROTECTION OF DATA AND CLASSIFICATION OF INFORMATION**

### **Article 63 Professional Secrecy**

1. Notwithstanding paragraph 7. of Article 31 and paragraph 5.2. of Article 35 of this Law, professional secrecy may not be invoked as a ground for refusal to provide information that:
  - 1.1. shall be disclosed pursuant to this Law; or
  - 1.2. is collected and maintained pursuant to this Law and is sought by either the FIU-K or the police in connection with an investigation that relates to money laundering and terrorist financing ordered by, or carried out under the supervision of, a Prosecutor or Pre-Trial Judge.

### **Article 64 Data Protection**

1. FIU-K is a data controller as defined in the Law on the Protection of Personal Data.
2. Pursuant to this Law, information received and kept by FIU-K is processed and administered in accordance with this law and other legislation in force.
3. Collection, processing, use and record keeping of personal data from reporting entity is limited to what is necessary for the purpose of the action in accordance with the requirements of this

law and personal data should not be further processed in a way incompatible with this purpose. In particular, the further processing of personal data for commercial purposes is prohibited.

**Article 65**  
**Classification of Information**

FIU-K is a classification authority pursuant to the Law in force on Classification of Information and Security Verification.

**CHAPTER X**  
**FINAL PROVISIONS**

**Article 66**  
**Sub-legal Acts for Law Enforcement**

1. The Minister of Finance shall approve sub-legal acts for the National Money Laundering and Terrorist Financing Risk Assessment and for the implementation of other related provisions of this Law.

2. The FIU-K, CBK and sectoral supervisory authorities as the case shall be, shall from time to time and in close cooperation and coordination, adopt, amend or repeal sub-legal acts with the aim of providing policy, instructions or guidance to reporting entities for the implementation of obligations under this Law and for promoting and ensuring the compliance of the reporting entities with this law.

**Article 67**  
**Repeal Provisions**

With entry into force of this Law, the Law No.03/L-196 on Prevention of Money Laundering and Terrorist Financing and the Law No.04/L-178 on Amending and Supplementing the Law No. 03/L-196 on the Prevention of Money Laundering and Prevention of Terrorist Financing shall be repealed.

**CHAPTER XI**  
**TRANSITIONAL PROVISIONS**

**Article 68**  
**Transitional Provisions for Law implementation**

1. Reporting entities shall apply the new provisions of this Law to existing customers on a materiality and risk basis as part of the ongoing monitoring of accounts and business relationships.

2. Any agreements entered into or any administrative instructions, directives or guidance that have been issued on the basis of provisions of the Law no. 03/L-196 amended and supplemented by the Law No. 04/L-178 already repealed, shall remain in force until they are amended, supplemented or repealed.

**Article 69**  
**Entry into Force**

This Law shall enter into force on the day of publication in the Official Gazette of the Republic of Kosovo.

**Law No. 05/L-096**  
**25 May 2016**

**Promulgated by Decree No.DL-015-2016, dated 13.06.2016, President of the Republic of Kosovo Hashim Thaçi.**