

**LAW No. 03/L-196**

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

**Assembly of Republic of Kosovo,**

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

Adopts:

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

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose**

1. This Law shall stipulate measures, competent authorities and procedures for detecting and preventing money laundering and terrorist financing.
2. In order to effectively combat money laundering and terrorist financing in Kosovo, this Law also establishes the FIU.

**Article 2  
Definitions**

1. Terms used in this Law have the following meaning:

- 1.1. **Bank**- an entity defined as a bank in the Law on the Central Bank of the Republic of Kosovo.
- 1.2. **Beneficial owner**- the natural person who ultimately owns or controls a customer or an account, the person on whose behalf a transaction is being conducted, or the person who ultimately exercises effective control over a legal person or arrangement,
- 1.3. **Business organization**- the meaning given in Article 2 of the Law on Business Organizations (02/L-123).
- 1.4. **Business relationship**- a business, professional or commercial relationship which is connected with the professional activities of a reporting subject and which is expected, at the time when the contract is established, to have an element of duration
- 1.5. **BPK Regulation**- UNMIK Regulation No. 1999/20 of 15 November 1999, as amended, on the Banking and Payments Authority of Kosovo.
- 1.6. **Casino**- a premise destined for organizing the games of chance, which shall be organized in tables for play with balls, cubes or cards;
- 1.7. **CBK**- the Central Bank of the Republic of Kosovo;
- 1.8. **Certified accountant**- an accountant certified by a professional accounting association in accordance with section 6 of UNMIK Regulation No. 2001/30 of 29 October 2001 on the Establishment of the Kosovo Board on Standards for Financial Reporting and a Regime for Financial Reporting of Business Organizations;

1.9. **Client-** a person or entity which conducts a transaction with or uses the services of a bank, financial institution, lawyer, certified accountant, licensed auditor or tax advisor. The term “client” includes any owner or beneficiary or other person or entity on whose behalf the transaction is conducted or the services are received;

1.10. **Covered professional-** lawyers, notaries, certified accountants and licensed auditors, or tax advisor;

1.11. **Currency-** an exchange mean in form of a coin and a banknote, which circulates as a means of exchange;

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

1.13. **FATF-** the “Financial Action Task Force” which means the unit for prevention of money laundry;

1.14. **FIU-** the Financial Intelligence Unit of Republic of Kosovo established according to Article 4 of this Law;

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

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

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

1.15.3. 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;

1.15.4. money and currency changing;

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

1.15.6. financial guarantees and commitments;

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

1.15.7.1. money market instruments, cheques, bills, certificates of deposit, derivative products (coming from another activity etc);

1.15.7.2. foreign exchange;

1.15.7.3. exchange, interest rate and index instruments;

1.15.7.4. transferable securities; and

1.15.7.5. commodity futures trading;

1.15.8. individual and/or collective portfolio management;

1.15.9. participation in securities issues and the provision of financial services related to such issues;

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

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

1.15.12. acting as an insurance company, life insurance company or intermediary of life insurances as defined in Article 1 of UNMIK Regulation No. 2001/25 of 5 October 2001 on Licensing, Supervision and Regulation of Companies and Insurance Intermediaries; and

1.15.13. acting as a fiduciary as defined in section 1 of UNMIK Regulation No. 2001/35 of 22 December 2001 on Pensions in Kosovo;

1.16. **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”;

1.17. **Licensed object of games of chance**- any premise where games of chance are organized and it can include but not limit to any hotel annex and spaces accompanied to it, retail selling points, warehouse or any other additional form of business property of or managed by the company licensed for games of chance and being a part of the general operation. This term includes also the sports bet subjects;

1.18. **Immovable property**- land, buildings and apartments;

1.19. **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;

1.20. **Lawyer**- any person who is enlisted in Bar Register in accordance with the Law on the Bar (03/L-117)

1.21. **Licensed auditor**- a person licensed as an auditor pursuant to section 1 of UNMIK Regulation No. 2001/30 of 29 October 2001 on the Establishment of the Kosovo Board on Standards for Financial Reporting and a Regime for Financial Reporting of Business Organizations;

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

1.23. **Money laundering**- any conduct for the purpose of disguising the origin of money or other property obtained by an offence and shall include:

1.23.1. conversion or any transfer of money or other property derived from criminal activity;

1.23.2. concealment or disguise of the true nature, origin, location, movement, disposition, ownership or rights with respect to money or other property derived from criminal activity.

1.24. **Notary**- in accordance with article 2.2 of the Law no. 03/L-10 on Notary is a professional lawyer, public official, appointed by the Ministry of Justice to perform the activities defined by the law.

1.25. **Non-Governmental Organization- (or “NGO”)** in accordance with article 2 of the Law No 03/L-134 on Freedom of Association in Non-Governmental Organisations means any domestic association and foundation, as defined in Article 5 of this Law, or any foreign or international organization as defined in Article 7 of this Law.

1.26. **Politically Exposed Person-** any person who is or has been entrusted with prominent public functions in any country, as well as members of such person’s family or those closely associated with him/her.

1.27. **Police-** the Kosovo Police Force; according to article 3 of the Law on Police Nr. 03/L-035.

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

1.29. **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;

1.30. **Property or Funds-** assets of every kind, whether corporeal or incorporeal, movable or immovable, 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, traveler’s cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit, and any interest, dividends or other income on or value accruing from or generated by such assets;

1.31. **Religious institutions-** all religions and their communities in Kosovo according to Article 5.4 of the UNMIK Regulation 2006/48 On the Promulgation of the Law on Freedom of Religion in Kosovo adopted by the Assembly of Kosovo.

1.32. **Reporting subject-** means a person or entity required to make reports to the FIU, as are defined in Article 16 of this Law.

1.33. **Seizing-** 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 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 be administered by the judicial or other competent authority;

1.34. **Shell bank-** a bank, or an 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;

1.35. **Suspicious act or transaction-** an act or transaction that generates a reasonable suspicion that the property involved in the act or transaction is proceeds of crime and shall be interpreted in line with any guidance issued by the FIU on suspicious acts or transactions;

1.36. **Terrorist financing-** the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 112 and 113 of the Criminal Code of Kosovo and within the specific definitions provided by FATF in the Special Recommendation II.

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

1.38. **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.

1.39. **Management Board**- the board comprised of the members from different institutions who shall oversee the work and ensure the independence of the FIU.

### **Article 3 Special Prosecution Office**

The crimes listed in Article 26, 27 and 28 of this Law, fall within the exclusive competence of the Special Prosecution Office of the Republic of Kosovo established by Law No 03/L-052 on the Special Prosecution Office of the Republic of Kosovo.

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

### **Article 4 Status of the FIU**

In order to effectively combat money laundering and terrorist financing in Kosovo, this Law also establishes the FIU within the Ministry of Finance and Economy (MFE) as a central independent national institution responsible for requesting, receiving, analyzing and disseminating to the competent authorities, disclosures of information which concern potential money laundering and terrorist financing.

### **Article 5 The Management Board**

1. Through promulgation of this law by the Assembly of Kosovo the Management Board (“the Board”) of the Financial Intelligence Unit is established. The Board shall oversee and ensure independence of the FIU. The Board has no executive or enforcement powers vis a vis the FIU.

2. The Management Board is comprised of the Minister of Economy and 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, the Director-General of the Customs of Kosovo, the Managing Director of the Central Bank of the Republic of Kosovo.

3. The Board shall meet at least twice a year.

### **Article 6 Duties and Competences of the Board**

1. The Board is authorized to:

1.1. review, approve and reject the reports of the FIU prepared according to paragraph 1 Article 10 of this law. If the Board rejects such a report, it shall provide the Director of the FIU with a detailed written explanation of the reasons for such rejection and a clear indication of the deficiencies that must be corrected;

1.2. oversee and periodically assess the performance of the Director of the FIU;

1.3. appoints and/or dismisses the Director of the FIU;

1.4. determine the budget of the FIU upon proposal of the Director FIU;

1.5. control and oversee the wealth stated by the Director of the FIU and the conflict of interest cases, in accordance with the rules and procedure foreseen by the Law Preventing Conflict of Interest in Exercising Public Function, Law on Declaration of Assets and Gifts of the Senior Public Officials and other relevant articles of the legislation in Kosovo.

**Article 7**  
**No interference**

The Board has no right to interfere in any way in FIU ongoing cases.

**Article 8**  
**Organization of the Board and Decision-making Procedures**

1. The Chair shall represent the Board in public and shall appoint an MFE Official 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. If it becomes necessary for the Board to meet in the absence of the Chair, the Minister of Interior shall chair the meeting.
4. The Board shall prepare and adopt its own rules and procedures.

**Article 9**  
**Competencies of the Chairman**

1. The Chairman shall be responsible for:
  - 1.1. performing all functions vested in him/her by law and delegated to him/her by the Board;
  - 1.2. conducting the ordinary business of the Board in accordance with any decisions or instructions duly adopted by the Board; and

**Article 10**  
**Competencies and Responsibilities of the Director FIU vis a vis the Board**

1. Fifteen (15) days prior to each Board meeting once a year, the Director of the FIU shall provide each and every member of the Board with an up-to-date written report summarizing:
  - 1.1. the administrative, executive, and regulatory activities and decisions of the FIU;
  - 1.2. all aspects of the financial management, revenues and expenditures of the FIU. If a majority of the members of the Board determine that there are reasons to believe that the FIU is not complying or has not complied with one or more provisions of the present law or another normative 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, which shall be presented to the Assembly of Kosovo;
  - 1.3. the FIU director is not under any obligation to disclose any information which could jeopardize the operational side of the work of the FIU.

**Article 11**  
**Director of the FIU**

1. The FIU is headed by a Director who is responsible for directing and managing the FIU.
2. The Director of the FIU shall appoint a senior official from within the FIU to replace him in times of absence and/or in case of the Director's non-ability to perform his/her duties.

3. The Director of the FIU shall be appointed by the Board, upon proposal of the Ministry of Finance and Economy, on the basis of demonstrated knowledge, professionalism and experience and must:

3.1. be a person with high moral integrity and professionalism;

3.2. have a university degree in a relevant field of expertise;

3.3. have at least five (5) years of substantial relevant professional experience;

3.4. not:

3.4.1. hold a political position in the Government of the Republic of Kosovo, the Assembly of Kosovo, a local authority, political party or a trade union;

3.4.2. have a direct or indirect interest in a "reporting subject";

3.4.3. have a conflict of interest according to the Law on Conflict of Interest.

4. The Minister of Economy and Finance 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 become 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. For the purpose of clarity, the Director of the FIU shall be an "official" in compliance with the Law on Conflict of Interests.

7. The mandate has duration of three (3) years and can be renewed.

8. Six (6) months prior to expiration of the mandate of the serving Director, the Ministry of Finance and Economy 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 with details of the post, its location, job description, salary, 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.

#### **Article 12**

##### **Selection procedures for the Director of the FIU**

1. The MFE shall make a pre-selection of most suitable candidates that best meet the criteria established by the Law and shall shortlist at least two (2) candidates.

2. The MFE 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 appoints the Director of the FIU among the short listed candidates by the MFE.

#### **Article 13**

##### **Dismissal and suspension of Director of the FIU**

1. The Director of the FIU may be dismissed through the same process by which he or she was appointed.

2. The Director of the FIU 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 into public or judicial disrepute because of serious professional misconduct or grossly improper personal behavior.

3. The Director of the FIU may be suspended:

- 3.1. if he/she does not seek the prior approval of the Managing Board before joining any organization or group; failure to report may be grounds for suspension of the FIU Director.
- 3.2. if he/she holds any other employment during their tenure as the FIU Director.
- 3.3. if he/she is engaged in any industrial action or any other form of collective work stoppage.
- 3.4. if he/she without the prior agreement of the Management Board, gives public statements or otherwise comments on the work of the FIU, or in any case provides information to unauthorized persons on data, documents, contacts, intentions, knowledge or personnel of the FIU.
- 3.5. 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.
- 3.6. 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 the FIU**

1. The FIU is authorized to receive and proceed:

1.1. receive and analyze reports and information:

1.1.1. made or kept under Articles 16 to 28 of this law,

1.1.2. provided to the FIU by bodies from FIU foreign countries with similar functions, from courts or responsible authorities for implementation of the law including intergovernmental and international organization the public or governmental bodies, and

1.1.3. voluntarily provided to the FIU concerning suspicions of money laundering or of the financing of terrorist activities;

1.2. collect information that is relevant to money laundering activities or the financing of terrorist activities and that is publicly available (including through commercially available databases);

1.3. for purposes of analyzing suspected money laundering or financing of terrorist activities, request and receive records, documents and information from public or governmental bodies or any international or intergovernmental body or organization (in Kosovo) concerning a person, entity, property or transaction;

1.4. and requires data, documents and information related to specific requests of data or analyses from legal obligators, which should be offered precisely for inspection by FIU and to allow their coping and reproduction, only for the use of a unit. Legal obligators who refuse such requests should within three (3) days be informed about the request of FIU, send it in written their reasons for refusal. After this, the FIU shall decide and notify the legal obligor whether he/she is or is not in compliance with obligations foreseen in this provision.

- 1.5. the FIU 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.
- 1.6. create and maintain a database of all information collected or received relating to suspected money laundering or financing of terrorist activities and such other materials as are relevant to the work of the FIU;
- 1.7. may, spontaneously or upon request, share information with any foreign counterpart agency that performs similar functions and is subject to similar confidentiality obligations, regardless of the nature of the agency, subject to reciprocity. The information provided shall be used only with the consent of the agency and only for the purposes of combating money laundering, predicate offences and financing of terrorism;
- 1.8. compile statistics and records and based thereon make recommendations to the Minister of Economy and Finance the Minister of Justice, the police, the Kosovo Customs in Kosovo and/or other relevant persons or bodies regarding measures which may be taken and legislation which may be adopted to combat money laundering and the financing of terrorist activities;
- 1.9. make such reports public as will be helpful in carrying out its tasks;
- 1.10. organize and/or conduct training regarding money laundering, the financing of terrorist activities and the obligations of reporting subjects;
- 1.11. disseminate, in accordance with provisions of this Article, reports and any necessary information to the relevant authorities;
- 1.12. issue administrative directives, instructions and guidance on issues related to ensuring or promoting compliance with this Law, including but not limited to:
  - 1.12.1. the use of standardized reporting forms;
  - 1.12.2. about suspicious acts or transactions, including the nature of suspicious acts or transactions for the purposes of this Law, and the development of lists of indicators of such acts and transactions;
  - 1.12.3. 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;
- 1.13. request documents and information in accordance with this Law;
- 1.14. for the purpose of sub-paragraph 1.7 of this paragraph, the FIU may enter into an agreement or arrangement with a foreign counterpart agency that perform similar functions and is subject to similar secrecy obligations;
- 1.15. issue instructions to reporting subjects in accordance with this Law including instructions not to carry out a transaction;
- 1.16. perform other functions in accordance with this Law.
- 1.17. the staff of the FIU 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. Such information may only be used for the purposes provided for in accordance with the law.

## **Article 15**

### **Disclosure and Dissemination of Information and Records by the FIU**

1. The FIU may only disclose the following information, or records containing such information in accordance with paragraph 2 of this Article:

- 1.1. any data concerning a person or entity which is a subject of a report held by the FIU 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 data concerning a person or entity which has provided information or records to the FIU that would directly or indirectly identify the person or entity.
2. The information referred to in paragraph 1 of this Article may be disclosed by the FIU under the following circumstances:
- 2.1. to the appropriate unit of the police, the Financial Investigation Unit, the Kosovo Intelligence Agency, the competent prosecutor, the Kosovo Customs, the Tax Administration Department of the Ministry of Economy and Finance or KFOR, if the information would be relevant to investigations within its competence, or to a body outside Kosovo with similar functions to the FIU ;
  - 2.2. to a public or governmental body of the Republic of Kosovo if such disclosure of information is necessary for the FIU.
  - 2.3. to bodies responsible for law enforcement, or performing a similar role to the FIU, outside Kosovo, if such disclosure is necessary or of assistance to the FIU in performing its functions;
3. All the data, information and records are disclosed by the FIU 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, who will authorize such disclosure only in case there are no other possibilities for the law enforcement, bodies to obtain the relevant evidences elsewhere and/or in another way.

### **CHAPTER III REPORTING SUBJECTS**

#### **Article 16**

1. Reporting subjects shall mean:

- 1.1. Banks
- 1.2. Financial institutions
- 1.3. Casinos, including internet casinos.
- 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) Euro or more.
- 1.6. Lawyers and notaries (accountants) when they prepare for, carry 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 assets,
  - 1.6.3. management of bank, savings or securities accounts,
  - 1.6.4. organization of contributions for the creation, operation or management of companies,  
or

1.6.5. Creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

1.7. Certified accountants and licensed 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

## **Article 17 Customer Due Diligence**

1. Customer due diligence means:

1.1. identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;

1.2. identifying, where applicable, the beneficial owner and taking risk-based and adequate measures to verify his or her identity so that the institution or person defined in this law is satisfied that it knows who the beneficial owner is, including, as regards to 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. obtaining information on the purpose and intended nature of the business relationship;

1.4. conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date. Competent supervisory authority may approve regulation that defined these requests in details.

2. All reporting subjects shall identify their customers and verify their identities by means of reliable independent source, documents, data or information, when:

2.1. establishing business relations;

2.2. carrying out occasional transactions, when the customer wishes to carry out:

2.2.1. a transaction in an amount equal to or above ten thousand (10. 000) Euro, whether conducted as a single transaction or several transactions that appears to be linked. 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, or

2.2.2. a domestic or international wire transfer of funds;

2.2.3. doubts exist about the veracity or adequacy of previously obtained customer identification data;

2.3. there is a suspicion of money laundering or financing of terrorism.

3. 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.

4. The identity of any entity shall be verified by the presentation of:

4.1. a business registration certificate issued pursuant to the Law on Business organizations (02/L-123);

4.2. an NGO registration certificate issued pursuant to Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134);

4.3. evidence of Registration of a political party pursuant to UNMIK Regulation No. 2004/11 of 5 May 2004 on the Registration and Operation of Political Parties in Kosovo;

5. Where an entity is not a business organization, NGO or political party, any other document or documents which enables the verification of the identity of the entity, legal form, address, directors, and provisions regulating the power of agents, officers or directors to bind the entity."

6. Reporting subjects should keep data for following information and should ensure that the documentation and following information are ready and available to FIU, and to other competent authorities:

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

6.2. information taken 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 20 of this law, for at least five (5) years after the attempt for execution of execution of a transaction.

### **Article 18 Identification of Clients**

1. Banks and financial institution are prohibited from keeping anonymous accounts.

2. Banks and financial institutions shall verify the name and address, and, in the case of persons, the date of birth, of all clients before:

2.1. opening an account;

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

2.3. granting safe-deposit facilities;

2.4. otherwise establishing a business relationship; or

2.5. engaging in any single transaction in currency of more than € ten thousand (10,000). 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 total more than € ten thousand (10,000) in a single day.

3. A person engaging in a transaction under paragraph 3 Article 17 of this law shall certify in writing to the bank or financial institution, in a format specified by CBK, that he or she is acting:

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

3.2. as an authorized agent of one or more persons or entities identified pursuant to paragraph 4 and 5 Article 17 of this law, 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.

4. Any person acting as an authorized agent shall present documents in accordance with paragraph 3 and 4 Article 17 of this law for him/herself and for the authorizing person or entity and shall provide a document authorizing him or her to conduct transactions on behalf of such person or entity.

5. Notwithstanding compliance with paragraph 3 and 4 Article 17 of this law, a bank or financial institution shall take any additional reasonable measure necessary to identify every person and entity on behalf of which a person engaging in a transaction under paragraph 4 Article 17 of this law is acting, including the owner and beneficiary of the property.

6. If a bank or financial institution is unable to verify the identity of a client, the business relationship shall be terminated, any account closed and the property returned to its source. Such actions shall be without prejudice to the obligation of the bank or financial institution to report suspicious acts or transactions pursuant to article 21.1 and to report additional material information pursuant to article 21.2.

7. Banks and financial institutions shall make copies of all documents which shall be presented under paragraph 3 and 4 Article 17 of this law and shall retain them for at least five (5) years after the account has been closed or the relations with the client have ended, whichever is later.

#### **Article 19 Wire transfers**

1. 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.

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

3. The competent authority may issue regulations regarding cross – border transfers executed as batch transfers and domestic transfers.

4. Paragraphs 1 and 2 of this Article shall 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.

5. 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.

#### **Article 20 Special monitoring of certain transactions**

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

3. Reporting Subjects shall set forth in writing the specific information regarding transactions as referred to in paragraphs 1 and 2 of this Article and the identity of all parties involved. The report shall be maintained as specified in this Law and shall be made available if requested by the FIU, a supervisory authority and other competent authorities.

## **Article 21**

### **Enhanced due diligence**

1. The reporting subjects should apply enhanced due diligence of customers in the presence of a higher risk of money laundering or terrorist financing and, anyway, in the cases mentioned in paragraphs 2, 4 and 5 of this Article.

2. When the customer is not “physically present”, the institutions and persons subject to this law shall take specific and adequate measures to offset the higher risk by taking one or more among the measures below:

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 credit institution or financial institution covered by this law;

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

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

3.2. 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;

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 banking relationships with entities belonging from other Countries, the banks and credit institutions must:

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 quality of supervision 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;

- 4.5. ensure that the credit institution has verified the identity of customers who directly access the transitory accounts, which has consistently fulfilled the requirements of adequate verification of clients and that, upon request, the intermediary can provide the financial counterpart data obtained as a result of the performance of such obligations.
5. With regard to transactions, relationships or services provided by politically exposed persons residing out of the Republic of Kosovo, the reporting subjects must:
- 5.1. have appropriate risk-based procedures to determine whether the customer is a person politically exposed;
  - 5.2. obtain approval of the Director-General, to his designated person or employee performing an equivalent function before starting a relationship with such customers;
  - 5.3. take adequate measures to establish the origin of the assets and funds used in relationship or transaction;
  - 5.4. ensure continuous and strengthened monitoring of the bank relationship or the spot operation.
6. Financial intermediaries can not open or maintain correspondent accounts with a shell bank or a bank which is known to allow a bank to be used by shell their accounts.
7. The institutions and persons subject to this law shall pay particular attention to any risk of money laundering or terrorist financing related to products or transactions to promote anonymity and take any measures necessary to prevent its use for purposes of money laundering or terrorist financing.

## **Article 22**

### **Banks and financial institutions: reporting to FIU**

1. Banks and financial institutions shall report to the FIU, in the manner and in the format specified by the FIU:
- 1.1. all suspicious acts or transactions within twenty four (24) hours of the time the act or transaction was identified as suspicious;
  - 1.2. all single transactions in currency of € ten thousand (10,000) or more. Multiple transactions shall be treated as a single transaction if the bank or financial institution has knowledge that the transactions are by or on behalf of one person or entity and total more than € ten thousand (10,000) in a single day.
2. Banks and financial institutions shall continue to report to the FIU any additional material information regarding the transaction(s) that is acquired by the bank or financial institution after the report under paragraph 1 Article 21 of this law.
3. The FIU may exempt, either on written application or on its own initiative, certain transactions or categories of transactions from the obligations under paragraph 1 Article 21 of this law, where the transactions or category of transactions are routine and serve a legitimate purpose, or are otherwise not of interest to the mandate of the FIU.
4. Directors, officers, employees and agents of any bank or financial institution who make or transmit reports pursuant to the present article shall not provide the report, or communicate any information contained in the report or regarding the report, to any person or entity, including any person or entity involved in the transaction which is the subject of the report, other than the FIU or CBK, unless authorized in writing by the FIU, a Prosecutor, or a Court.
5. A bank or financial institution shall notify the FIU prior to taking any action in connection with any suspicious act or transaction, including an action under paragraph 6 Article 18 of this law, which would result in the release or transfer of the property subject to the transaction from the control of the bank or

financial institution. The notification may be made orally, but such notification does not abrogate the duty to file written reports pursuant to paragraph 1 and 3 of this Article.

6. Upon notification pursuant to paragraph 5 Article 21 of this law, the FIU may instruct the bank or financial institution to suspend the taking of an action referred to in paragraph 6 Article 17 of this law in connection with a suspicious act or transaction for a maximum of forty eight (48) hours, or two (2) working days, whichever period is longer. Such suspension of an action pursuant to the present article shall not be communicated to any person or entity, including the client, without the consent of the FIU.

### **Article 23** **Banks and Financial Institutions: Internal Programs**

1. Banks and financial institutions shall appoint a contact person to be responsible for interaction and information exchange with the FIU who shall be subject of the reporting and record keeping obligations under this Law. The Bank and financial institution shall inform the Supervision Agency and the FIU of the identity of the contact person within thirty (30) days of the promulgation of this law and, thereafter, within thirty (30) days of any change in the designated contact person.

2. Banks and financial institutions shall promulgate written internal procedures and controls for the prevention and detection of money laundering and shall enforce them. Such procedures shall include, but need not be limited to, the following:

2.1. a client identification procedure;

2.2.a procedure for collecting information and maintaining records in accordance with this Law, and for preventing unauthorized access;

2.3. a procedure for reporting to the FIU in compliance with paragraph 1 to 6 Article 22 of this law;

2.4. measures to be taken by a bank or financial institution from the moment of the detection of a suspicious act or transaction to the submission of the report to the FIU in accordance with paragraph 1 to 6 Article 22 of this law;

2.5. rules for processing, or taking further action in connection with, a suspicious act or transaction, including measures to prevent further action in connection with a suspicious act or transaction without notification to the FIU in accordance with paragraph 5 Article 22 of this law;

2.6. procedures for ensuring the institution and provision of an employee training program on the responsibilities set forth in the present article and the prevention of money laundering; and an audit function to test the reporting and identification system.

3. Banks and financial institutions shall submit the procedures set forth in paragraph 2 of this Article to the FIU not later than sixty (60) days after the entry into force of this Article or thirty (30) days after the establishment of the bank or financial institution.

### **Article 24** **Additional Obligations of NGOs**

1. Except as provided in paragraph 3 of this Article, an NGO shall not accept any contribution in currency in excess of € one thousand (1,000) from a single source in a single day.

2. Except as provided in paragraph 3 of this Article, an NGO shall not disburse currency in excess of € five thousand (5,000) in a single day to any single recipient.

3. NGOs seeking a one-time or recurring exemption from the obligations under paragraph 1 and 2 of this Article may file a written request for exemption with the FIU setting forth the nature of the exemption sought and the reasons for it. The FIU shall respond to the request in writing within thirty (30) days, and may decide to grant, conditionally grant, or deny the exemption. If the FIU decides to grant or

conditionally grant an exemption, it shall provide a copy of its decision to the competent body under Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134).

4. NGOs shall maintain accounts that document all income and disbursements. The accounts shall identify income by source, amount, and manner of payment, such as currency or payment order, and identify disbursements by recipient, intended use of funds, and manner of payment. Account documents shall be maintained for five (5) years and shall be available for inspection upon demand by the FIU and the competent body under Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134).

5. NGOs shall report any suspicious act or transaction to the FIU within three (3) business days and prior to taking further action in connection with any such act or transaction.

6. When filing an annual report pursuant to Article 18 of the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134), an NGO shall disclose in the report:

6.1. each contribution in currency during the year from a particular source, if the total value in currency of the contributions from that source during the year is in excess of € five thousand (5,000) identifying the source, amount and date of each contribution; and

6.2. each disbursement in currency during the year to a particular recipient if the total value in currency of disbursements to that recipient is in excess of € ten thousand (10,000), identifying the recipient, amount and date of each disbursement, and the intended use of the money.

7. When filing an annual report pursuant to Article 18 of the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134), an NGO shall certify that it has complied with all obligations under the present article.

8. The Competent body under the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134) may suspend or revoke the registration of an NGO for violation of any provision of the present article pursuant to Article 21 of the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134). The imposition of such sanction shall be without prejudice to any criminal proceedings.

9. Notwithstanding any other provision of law, reports filed by NGOs pursuant to the Law on Freedom of Association in Non-Governmental Organizations (No 03/L-134), shall be made available upon request to the FIU.

## **Article 25**

### **Additional Obligations of Political Parties and Registered Candidates**

1. Political parties and registered candidates shall not accept any contribution in currency in excess of € one thousand (1,000) from a single source in a single day.

2. Political parties and registered candidates shall not disburse currency in excess of € five thousand (5,000) in a single day to any single recipient.

3. Political parties shall maintain accounting books that record all income by source, amount and manner of payment, such as by currency or payment order, and all payments made by the party to any person, the purpose of the payment and the manner in which the payment was made. Accounting books shall be maintained for seven (7) years and shall be available for inspection upon demand to the FIU and the Political Party Registration Office.

4. Political Parties shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with such act or transaction.

5. Bi-Annual Financial reports filed pursuant to Article 19 of UNMIK Regulation No.2004/11, shall include:

5.1. a record of all contributions to the registered political party from a single source if the combined value of contributions from that source has exceeded € one hundred (100) during the period covered by the report which shall indicate:

5.1.1. the value of each contribution made to the political party;

5.1.2. the date on which each contribution was made; and

5.1.3. the full name, address and civil registration, passport or driver's license number of the contributor; and

5.2. a statement identifying each payment made to another person during the period covered by the report, if the total value of all payments to that person during the period exceeds € five thousand (5,000) and indicating the purpose of the payment.

6. A political party shall certify in its Bi-annual financial report that it has complied with all obligations under this article. A candidate shall certify in his/her candidate registration form submitted to the Central Election Commission that he/she shall comply with paragraph 1 and 2 of this Article.

7. The Political Party Registration Office may investigate a political party's compliance with the present article and may suspend the registration of a political party for a violation of any provision of the present article in accordance with Article 5 of UNMIK Regulation No. 2004/11. A sanction under the present paragraph shall be without prejudice to any criminal proceedings.

8. Notwithstanding any other provision of law, reports filed by political parties pursuant to UNMIK Regulation No. 2004/11 shall be made available upon request to the FIU.

## **Article 26**

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

#### **Identification of Clients**

1. Lawyers, notaries, certified accountants, licensed auditors and tax advisors (hereafter "covered professionals") shall verify the name and address, and, in the case of persons, date of birth, of every client before performing professional services for the client. Article 17 and paragraph 4, 5 and 6 of Article 18 of this law shall apply to verification and identification. If the covered professional is unable to identify a client or verify his or her identity, he or she shall not accept property from or on behalf of the client for any purpose.

#### **Handling of Clients' property**

2. When a covered professional at any time comes into possession of property on behalf of a client or third party, the covered professional shall:

2.1. hold the property in an account of, or in the safekeeping of, a bank subject to the supervision of the CBK, unless the client explicitly agrees that the property should be dealt with otherwise, or the nature of the property does not permit;

2.2. indicate in the title or designation of the account that the property is held on behalf of a client or clients of the covered professional;

2.3. in the case of cash or liquid securities, maintain a sum in the account that at all times equals or exceeds the sum of the client's property held by the covered professional; and

2.4. maintain full and accurate records, available to the client upon request, showing all dealings with the client's property and distinguishing the client's property from other property held by the covered professional.

#### **Reporting**

3. Any covered professional who, in the course of performing services for a client, receives € ten thousand (10,000) or more in currency in a transaction or related transactions from a client, shall file a report with the FIU within fifteen (15) working days of the reportable transaction. A transaction shall also be reported if the covered professional receives the currency as an intermediary, that is, he or she intends to transfer the currency to a third party on behalf of the client. A transaction may not be divided into multiple transactions in order to avoid reporting under this article.

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

- 4.1. a sale of goods or services;
- 4.2. a sale of real property;
- 4.3. a sale of intangible property;
- 4.4. a rental of real or personal property;
- 4.5. an exchange of currency for other monetary instruments, including other currency;
- 4.6. the payment of a pre-existing debt;
- 4.7. a reimbursement of expenses paid;
- 4.8. the making or repayment of a loan; or
- 4.9. the payment of fees in currency to the covered professional for his or her services.

5. For the purposes of paragraph 3 of this Article the term “related transactions” means all transactions conducted between the client and the covered professional in 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 knows or has reason to know that each transaction is one of a series of connected transactions. Multiple payments to a lawyer for representation in a single case are connected transactions.

6. The form and manner of the report shall be prescribed by the FIU, and shall include:

- 6.1. the name and address, and such other identifying information as the FIU may prescribe, of the person or entity from whom the currency was received and any agent on whose behalf the person or entity is acting;
- 6.2. the amount of currency received;
- 6.3. the date and nature of the transaction; and
- 6.4. such other information, including the identification of the person or entity filing the report, as the FIU may prescribe.

7. Certified accountants and licensed auditors shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with any such act or transaction. Reports shall be made in a form and manner prescribed by the FIU.

8. Except cases as provided in paragraph 9 of this Article, lawyers engaged in specified activities shall report any suspicious act or transaction to the FIU within three (3) working days and prior to taking further action in connection with any such act or transaction. Specified activities include:

- 8.1. assisting or representing a client or clients in:
  - 8.1.1. buying and/or selling of immovable property or business organizations;

- 8.1.2. handling of clients' money, securities, or other assets;
  - 8.1.3. opening or managing bank, savings or securities accounts;
  - 8.1.4. organization of contributions necessary for the creation, operation or management of companies;
  - 8.1.5. creation, operation or management of companies, trusts or similar structures; or
- 8.2. acting on behalf of or for the client in any financial or immovable property rights transaction.

**Reports shall be made in a form and manner recommended by the FIU.**

9. 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.

10. Records collected pursuant to this Article shall be maintained for a period of five (5) years from the date that the business relationship or representation ended. Records relevant to a suspicious act or transaction shall be maintained for a period of five (5) years from the date on which the suspicious act or transaction was reported to the FIU. To the extent possible, records maintained pursuant to the present article shall be maintained separately from files containing information subject to lawyer-client privilege.

11. Covered professionals shall ensure the training of all staff members, employees and agents in their obligations under this Law.

12. The FIU, in consultation with the Kosovo Bar Association, the Kosovo Board on Standards for Financial Reporting and any other relevant professional association of covered professionals shall establish minimum standards, written procedures and controls for the prevention and detection of money laundering by covered professionals and supervise them. These procedures shall include, but need not be limited to, the following:

- 12.1. a client identification procedure;
- 12.2. a procedure for collecting information and maintaining the records pursuant to this Law and for preventing unauthorized access;
- 12.3. a procedure for reporting to the FIU in compliance with paragraph 3 to 9 Article 24 of this law;
- 12.4. a detailed list of the indicators of a suspicious act or transaction, taking into account the particular crime problems of Kosovo and Kosovo's legal and business systems;
- 12.5. measures to be taken by the covered professional from the moment of the detection of a suspicious act or transaction to the submission of the report to the FIU;
- 12.6. procedures for ensuring the institution and provision of an employee training program on the obligations under present article and the prevention of money laundering;
- 12.7. an audit function to test the reporting and identification system.

13. The Kosovo Bar Association, the Kosovo Board on Standards for 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.

**Sanctions**

14. A sanction imposed by the competent Bar Association, the Kosovo Board on Standards for Financial Reporting or any other relevant professional association of covered professionals for a breach of this Law shall be without prejudice to any criminal proceedings.

#### **Article 27**

##### **Additional Obligations: Immovable Property Transactions**

1. When conveyance of immovable property rights involves a transaction or transactions of a monetary amount in excess of € ten thousand (10,000) or more, 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 declaration, in the manner and in the format specified by the FIU, signed by the transferor and transferee that certifies:

2.1. the transferor and transferee of record;

2.2. the identity of any person or entity which has a financial interest in or is a beneficiary of the property being transferred, and the nature of that interest or 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 law for the registration of the transfer. In addition, the MCO shall forward copies of all declarations received to the FIU on a monthly basis.

4. A decision by 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 Law No. 2002/5 on the Establishment of an Immovable Property Rights Register, as promulgated by UNMIK Regulation No. 2002/22 of 20 December 2002.

#### **Article 28**

##### **Additional Obligations of Casinos and Other Gaming Houses**

1. Casinos and other gaming houses (hereinafter gaming houses) are subject to the anti-money laundering and anti-terrorist financing provisions of this Law and are obligated to take specific measures to address the risk of money laundering and the financing of terrorism in providing gambling services.

2. Gaming houses shall verify the identity of a client before entering into a transaction or linked transactions to sell, purchase, transfer or exchange gambling chips, tokens or other evidence of gaming value in an amount of € two thousand (2,000) or more or the equivalent in foreign currency. The identity verification requirement also extends to financial transactions such as the opening of an account, a wire transfer or a currency exchange in the amount of € two thousand (2,000) or more or the equivalent in foreign currency. If the gaming house is not able to verify the identity of a client, it shall not enter into the transaction.

3. Gaming houses 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) 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) or more;

3.3. Transfer funds by electronic or wire transfer or other method 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) or more.

4. These prohibitions do not restrict a gaming house from paying a client's winnings by cheque or other negotiable instrument or by electronic or wire transfer if the cheque, negotiable instrument, or electronic or wire transfer is made payable to the order of the client.

## **Article 29**

### **Movement of monetary instruments into and out of Kosovo - Obligation to declare**

1. Every person entering or leaving Kosovo and carrying monetary instruments of a value of € ten thousand (10,000) or more must declare the amount of the monetary instruments and the source of such monetary instruments in writing, in a format to be prescribed by the Kosovo Customs, to a customs officer, and, if so requested by the officer, shall present the monetary instruments. For the purposes of the present 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 other conveyance 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 Kosovo, or receiving in Kosovo from a place outside Kosovo, via post or commercial courier, monetary instruments of a value of € ten thousand (10,000) or more, must declare the amount of the monetary instruments and the source of such monetary instruments in writing, in a format to be prescribed by the Kosovo Customs, to an authorized customs officer, and, if so requested by the officer, shall present the monetary instruments. The person may meet his or her reporting duty 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. Kosovo Customs must forward copies of all declarations filed pursuant to paragraph 1 or 2 of this Article to the FIU.

4. Any person who fails to comply with the provisions of to paragraph 1 or 2 of this Article commits a minor offence punishable by a fine of 25% of the total amount of monetary instrument in his/her possession.

5. The authorized 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.

6. If the fine imposed is not paid immediately, the authorized customs officer shall seize and retain 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 authorized customs officer shall seize the greater amount which shall be as close in value as possible to such amount.

7. Upon seizure under paragraph 6 of this Article, the authorized custom officer shall issue to the concerned person a written receipt stating the relevant facts and the amount of the monetary instruments seized and retained.

8. 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 CBK or otherwise held in safe custody with CBK until such time as the fine is paid in full or as otherwise ordered by a Court of the competent jurisdiction or as otherwise provided in the present article.

9. A fine imposed pursuant to this article is without prejudice to any criminal proceedings against a person.

### **Movement of monetary instruments into and out of Kosovo - Prevention of Money Laundering and Terrorist Financing**

10. Kosovo Customs shall take all appropriate measures to prevent money laundering and terrorist financing and shall report any suspicious transactions or suspicious terrorist financing it detects in the course of its duties to the Financial Intelligence Unit. Kosovo Customs shall liaise with the FIU, prosecutors, police and other relevant bodies for the purpose of performing these duties.

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

12. Kosovo Customs shall seize and detain:

12.1. any monetary instruments carried by a person entering or leaving Kosovo if they are in the value of € ten thousand (10,000) or more in excess of € ten thousand (10,000) and have not been declared in accordance with to paragraph 1 and 2 of this Article;

12.2. 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.

13. Upon seizure under paragraph 12 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 4 of this Article.

14. Upon seizure of monetary instruments under paragraph 3 of this Article, Kosovo Customs, without delay, shall:

14.1. report the matter to the FIU;

14.2. notify the competent Prosecutor [to enable further investigations/action] and shall provide the competent Prosecutor with a copy of the written receipt given to the person concerned and with all other information required.

15. The monetary instruments seized and retained by Kosovo Customs in accordance with this article shall, where 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.

16. Where monetary instruments have been seized pursuant to paragraph 12 of this Article, within ten (10) days of notification under paragraph 14 of this Article the Prosecutor shall:

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

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

16.3. in writing, notify the person concerned, Kosovo Customs [and the FIU] that no action will be taken in relation to the property seized and that the person concerned may apply for the return of the monetary instruments in accordance with paragraph 17 of this Article.

17. If the Prosecutor gives a notification under sub-paragraph 16.3. paragraph 16 of this Article that no action shall be taken in relation to the monetary instruments seized, the Kosovo Customs shall return the monetary instruments to the person concerned on application by them.

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

18.1. 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

18.2. submit a request in writing, addressed to the CBK, to deposit the monetary instruments in a special Kosovo Customs account in 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 18.1 of this paragraph.

19. If no application for return of monetary instruments is made in accordance with paragraph 18 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 Consolidated Budget.

20. In the course of their duties and especially when acting in accordance with sub-paragraph 12.2., paragraph 12. of this Article, Customs officers can arrest and detain a person under conditions prescribed by the chapter XXIV of provisional Criminal Code and when arresting and detaining person they shall be recognized as officers of the "police" for the purposes of the Provisional Criminal Code.

### **Article 30** **Compliance inspections by FIU officials**

1. For reporting entities as determined in sub-paragraphs 1.4 to 1.8, paragraph 1 of Article 16 of this law, an official or officials of the FIU who have been authorized by the Director of the FIU for this purpose (hereafter an "authorized official or officials"), may, at any time during ordinary business hours, enter any premises other than a residence, if there is a reasonable suspicion that it contains records which are maintained pursuant to Articles 16 to 28 of this law or documents relevant to determining whether obligations under Articles 16 to 28 of this law have been complied with. The authorized 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 authorized 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.

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

3. A person in premises subject to an inspection pursuant to paragraph 1 and 2 of this Article may refuse to allow the inspection or copying of a record or document if he or she asserts that:

3.1. it is not maintained pursuant to Articles 16 to 28 of this law and is not relevant to determining whether obligations under Articles 16 to 28 of this law have been complied with; or

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

4. In the event of such refusal, an authorized 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 District Court, who shall inspect it, and determine whether it, or any part of it, is subject to inspection and copying pursuant to this article.

5. If a person considers that he or she has been the subject of actions under paragraph 1 and 2 of this Article which are unlawful, he or she may submit a complaint within thirty (30) days of the inspection to a Pre Trial Judge of the competent District 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 shall provide the Investigating Judge with such documents as he or she shall request and shall, on request, provide oral testimony.

## **CHAPTER IV SANCTIONS AND OFFENCES**

### **Article 31 Administrative Sanctions**

1. A determination made by the FIU notifying the obligor of a failure to comply with the requirements under sub-paragraph 1.3, paragraph 1 Article 14 of this law shall constitute a violation of the obligations set under this Law which shall be subject to an administrative sanction in a form of a fine of € five hundred (500) for each day of non-compliance following the date of notification.

2. The imposition of the sanction may be contested before a court of competent jurisdiction.

### **Article 32 Criminal Offences**

1. District Courts shall have jurisdiction for all criminal offences under this Article.

#### **Money Laundering**

2. 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 XXIX of the Criminal Procedure Code of Kosovo:

2.1. converts or 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;

2.2. converts or 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;

2.3. converts or transfers, or attempts to convert or transfer, the property for the purpose of avoiding a reporting obligation under this Law;

2.4. converts or transfers, or attempts to convert or transfer, the property for the purpose of promoting the underlying criminal activity; or

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

2.6. 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;

2.7. participates in, associates to commit and aids, abets, facilitates and counsels the commission of any of the actions mentioned in sub-paragraphs 2.1 to 2.6 of this paragraph,

2.8. commits a criminal offence punishable by a term of imprisonment of up to ten (10) years and a fine of up to three (3) times the value of the property which is the subject of the criminal offence.

3. For purposes of paragraph 2 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.

4. 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:

4.1. 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;

4.2. 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

4.3. 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 33 Other Criminal Offences**

1. District Courts shall have jurisdiction for all criminal offences under this Article.

2. Whoever, in providing any information, or in making reports, certifications or declarations pursuant to Article 17, paragraphs 2 and 3 of Article 18, paragraphs 1 and 2 of Article 19, paragraph 3 of Article 20, paragraph 2 of Article 21, paragraphs 1, 2 and 3 of Article 22, paragraphs 4 to 7 of Article 24, paragraphs 3 to 6 of Article 25, paragraphs 3 to 8 of Article 26, paragraph 2 of Article 27, paragraphs 2 and 3 of Article 28 of this Law, knowingly:

2.1. makes any materially false statement or willfully omits to disclose material information; or

2.2. makes or uses any document knowing the document to contain a materially false statement or entry, a material omission or a material error;

2.3. commits a criminal offence punishable by imprisonment of up to five (5) years and a fine of up to € one hundred thousand (100.000).

3. Whoever willfully:

3.1. destroys or removes any record which must be maintained pursuant to paragraph 7 of Article 18, paragraph 3 of Article 20, paragraph 4 of Article 24 or paragraph 3 of Article 25 of this law;

3.2. fails to make a report in accordance with paragraph 1 and 2 of Article 22, paragraph 5 of Article 24, paragraph 4 of Article 25, paragraph 3 of Article 26 or paragraph 3 of Article 28 of this law;

3.3. commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to € one hundred thousand (100.000). 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).

4. A person acting as a bank or financial institution, or an officer, director, agent or employee of a bank or financial institution, who willfully violates paragraph 4 Article 22 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).. 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).

5. Whoever willfully accepts or disburses currency in violation of Article 24 or 25 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) or twice the amount of the currency accepted or disbursed, whichever is greater.

6. An official of the FIU who willfully:

6.1. reports information or discloses information pursuant to paragraph 1 and 2 of Article 15 of this law, or discloses information to a Prosecutor or a court, knowing such information to contain a material falsehood, a material omission or a material error;

6.2. destroys or removes any record which shall be collected by the FIU pursuant to this Law, other than as provided for in a document retention and destruction policy established by the FIU; or

6.3. 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,

6.4. commits a criminal offence punishable by imprisonment of up to two (2) years and a fine of up to € one hundred thousand (100.000). 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).

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

8. Whoever acts as a bank or financial institution as defined in the present Regulation without registering in accordance with section 3.1 of the Banking Regulation, commits a criminal offence punishable by imprisonment of up to one (1) year and a fine of up to € one hundred thousand (100.000).

9. Whoever unlawfully refuses or obstructs an inspection lawfully undertaken pursuant to paragraph 1 and 3 of Article 30 of this law, or willfully conceals records which shall be kept and presented pursuant to this Law, commits a criminal offence punishable by imprisonment of up to one year and a fine of up to € one hundred thousand (100.000).

10. Whoever willfully violates a ruling ordering a temporary measure for securing property under Article 34 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).

11. For the purposes of paragraph 2, 6, 9 and 10 of Article 32 of this law, a “willful” act is an act which is performed not only intentionally, but also deliberately and is not performed unintentionally, carelessly or accidentally.

#### **Article 34 Criminal Liability of Legal Persons**

1. If a legal person commits an offence under this Law, every director and other person concerning in the management of the legal person (and any person purporting to act in such capacity) commits the offence unless that person proves that:

1.1. the offence was committed without his or her consent or knowledge; 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 35**  
**Exemption from Liability**

Notwithstanding any contrary provisions of applicable law, no civil or criminal liability action may be brought nor any professional sanction taken against any person or entity 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 suspected financing of terrorist activities to the FIU.

**CHAPTER V**  
**INTERNATIONAL CO-OPERATION**

**Article 36**  
**Purpose and Scope**

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 this Chapter 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 Director of the Department for Legal Affairs of the Ministry of Justice.

**CHAPTER VI**  
**PROFESSIONAL SECRECY**

**Article 37**  
**Professional Secrecy**

1. Notwithstanding any contrary provisions of applicable 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 or the police in connection with an investigation that relates to money laundering and is ordered by, or carried out under the supervision of, a Prosecutor or Pre-Trial Judge.
2. This Article shall be without prejudice to sub-paragraph 3.2, paragraph 3 of Article 30 of this law.

**CHAPTER VII**  
**FINAL PROVISIONS**

**Article 38**  
**Implementation**

Ministry of Economy and Finance may issue administrative instructions for the implementation of this Law.

**Article 39**  
**Repeal Provisions**

This Law repeals and replaces UNMIK Regulation 2004/2 on the Deterrence of Money Laundering and Related Criminal Offences.

**CHAPTER VIII**  
**TRANSITIONAL PROVISIONS**

**Article 40**  
**Transitional Provisions EULEX to Kosovo**

All data collected by FIC, according to UNMIK Regulation 2004/02 shall be transferred to FIU. After the transfer of responsibilities from the FIC to the FIU and for the duration of its mandate, EULEX Kosovo shall have the necessary authority to effectively carry out its mandate in the field of Rule of Law as are set forth in the relevant legal instruments. Relevant aspects of the transition of responsibilities from FIC to FIU, EULEX Kosovo activities, cooperation and access to information shall be agreed upon in a separate arrangement between EULEX Kosovo and Ministry of Finance and Economy.

**Article 41**

Notwithstanding any provision of this Law or any other law, the Minister of Economy and Finance may delegate to a third party the authority to perform functions assigned to it by this Law or any other law, subject to arrangements between MEF and such third party.

**Article 42**  
**Entry into Force**

Except where a later effective date is expressly indicated in particular Articles, this Law shall enter into force fifteen (15) days after publication in the Official Gazette of Republic of Kosovo.

**Law No. 03/L-196**  
**30 September 2010**

**Promulgated by Decree No. DL-055-2010, dated 18.10.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.**