Act no. 1,362 of 03/08/2009 on the fight against money laundering, terrorist financing and corruption

(Journal de Monaco, 7 August 2009).

Chapter I - General Provisions

Introductory Article ***(Replaced by Act no. 1,462 of 28 June 2018)***

For the purposes of the application of this Act, money laundering is to be understood as the offences laid down in Section VII of Chapter III of Title I of Book III of the Criminal Code, and corruption is to be understood as the offences laid down in Paragraph IV of Section II of the same Chapter, as well as in Article 6 of Sovereign Ordinance no. 605 of 1 August 2006.

Similarly, terrorist financing is to be understood within the meaning of Article 2 of Sovereign Ordinance no. 15,320 of 8 April 2002 on the suppression of the financing of terrorism, and covers all amounts and all transactions involving amounts that could be linked to terrorism, terrorist acts or terrorist organisations or intended to be used for the financing thereof, in compliance with the provisions of Title III of Book III of the Criminal Code.

The organisations and persons specified in Articles 1 and 2 shall contribute fully to the enforcement of this Act by identifying all acts of money laundering, terrorist financing or corruption.

Article 1 .- ***(amended by Act no. 1,439 of 2 December 2016; replaced by Act no. 1,462 of 28 June 2018*****;** ***amended by Act no. 1,491 of 23 June 2020; replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020*****;** ***amended by Act no. 1,520 of 11 February 2022)***

Insofar as they expressly stipulate, the provisions of this Act also apply to the organisations and persons listed hereinafter:

1 °) Credit institutions, including branches, established in the Principality, of credit institutions with registered offices abroad, and financing companies;

2°) payment institutions and electronic money institutions, including branches, established in the Principality, of payment institutions and electronic money institutions with registered offices abroad;

3°) persons carrying out the activities covered by Article 1 of Act no. 1,338 of 7 September 2007 on financial activities, amended;

4°) insurance companies referred to in Article 3 of Sovereign Ordinance no. 4,178 of 12 December 1968 instituting State supervision of insurance undertakings of all types and of capitalization undertakings and organising the insurance industry, insurance intermediaries, agents and brokers established in the Principality, exclusively concerning life insurance and other forms of insurance related to investments;

5°) persons appearing on the list referred to in Article 3 of Act no. 214 of 27 February 1936 amending Act no. 207 of 12 July 1935 on trusts, amended;

6°) persons habitually carrying out operations involving the formation, management and administration of legal persons, legal entities or trusts, for the benefit of third parties and who, in this capacity and on a professional basis, provide one of the following services to third parties:

- act as agents to constitute a legal person, a legal entity or a trust;

- carry out the duties or make the necessary arrangements so that another person may carry out the duties of administrator or company secretary of a joint-stock company, member of a partnership, or hold a similar position for other legal persons or entities;

- provide a registered office, commercial address or premises, or an administrative or postal address for a joint stock company or partnership or any other legal person or entity;

- act or make the necessary arrangements so that another person may act in the capacity of trust administrator;

- act or make the necessary arrangements so that another person may act in the capacity of a shareholder acting on behalf of any other person;

7°) gambling houses and all gambling service providers;

8°) bureaux de change;

9°) fund transmitters;

10°) professions subject to Act no. 1,252 of 12 July 2002 on the conditions for carrying on activities relating to certain transactions involving real property and goodwill, solely for activities entailing transactions involving real property and goodwill, including where they act as intermediaries for the rental of real property, solely as regards transactions for which the monthly rent is equal to or greater than the amount set by Sovereign Ordinance;

11°) property traders;

12°) auditors, tax advisors and consultants, and any other person who undertakes to provide, either directly or through intermediaries with whom they have links by virtue of their main economic or professional activity, material aid, assistance or advice on tax matters;

13°) legal advisors, solely where they:

- are party, in their client's name or on their client's behalf, to any financial or real property transaction, or;

- assist their client in the preparation or execution of transactions involving:

i) the purchase and sale or real property or commercial undertakings;

ii) the management of funds, securities, or other assets belonging to the client;

iii) the opening or management of bank accounts, savings accounts, or portfolio accounts;

iv) the arrangement of the capital contributions required to set up, manage or run companies;

v) the constitution, management or administration of trusts, companies, foundations, or similar entities;

14°) funds surveillance, protection and cash-in-transit services;

15°) dealers and persons trading in goods, solely where the value of the transaction or a series of linked transactions is settled in cash for an amount equal to or greater than an amount set by Sovereign Ordinance;

15° bis) dealers and persons carrying out the following activities:

- luxury jewellery;

- trading in precious metals and precious stones which have not been set, assembled, or transformed as part of the design of traditional jewellery items;

- the purchase of precious metals and precious stones;

- luxury watchmaking;

- the sale or rental of aircraft;

- the sale or rental of pleasure craft;

15° ter) traders and persons arranging the sale of land motor vehicles only

where the value of the transaction or of a series of linked transactions is equal to or greater than an amount set by Sovereign Ordinance, determined according to the means of payment;

16°) traders and persons dealing in or acting as intermediaries in the art and antiques trade, including where this is conducted through art galleries and auction houses, and solely where the value of the transaction or of a series of linked transactions is equal to or greater than an amount set by Sovereign Ordinance;

17°) persons who store or trade in artworks or act as intermediaries in the art trade, where such trade is conducted in free ports, and where the value of the transaction or of a series of linked transactions is equal to or greater than an amount set by Sovereign Ordinance;

18°) persons granting loans secured by pledges, and their agents;

19°) multi-family offices;

20°) professionals regulated by Act no. 1,231 of 12 July 2000 on the professions of chartered accountant and certified accountant;

21°) crowd-funding advisers and intermediaries;

22°) persons exercising the profession of sports agent;

23°) legal entities licensed to conduct security token offerings as per Article 2 of Act no. 1,491 of 23 June 2020 on security token offerings;

24°) any person who, on a habitual and professional basis, acts either as counterparty or as intermediary in the purchase or sale of virtual financial assets which may be held or transferred for the purpose of acquiring a good or service, but which do not represent a claim on the issuer;

25°) providers of digital asset custody or access services to third parties, where applicable in the form of private cryptographic keys, for the purpose of holding, storing, and transferring digital assets;

26°) persons not mentioned above and in Article 2 who, on a professional basis, carry out, monitor or give advice on transactions involving the movement of capital, solely for the said transactions.

Organisations and persons carrying out occasional financial activities that fulfil the following conditions are not subject to the provisions of this Act if the activities:

- generate a turnover which does not exceed a maximum amount determined by Sovereign Ordinance;

- are limited to transactions which must not exceed a maximum amount per client and per transaction, determined by Sovereign Ordinance, and the transaction must be carried out in a single operation or several operations appearing as related;

- do not constitute the main activity and generate a turnover not exceeding a percentage of the total turnover of the organisation or person concerned, the amount of which is to be determined by Sovereign Ordinance;

- are accessory to a main activity which is not mentioned in points 5°) to 7°), 10°) to 13°) and 20°) of the first paragraph of this Article and are directly linked to it;

- are carried out solely for clients of the main activity and not generally offered to the public.

Article 2 .- ***(Replaced by Law n° 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

Insofar as the provisions of this Act expressly provide therefor, they are also applicable to:

1°) notaries;

2°) bailiffs;

3°) senior attorneys (*avocats-défenseurs*), lawyers and junior barristers.

Subject to instruments governing the practice of each of these professions, the provisions of this Act are applicable to the professionals referred to in the preceding paragraph solely where they:

- are party, in their client's name or on their client's behalf, to any financial or real property transaction,

or;

- assist their client in the preparation or execution of transactions involving:

i) the purchase or sale of real property or commercial enterprises;

ii) the management of funds, securities, or other assets belonging to the client;

iii) the opening or management of bank, savings, or portfolio accounts;

iv) the arrangement of the capital contributions required to set up, manage or run companies;

v) the formation, management or running of trusts, companies, foundations, or similar entities.

Chapter - II Customer due diligence obligations
Section - 1 Customer due diligence measures
Sub-section - 1 Customer due diligence measures
(Division created by Act no. 1,503 of 23 December 2020)

Paragraph - I Risk assessment
(Division created by Act no. 1,503 of 23 December 2020)

Article 3 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in Articles 1 and 2 shall apply appropriate due diligence measures, commensurate with their size and nature, to fulfil the obligations of this Chapter based on their own assessment of the risks posed by their activities as regards money laundering, terrorist financing and corruption

For this purpose, they shall determine and implement arrangements for identifying and assessing the risks of money laundering, terrorist financing or corruption to which they are exposed, and an appropriate policy to address these risks.

In particular they shall classify risks based on the nature of products or services supplied, terms and conditions of transactions proposed, distribution channels used, characteristics of clients, countries, and geographical zones, and the State or territory of origin or of destination of the funds.

To identify and assess the risks of money laundering, terrorist financing and corruption, they shall take into account:

- factors inherent to the clients, products, services, distribution channels, the development of new products and new commercial practices, including new distribution mechanisms and the use of new or developing technologies in relation to new or pre-existing products, and the countries or geographical zones;

- documents, recommendations or declarations from reliable sources, such as international organisations specialising in the fight against money laundering, terrorist financing, and corruption;

- the national risk assessment provided for in Article 48; and

- guidelines established, as the case may be, by the *Service d'Information et de Contrôle sur les Circuits Financiers* (SICCFIN) or by the *Bâtonnier* of the *Ordre des avocats-défenseurs et des avocats* (Chairman of the Bar Association).

The organisations and persons specified in Articles 1 and 2 are required to support their risk assessment by means of any relevant document, and to keep it up to date and available to the *Service d'Information et de Contrôle sur les Circuits Financiers*, the Public Prosecutor, or the *Bâtonnier* of the *Ordre des avocats-défenseurs et des avocats* (Chairman of the Bar Association), as the case may be.

The risk assessment and related documents may be kept in digital format, provided they are kept in accordance with applicable regulations..

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 3-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 are required to keep formal documented records of all measures relating to due diligence, supervision and analysis of the risks of money laundering, terrorist financing, and corruption.

They shall keep and make available to the supervisory authorities identified in Articles 54 and 57, all documents showing that the due diligence measures they apply are commensurate with the risks identified.

Due diligence measures and related documents may be kept and made available to the supervisory authorities in digital format, provided they are kept in accordance with applicable regulations.

(Division created by Act no. 1,503 of 23 December 2020)

Paragraph - II Customer due diligence obligations
(Division created by Act no. 1,503 of 23 December 2020)

Article 4 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020; by Act no. 1,520 of 11 February 2022)***

The following are required to apply the due diligence measures specified in Article 4-1 to their clients:

1°) the organisations and persons specified in Articles 1 and 2, with the exception of those specified in points 7°), 15°) and 15° ter) of Article 1, where they occasionally execute:

- a transfer of funds; or

- a transaction, the amount of which reaches or exceeds an amount determined by Sovereign Ordinance, whether carried out in one or more seemingly related operations;

2°) the organisations and persons specified in point 7°) of Article 1, when collecting winnings, when placing a bet, or in both cases, when carrying out a transaction equal to or greater than an amount determined by Sovereign Ordinance, whether the transaction concerned is carried out in one or more seemingly related operations;

3°) the persons specified in points 15°) and 15° ter) of Article 1, where they occasionally carry out a transaction in cash of an amount equal to or greater than an amount determined by Sovereign Ordinance, whether the transaction concerned is carried out in one or more seemingly related operations;

4°) the persons specified in point 15° ter) of Article 1, where they occasionally carry out a transaction of an amount equal to or greater than an amount determined by Sovereign Ordinance, whether the transaction concerned is carried out in one or more seemingly related operations;

5°) the organisations and persons specified in Articles 1 and 2, where these is a suspicion of money laundering, terrorist financing, or corruption, independently of any thresholds, exemptions or dispensations applicable.

The organisations and persons specified in Articles 1 and 2 are required to apply the due diligence measures set out in Articles 4-1 and 4-3 upon entering into a business relationship with their client.

For the purposes of this Act, a business relationship is understood to be a business, professional or commercial relationship which is connected with the professional activities of one of the organisations or persons specified in Articles 1 and 2 of this Act, and which is expected, at the time when the contact is established, to have an element of duration.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 4-1 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

Before establishing a business relationship with their client or assisting their client in preparing or conducting one of the transactions specified in the previous Article, the organisations and persons specified in Articles 1 and 2 shall:

1°) identify the client, the authorised representative and, if applicable, the beneficial owner;

2°) check these identification details by means of a supporting document bearing their photograph.

The provisions of the first paragraph shall also apply when the said organisations or persons have doubts as to the truth or accuracy of the identification details of a client with whom they already have a business relationship.

The identification and verification of the client and the client's authorised representative concern the surname, first name and address for natural persons.

For legal persons, legal entities and trusts, identification and verification concern the company name, the registered office, the list and identification details of directors and knowledge of the provisions governing the power to bind the legal person, legal entity or trust.

They must identify the client and check his identity by means of documents, data, and information from reliable and independent sources, including, where applicable, by means of relevant electronic identification and trust services, within the conditions determined by Sovereign Ordinance.

They shall also take all reasonable measures to check the identity of the person(s) in favour of whom the operation or transaction is carried out: identify beneficial owners of the legal persons and legal arrangements. In the latter case, the measures should make it possible to understand the ownership structure and the client's control.

Before establishing a business relationship with a company or other legal entity, a trust or legal arrangement with a structure or functions similar to those of a trust, for which information about the beneficial owners must be entered on the register of beneficial owners pursuant to Article 22 or on the register of trusts pursuant to Article 11 of Act no. 214 of 27 February 1936, amended, they must obtain a transcription of the entry on the register concerned.

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The procedure for the application of this Article shall be determined by Sovereign Ordinance.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 4-2 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

By way of derogation from Article 4-1, the organisations and persons specified in points 1°) to 4°) of Article 1 may open an account, including an account allowing transactions in transferable securities.

However, no transaction may be carried out by the client or on behalf of the client as long as the due diligence requirements set out in Article 4-1 are not fully complied with.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 4-3 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

When establishing a business relationship, the organisations and persons specified in Articles 1 and 2 shall gather information proportionate to the intended purpose and nature of the business relationship.

The information gathered shall be proportionate to the nature and size of the organisations and persons specified in Articles 1 and 2, and to the extent of the risk of money laundering, terrorist financing, and corruption.

The extent of the risk referenced in the previous paragraph shall be appraised by taking account, notably, of the client’s socio-economic background and the following characteristics of the business relationship:

- regularity or duration;

- purpose;

- nature of the business relationship;

- foreseeable volume of transactions conducted.

This information, which may be used to determine the extent of the risk referenced in the second paragraph, along with information about the origin of the client's assets, must be supported by means of reliable documents, data or sources of information.

The procedure for the application of this Article shall be determined by Sovereign Ordinance.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 5 .- ***(Replaced by Law n° 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 shall conduct ongoing due diligence in respect of the business relationship, not only for all new clients but also, where appropriate:

- in respect of existing clients, based on their risk assessment; or

- where there are changes to relevant aspects of a client's circumstances; or

- where they are required by laws or regulations, during the calendar year concerned, to contact the client in order to re-examine any relevant information relating to the beneficial owner(s).

To this end, they shall:

- examine the transactions or operations concluded throughout the course of the business relationship and, if necessary, the origin of funds, in order to check that they are consistent with the knowledge that the said organisations or persons have of their clients, their socio-economic background, their commercial activities and their risk profile;

- keep the documents, data or information held up to date by means of continuous and careful examination of operations or transactions carried out.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 6 .- ***(Replaced by Act no. 1,462 of 28 June 2018)***

As part of their obligations under this Chapter, the organisations and persons specified in Articles 1 and 2 are authorised to make a hard, electronic or digital copy of any document regarding the fulfilment of the said obligations.

The procedure for the application of this Article shall be determined by Sovereign Ordinance.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 7 .- ***(Replaced by Law n° 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

Where the organisations and persons specified in Articles 1 and 2 have not been able to fulfil the due diligence requirements laid down in Articles 4-1 and 4-3, they may neither establish nor maintain business relationships nor carry out any transaction, including occasional transactions. If a business relationship has already been established under Article 11-1, they must end it. They shall consider whether SICCFIN (*Service d'Information et de Contrôle sur les Circuits Financiers*), the Public Prosecutor, or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association) should be informed, in accordance with the provisions of Chapter V.

The provisions of the first paragraph are not applicable to the persons or organisations specified in points 12°), 13°) and 20°) of Article 1 and in Article 2, during a legal consultation, where they are assessing their client's legal situation or giving advice on means of bringing or avoiding legal proceedings.

Similarly, the aforementioned provisions are not applicable to the persons specified in point 3°) of Article 2 where they are

defending or representing the client concerned in legal proceedings or in respect of such proceedings, regardless of whether the information in their possession was received or obtained before, during, or after these proceedings.

(Division created by Act no. 1,503 of 23 December 2020)

(Division created by Act no. 1,503 of 23 December 2020)

Article 7-1.- ***(Created by Act no. 1,503 of 23 December 2020)***

Where the organisations and persons specified in Articles 1 and 2 suspect that a transaction involves money laundering, terrorist financing, or corruption, and have reason to think that in fulfilling their due diligence obligations they would alert the client, they may choose not to apply the due diligence measures set forth in this Section; in this case, they must immediately submit a suspicious transaction or activity report to the *Service d'Information et de Contrôle sur les Circuits Financiers* or, as the case may be, to the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association).

(Division created by Act no. 1,503 of 23 December 2020)

Paragraph - III Performance of due diligence measures by third-parties
(Former Section II renumbered as §III and title replaced by Act no. 1,503 of 23 December 2020)

Article 8 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 are authorised to have the obligations laid down in Articles 4-1 and 4-3 carried out by a third party, provided that the third party concerned satisfies the following conditions:

- the third party must have fulfilled his own duty of due diligence;

- the third party must be a person or organisation specified in points 1°) to 3°), 6°), 12°), 13°) or 20°) of Article 1, or in 3°) of Article 2, operating in the Principality or in the territory of a State whose legislation includes provisions considered equivalent to those of this Act and having their compliance with these obligations supervised, and which does not appear on the list of high-risk States and territories specified in Article 14-1;

- the person or organisation relying on a third party must have access to information, a copy of the identification details, and other due diligence documents gathered by the third party in the manner provided for by Sovereign Ordinance.

Ultimate responsibility for compliance with the obligations laid down in Articles 4-1 and 4-3 remains with the organisations and persons relying on third parties.

(Division created by Act no. 1,503 of 23 December 2020)

(Former Section II renumbered as §III and title replaced by Act no. 1,503 of 23 December 2020)

Article 8-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

By way of derogation from Article 8, where the organisations and persons specified in points 1°) to 4°), 8°) and 9°) of Article 1 rely on a third party which is part of the same group, the obligations specified in Articles 4-1 and 4-3 shall be considered to be fulfilled, where all of the following conditions are met:

1°) the group applies customer due diligence measures, record-keeping requirements, and anti-money laundering, terrorist financing and corruption policies that are compliant with the provisions of this Act, and personal data protection measures that are compliant with the provisions of Act no. 1,165 of 23 December 1993 on personal data protection, as amended;

2°) the implementation of customer due diligence measures, record-keeping requirements, and anti-money laundering, terrorist financing and corruption policies across the group is supervised by a competent authority.

Sub-section - II Customer due diligence measures specific to certain services or certain providers

(Division created by Act no. 1,503 of 23 December 2020)

Paragraph - I Due diligence measures applicable to cross-border bank transfers and transfers of funds

(Formerly Section III renumbered as §1 and title replaced by Act no. 1,503 of 23 December 2020)

Article 9 .- ***(Replaced by Act no. 1,462 of 28 June 2018)***

The organisations specified in Article 1, whose activities cover bank transfers and transfers of funds, are required to incorporate in these transactions and in messages relating thereto, precise and relevant information concerning the clients who are the instructing parties and the beneficial owners.

These same organisations shall keep all of this information and forward it when intervening as an intermediary in a chain of payments.

Specific measures may be taken for cross-border bank transfers and transfers of funds sent in batches and bank transfers and transfers of funds of a permanent nature for salaries, annuities or pensions which do not generate a heightened risk of money laundering, terrorist financing or corruption.

The conditions under which this information must be stored or made available to the authorities or other financial institutions shall be determined by Sovereign Ordinance.

(Division created by Act no. 1,503 of 23 December 2020)

Paragraph - II Due diligence measures applicable to gambling services ***(Formerly Section IV renumbered as §11 and title replaced by Act no. 1,503 of 23 December 2020)***

Article 10 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations specified in point 7°) of Article 1 must identify their clients and check their identities, using a substantiating document, a copy of which is to be taken, when they purchase or exchange tokens or chips for amounts equal to or greater than amounts determined by Sovereign Ordinance, and when they wish to perform any other financial transaction related to gaming, without prejudice to the application of the measures laid down in Articles 4-1 and 4-3.

The procedure for application of the obligations laid down in this Article according to the risk posed by the client, business relationship or transaction, shall be determined by Sovereign Ordinance.

Section - II Simplified due diligence obligations

(Formerly Section V renumbered as Section II by Act no. 1,503 of 23 December 2020)

Paragraph -1 General Provisions

Article 11 .- ***(Replaced by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 may implement the provisions of Section 1 in the form of simplified due diligence measures where, after a risk assessment, the business relationship or the transaction appears to present a low risk of money laundering, terrorist financing or corruption, and provided that there is no suspicion of money laundering, terrorist financing or corruption

The conditions for application of this Article, including the criteria to be taken into account for the purpose of the risk assessment specified in the previous paragraph, shall be determined by Sovereign Ordinance.

(Formerly Section V renumbered as Section II by Act no. 1,503 of 23 December 2020)

Article 11-1 .-*(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)*

Where the risk of money laundering, terrorist financing, or corruption is low, the verification of the identity of the client, the authorised representative or, if applicable, the beneficial owner may, take place during the process of establishing the business relationship, if necessary in order to avoid disrupting the normal conduct of business by the organisations and persons specified in Articles 1 and 2. This verification shall then be carried out as soon as possible after the initial contact.

(Formerly Section V renumbered as Section II by Act no. 1,503 of 23 December 2020)

Paragraph - 2 Simplified due diligence applicable to electronic money institutions

Article 12 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

Where there is no suspicion of money laundering, terrorist financing or corruption, persons issuing electronic money shall not be subject to the due diligence obligations mentioned in Articles 4-1 and 4-3, subject to compliance with the conditions determined by Sovereign Ordinance.

(Formerly Section V renumbered as Section II by Act no. 1,503 of 23 December 2020)

Article 12-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Where the organisations and persons specified in points 1°) and 2°) of Article 1 accept payments made using anonymous prepaid cards issued in foreign jurisdictions, they shall ensure that said cards meet requirements equivalent to those laid down by Sovereign Ordinance.

Section - III Enhanced due diligence obligations

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

Paragraph -1 General Provisions

Article 12-2 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Where they consider a business relationship, product, or transaction to pose a high risk of money laundering, terrorist financing or corruption, based on a risk assessment, the organisations and persons specified in Articles 1 and 2 shall implement the provisions of Section I of this Chapter in the form of enhanced due diligence measures.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

Article 13 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 shall take specific measures proportionate to their nature and extent, to address the existing heightened risk of money laundering, terrorist financing and corruption, when establishing a business relationship or conducting a transaction with a client who is not physically present during their identification, in particular when using new technologies.

For this purpose, they shall implement procedures that:

- prohibit entering into business relationships with or carrying out occasional transactions for such clients, where there is reason to believe that they are trying to avoid physical contact so as to more easily conceal their true identity, or if they suspect their intention to carry out transactions involving money laundering, terrorist financing or corruption;

- are intended gradually to improve knowledge of the client;

- guarantee a first transaction carried out through an account opened in the name of the client with an organisation or person specified in points 1°) to 4°) of Article 1, established in the Principality or in a State with equivalent obligations in terms of money laundering [and] terrorist financing, and corruption, having their compliance with these obligations supervised;

- require the production of a copy of two valid official documents bearing the photograph of the person with whom they are contemplating establishing a business relationship.

The organisations and persons specified in Articles 1 and 2 shall not apply the procedures mentioned in the previous paragraph where electronic means of identification and trust services defined by Sovereign Ordinance are used to identify the client.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

Article 14 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in Articles 1 and 2 are required particularly to examine the background and purpose of any transaction that meets at least one of the following conditions:

- the transaction is complex;
- the transaction is unusually large;
- the transaction has an unusual pattern;
- the transaction has no apparent economic or lawful purpose.

In particular, they shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear suspicious.

The particular examination specified in the first paragraph shall be carried out according to an assessment of the risk associated with the type of client, business relationship, product, or transaction.

The organisations and persons specified in Articles 1 and 2 shall prepare a written report of the results of this examination, covering the origin and destination of the funds, and the purpose and beneficiary of the transaction.

This report and all documents pertaining to the transaction shall be sent to the officers specified in paragraph 3 of Article 27, to be kept in the manner provided by Article 23.

The measures provided by this Article shall also apply to transactions involving a counterparty with links to a high-risk State or territory specified in Article 14-1.

The procedure for the application of this Article shall be determined by Sovereign Ordinance.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

Paragraph - 2 Enhanced due diligence obligations applicable to high-risk States or territories

(§ created by Act no. 1,503 of 23 December 2020)

Article 14-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

States or territories, whose anti-money laundering, terrorist financing or corruption regimes contain strategic deficiencies that pose a significant threat to the proper functioning of the financial system, are considered as high-risk States or territories.

The list of these States or territories is determined by Ministerial Order. This Ministerial Order is published on the website of the *Service d'Information et de Contrôle sur les Circuits Financiers*.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

(§ created by Act no. 1,503 of 23 December 2020)

Article 14-2 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Where the organisations and persons specified in Articles 1 and 2 maintain a business relationship or conduct a transaction involving high-risk States or territories, they shall implement the provisions of Section I of this Chapter in the form of enhanced due diligence measures.

Furthermore, they shall apply additional enhanced due diligence measures determined by Sovereign Ordinance.

The procedure for the application of this Article shall also be determined by Sovereign Ordinance.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

Paragraph - 3 Enhanced due diligence applicable to correspondent relationships

(Formerly § 2 renumbered as § 3 by Act no. 1,503 of 23 December 2020)

Article 15 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

When establishing a cross-border correspondent relationship involving the execution of payments, with a respondent institution in the territory of another State that does not impose equivalent requirements to

those laid down by this Act, the organisations and persons specified in points 1°) to 4°) of Article 1 shall apply enhanced due diligence measures in addition to the due diligence measures laid down in Section I of this Chapter. To this end, they shall:

- gather sufficient information to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;

- assess the respondent institution's AML/CFT controls;

- obtain approval from senior management before establishing new correspondent relationships;

- document the respective responsibilities of each institution;

- with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

(Formerly § 2 renumbered as § 3 by Act no. 1,503 of 23 December 2020)

Article 15-1 .-*(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)*

The organisations and persons specified in points 1°) to 4°) of Article 1, who maintain a cross-border correspondent relationship with a respondent institution in the territory of a State that does not impose equivalent requirements to those laid down by this Act, are required to conduct:

- a risk-based periodic review and, if necessary, an update of the information on which the decision to establish such relationship relied. This review must notably determine whether the correspondent institution has been the subject of an investigation or measures imposed by a supervisory authority relating to money laundering or terrorist financing;

- a review of the relationship, whenever new information raises doubts as to the compliance of the legal and regulatory anti-money laundering, terrorist financing or corruption regimes of the State in which the correspondent is based, or the efficacy of AML/CFT controls introduced by the State concerned;

- periodic risk-based tests and checks to ensure that the correspondent institution has fulfilled its obligations, notably as regards timely disclosure upon request of relevant identification details pertaining to its clients with direct access to payable-through accounts opened in their names.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

(Formerly § 2 renumbered as § 3 by Act no. 1,503 of 23 December 2020)

Article 16 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020; by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in points 1°) to 4°) of Article 1 are prohibited from establishing or maintaining a correspondent banking relationship with a credit institution, a financial institution or an institution engaged in equivalent activities, in a jurisdiction in which it has no effective physical presence, involving meaningful mind and management, and which is unaffiliated with an institution or group subject to consolidated and effective supervision.

An effective physical presence means the presence of managerial or decision-making authority in a jurisdiction. The mere presence of a local agent or personnel without decision-making authority does not constitute an effective physical presence.

The organisations and persons specified in points 1°) to 4°) of Article 1, shall take appropriate measures to ensure that they do not establish or maintain any correspondent relationship with a person which itself maintains a correspondent banking relationship, allowing an institution created under the conditions set out in the preceding paragraph to use its accounts.

The organisations and persons specified in points 1°) to 4°) of Article 1 shall examine and update correspondent relationships with respondent institutions located in high-risk States or territories as defined in Article 14-1\. They shall terminate such relationships at the written request of the *Service d'Information et de Contrôle sur les Circuits Financier*.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

Paragraph - 4 Enhanced due diligence obligations applicable to politically exposed persons

(Formerly § 3 renumbered as § 4 by Act no. 1,503 of 23 December 2020)

Article 17 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

In addition to the due diligence measures laid down in Section I of this Chapter, the organisations and persons specified in Articles 1 and 2 shall also apply enhanced due diligence measures where the client or beneficial owner or their authorised representative is:

- a politically exposed person;

- a family member;

- a person known to be a close associate of a politically exposed person.

To this end, they shall:

a) have in place appropriate risk management systems, including risk-based procedures, to determine whether the client or the client's beneficial owner is a politically exposed person;

b) in cases of business relationships with politically exposed persons:

i) obtain senior management approval for establishing or continuing business relationships with such persons;

ii) take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons;

iii) conduct enhanced, ongoing monitoring of those business relationships.

Categories of politically exposed persons, their family members, and persons known to be close associates of politically exposed persons, are determined by Sovereign Ordinance.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

(Formerly § 3 renumbered as § 4 by Act no. 1,503 of 23 December 2020)

Article 17-1 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in points 1°), 3°) and 4°) of Article 1 shall take reasonable measures in order to determine whether the beneficiaries of a life or other investment-related insurance policy and, where required, the beneficial owner of the insurance policy, are politically exposed persons. Those measures shall be taken no later than at the time of the payout or at the time of the assignment, in whole or in part, of the policy.

Where there are higher risks identified, in addition to applying the due diligence measures laid down in Section I of this Chapter, they shall also inform senior management before payout of policy proceeds, conduct enhanced scrutiny of the entire business relationship with the policyholder, and check whether a suspicious transaction or activity report should be made as provided for by Article 36.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

(Formerly § 3 renumbered as § 4 by Act no. 1,503 of 23 December 2020)

Article 17-2 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

Where a politically exposed person no longer holds their position, the organisations and persons specified in Articles 1 and 2 are required to take into account, for at least twelve months, the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons.

(Formerly Section VI renumbered as Section III by Act no. 1,503 of 23 December 2020)

(Formerly § 3 renumbered as § 4 by Act no. 1,503 of 23 December 2020)

Article 17-3 .- ***(Created by Act no. 1,462 of 28 June 2018)***
The provisions of Articles 17-1 and 17-2 shall also apply to family members or persons known to be close associates of politically exposed persons.

Section - IV Special provisions applicable to anonymous accounts, Treasury bills, interest-bearing notes and transactions in precious metals

(Formerly Section VU renumbered as Section IV by Act no. 1,503 of 23 December 2020)

Article 18 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in points 1°) and 2°) of Article 1 may not keep anonymous accounts, anonymous passbooks, or anonymous safe deposit boxes.

(Formerly Section VII renumbered as Section IV by Act no. 1,503 of 23 December 2020)

Article 19 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

All anonymous transactions conducted with Treasury bills or interest-bearing notes ("*bons de caisse*") are prohibited.

The provisions of Article 4-1 shall apply to Treasury bill subscribers as defined in Article 3 of Sovereign Ordinance no. 1,105 of 25 March 1955 concerning the issuance of Treasury bills, and interest-bearing notes as defined by Act no. 712 of 18 December 1961 regulating the issuance of interest-bearing notes by commercial or industrial undertakings.

All information concerning the identity and capacity of the subscriber must be recorded in a register which must be kept under the conditions specified in Article 23.

(Formerly Section VII renumbered as Section IV by Act no. 1,503 of 23 December 2020)

Article 20 .- ***(Replaced by Act no. 1,462 of 28 June 2018)***

All information and documents concerning transactions in gold, silver, platinum, or any other precious metal, such as the nature, number, weight, and fineness of materials and works of gold, silver, platinum or any other precious metal, purchased or sold, and the names and address of the persons having sold them and of those on whose behalf they were purchased by the persons specified in Article 1, must be recorded in a register kept under the conditions specified in Article 23.

All information and documents concerning foreign exchange transactions, the total amount of which is equal to or greater than a sum determined by Sovereign Ordinance, must be recorded in a register kept under the conditions specified in Article 23. This information shall include the client's identity, the nature of the transaction, the currency or currencies concerned, the amounts exchanged, and the prices applied.

Section - V Beneficial owner

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 21 .- ***(Replaced by Act no. 1,462 of 28 June 2018***; replaced with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)

For the purposes of this Act, beneficial owner means:

- any natural person(s) who ultimately owns or controls the client; or
- any natural person(s) on whose behalf a transaction or activity is conducted.

The procedure for the application of this paragraph shall be determined by Sovereign Ordinance.

Commercial companies and economic interest groups registered in the Register of Trade and Industry, as well as civil-law partnerships registered in the special register held by the Register of Trade and Industry department, are required to obtain and hold adequate, accurate and updated information on their beneficial owners as defined in the first paragraph, and on the beneficial interests held.

The legal persons and entities specified in the preceding paragraph are required to keep information and documents relating to information about their beneficial owners for a period of at least five years after the date on which they cease to be clients of the organisations and persons specified in Articles 1 and 2.

The directors or liquidators of the legal persons or entities specified in the third paragraph are required to keep information and documents relating to information about their beneficial owners for a period of at least five years after their winding-up or liquidation.

Beneficial owners are required to disclose all necessary information to the legal persons or entities specified in the third paragraph, to enable them to fulfil the requirements set forth in the preceding paragraphs.

The information must be sent by the beneficial owners within a period determined by Sovereign Ordinance.

The legal persons and entities specified in the third paragraph are required to provide all adequate, accurate and updated information that they have on their beneficial owners, to the organisations and persons specified in Articles 1 and 2, to fulfil the obligations imposed by this Act.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22 .- ***(Replaced by Act no. 1,462 of 28 June 2018; replaced with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

Without prejudice to the communication of information on the identity of the beneficial owner under the customer due diligence obligations laid down in Chapter II, the legal persons and entities specified in the third paragraph of the preceding Article shall communicate information on their beneficial owners to the Minister of State, for the purposes of registration in a specific register called "Register of Beneficial Owners", attached to the Register of Trade and Industry, and shall regularly update it.

The list of information gathered and the terms and conditions under which this information is obtained, stored, updated and forwarded to the register of beneficial owners, shall be determined by Sovereign Ordinance.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-1 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

The application for registration or entry in the Register of Beneficial Owners must be accompanied by all appropriate supporting documents to establish the accuracy of the declarations made.

Any change in the particulars communicated to the Register of Beneficial Owners must, in order to be recorded in the said register, by a supplementary or amending declaration. This declaration must be notified to the Register of Trade and Industry department within one month of the change.

Upon receiving the application for registration or entry, the Register of Trade and Industry department must ensure that it contains all of the required particulars and that it is accompanied by all of the necessary supporting documents. If this is not the case, the registration or inclusion sought shall be put on hold, and the applicant shall be required to furnish the declarations omitted and produce the documents lacking.

The department shall check the declarations made to ensure they are consistent with the documents produced. If inaccuracies are found or difficulties arise, the Register of Trade and Industry department shall invite the company or entity to put its situation in order. If no response is received within a period of two months or if the response received is unsatisfactory, the procedure set forth in Article 22-3 shall be followed.

Where the particulars and documents provided are complete, the application for registration or inclusion shall be registered and the corresponding receipt issued shall list the documents submitted. Where applicable, a copy of this receipt may be issued to the representative of the legal person or entity concerned, in exchange for payment of a stamp duty.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-2 .- ***(Created by Act no. 1,462 of 28 June 2018*****;** ***replaced with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 and, insofar as this requirement does not needlessly interfere with their duties, the *Service d'Information et de Contrôle sur les Circuits Financiers* and the authorities referenced in paragraphs two and three of Article 22-5, shall inform the Register of Trade and Industry department of the absence of registration or of any discrepancy they observe between the information on the Register of Beneficial Owners and the information in their possession.

The Register of Trade and Industry department shall invite the company or entity to put its situation in order. If no response is received within a period of two months or if the response received is unsatisfactory, the Minister of State shall bring the matter before the Presiding Judge of the Court of First Instance, pursuant to Article 22-3. In the interim period, the Register of Trade and Industry department shall record an entry concerning the discrepancy reported.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-3 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

The Presiding Judge of the Court of First Instance or the magistrate delegated for this purpose, shall be competent to hear applications for injunctions ordering the legal persons and entities specified in paragraph 3 of Article 21 to register, make any supplementary or amending declarations necessary, or rectify incomplete or inaccurate entries, or to have them removed from the register.

Proceedings shall be brought before the Presiding Judge of the Court of First Instance by an application filed by the Minister of State.

The court order handed down upon such application may order the legal person or entity to fulfil specific formalities within a given period of time.

The court registry office shall send a certified copy of the court order to the legal person or entity and the Minister of State, by registered postal letter with advice of receipt.

The court order may be retracted by a judgment of the Court of First Instance, ruling in proceedings brought, within two months of its notification, by writ of summons at the initiative of the first party to take action and in accordance with the rules of civil procedure.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-4 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

The Court of First Instance shall be competent to hear disputes arising in relation to applications for registration, supplementary or amending declarations.

Proceedings shall be brought by writ of summons and in accordance with the rules of civil procedure.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-5 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* shall have unrestricted access to the information on the register specified in Article 22, with no requirement to notify the person concerned.

This information shall also be accessible, under the same conditions and solely for the purposes of the right against money laundering and terrorist financing, to the following competent public authorities and persons:

1°) Judicial authorities;

2°) Police officers of the Police Department acting on written orders from the Public Prosecutor or the authority of an investigating judge;

3°) Authorised officials of the Department of Tax Services;

4°) the *Bâtonnier* of the *Ordre des avocats-défenseurs et des avocats* (Chairman of the Bar Association).

Said information shall also be accessible, under the same conditions, to authorised officials of the *Commission de Contrôle des Activités Financières* (Financial Activities Supervisory Commission) in the course of its duties as provided by Act no. 1,338 of 7 September 2007 on financial activities, amended.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-6 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

Information on the register specified in Article 22 is also accessible to:

1°) the legal persons and entities specified in paragraph 3 of Article 21, solely for the information they have declared;

2°) the organisations and persons specified in Articles 1 and 2 for the purposes of customer due diligence, after the legal person or entity concerned has been informed.

The Register of Trade and Industry department shall communicate this information in the form of a transcript from the Register of Beneficial Owners.

The organisations and persons specified in Articles 1 and 2 must not rely solely on an examination and the content of the transcript from the register in order to meet their due diligence obligations. These obligations shall be fulfilled by using a risk-based approach.

The conditions for access to the register and the conditions for application of this Article shall be determined by Sovereign Ordinance.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-7 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

All persons other than those specified in Articles 22-5 and 22-6 have access, after the legal person or entity concerned has been informed, solely to the following information from the Register of Beneficial Owners:

- name;
- month and year of birth;
- country of residence;
- nationality of the beneficial owner; and
- the nature and extent of the beneficial interests held.

The request for information must be sent to the Register of Trade and Industry department.

The Register of Trade and Industry department shall send notice of the request for information, the grounds for the request, and the connection between them and the prevention of money laundering and terrorist financing, to the legal persons or entities required to disclose information concerning their beneficial owners pursuant to Article 22, and to the beneficial owners themselves.

The persons specified in the preceding paragraph shall have a period of two months, as from receipt of the notice provided for in the preceding paragraph, in which to seek to restrict access to all or part of the information relating to them pursuant to Article 22-8.

If no request for restricted access is made within a period of two months as from receipt of the notice provided for in the preceding paragraph, the requesting party may consult the information specified in the first paragraph directly via the Register of Trade and Industry department.

The conditions for the application of this Article shall be determined by Sovereign Ordinance.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-8 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020*; *amended by Act no. 1,520 of 11 February 2022)***

Upon or after their registration, the persons required to disclose

information concerning their beneficial owners pursuant to Article 22, or the beneficial owners themselves, may apply to the Minister of State, by exemption from Articles 22-6 and 22-7, to restrict access to all or part of the information relating to them.

Following a request for access to the Register of Beneficial Owners and by exemption from Articles 22-6 and 22-7, the persons specified in the preceding paragraph may also petition the Presiding Judge of the Court of First Instance to restrict access to all or part of the information relating to them.

The access restrictions specified in the preceding paragraphs may be sought where the beneficial owner is a minor or is ruled legally incapacitated, or where such access could expose the beneficial owner to a disproportionate risk, a risk of fraud, extortion, harassment, blackmail, violence, or intimidation.

The request shall be based on a detailed assessment of the exceptional nature of the circumstances, as defined by Sovereign Ordinance.

The requesting party shall send a copy of the application specified in paragraph 1, or the petition specified in paragraph 2 stamped by the Registry of the Court of First Instance, to the Register of Trade and Industry department, which shall record it as a marginal entry in the Register of Beneficial Owners.

Until such time as an irrevocable decision has been handed down upon the application specified in paragraph 1, no information may be disclosed by the Register of Trade and Industry department, except to the *Service d'Information et de Contrôle sur les Circuits Financiers*, the competent public authorities, and the persons specified in paragraphs 2 and 3 of Article 22-5.

Until such time as an irrevocable decision has been handed down upon the petition specified in paragraph 2, no information may be disclosed by said department to persons having requested access to the Register of Beneficial Owners, pursuant to Articles 22-6 or 22-7 as applicable.

The exemptions provided by this Article may be granted solely for the duration of the circumstances upon which they are founded, and for a maximum period of five years. They may be renewed by a decision of the Minister of State or a judgement of the Presiding Judge of the Court of First Instance, as the case may be, upon a reasoned request for renewal presented by the registered entity or the beneficial owner.

The exemptions provided by this Article shall not apply to the organisations and persons specified in points 1)° to 4°) of Article 1 for the fulfilment of their due diligence obligations under Article 22-6.

(Formerly Section VIII renumbered as Section V by Act no. 1,503 of 23 December 2020)

Article 22-9 .- ***(Created with effect from 31 December 2020 by Act no. 1,503 of 23 December 2020)***

Any procedural measure or formality carried out by one of the competent authorities specified in paragraphs 2 and 3 of Article 22-5, based on information contained in the Register of Beneficial Owners for reasons other than those provided in said Article, shall be null and void.

Where regular consultation of the Register of Beneficial Owners reveals offences or breaches other than those related to the fight against money laundering or terrorist financing, this shall not cause interlocutory proceedings to become null and void.

Section - VI Protection of personal data and record-keeping

(Formerly Section IX renumbered as Section VI by Act no. 1,503 of 23 December 2020)

Article 23 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 are required to maintain, for a period of five years:

- after ending a business relationship with their habitual or occasional clients, a copy of all documents and information, in any format, gathered in the course of customer due diligence measures, and notably those used to identify and check the identity of their habitual or occasional clients;

- after the execution of transactions, documents and information, in any format, relating to the transactions carried out by their habitual or occasional clients, and notably a copy of records,

ledgers, and commercial correspondence, so as to be able to reconstitute said transactions accurately;

- a copy of any document in their possession, provided to them by persons with whom a business relationship could not be established for whatever reason, and any information concerning them.

The organisations and persons specified in Articles 1 and 2 are also required to:

- keep a record of transactions carried out, so as to be able to respond to the requests for information specified in Article 50 within the required time limit;

- be in a position to respond rapidly and fully to any request for information made by the *Service d'Information et de Contrôle sur les Circuits Financiers*, the Public Prosecutor, or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association), as the case may be.

The above record-keeping period may be extended by an additional maximum period of five years:

1°) at the initiative of the organisations and persons specified in Articles 1 and 2, where necessary to prevent or detect acts of money laundering or terrorist financing, subject to a case-by-case assessment of the proportionality of such an extension;

2°) at the request of the *Service d'Information et de Contrôle sur les Circuits Financiers* or the Public Prosecutor, in the course of an on-going investigation.

(Formerly Section IX renumbered as Section VI by Act no. 1,503 of 23 December 2020)

Article 24 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 shall have systems enabling them to respond rapidly to requests for information made, as the case may be, by the *Service d'Information et de Contrôle sur les Circuits Financiers* and the Public Prosecutor, or by the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association), by means of secure channels which guarantee the confidentiality of communications.

The requests for information specified in the preceding paragraph shall be kept for a maximum period of one year.

The information retained under this Article may be accessed by the persons concerned in the manner provided for by Article 15-1 of Act no. 1,165 of 23 December 1993 on the personal data protection, amended.

(Formerly Section IX renumbered as Section VI by Act no. 1,503 of 23 December 2020)

Article 25 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

Personal data gathered by the organisations and persons specified in Articles 1 and 2 under this Act, shall be processed for the sole purpose of preventing money laundering, terrorist financing, and corruption, and may not be processed in any manner incompatible with that purpose, pursuant to applicable regulations on personal data protection.

Where personal data are processed for the sole purpose of compliance with due diligence obligations and the obligation of reporting and disclosure to the *Service d'Information et de Contrôle sur les Circuits Financiers*, the Public Prosecutor, or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association), the right of access is exercised with the *Commission de Contrôle des Informations Nominatives*, as provided by Article 15-1 of Act no. 1,165 of 23 December 1993, amended.

(Formerly Section IX renumbered as Section VI by Act no. 1,503 of 23 December 2020)

Article 26 .- ***(Replaced by Act no. 1,462 of 28 June 2018)***

Should the organisations and persons specified in Article 1 cease operations for whatever reason, they shall, under conditions laid down by Sovereign Ordinance, appoint an authorised representative with an address for service in the Principality and subject to the provisions of this Act, who shall be responsible for the record-keeping of documents and data gathered under this Act for a period of five years as from the cessation of operations.

The authorised representative must, during this period, be able to respond rapidly and fully to any request for information from the *Service d'Information et de Contrôle sur les Circuits Financiers* and forward it a copy of any supporting document.

Chapter - III Internal organisation obligations

Section - I General provisions

Article 27 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in Articles 1 and 2 shall identify and establish internal organisational arrangements and procedures, proportionate to their nature and size, in order to combat money laundering, terrorist financing, and corruption, taking into account the risk assessment provided for by Article 3

The internal organisational arrangements and procedures shall be approved by senior management.

The organisations and persons specified in Articles 1 and 2 shall appoint, taking into account the size and nature of their activity, one or more individuals holding a senior position and with sufficient knowledge of their exposure to the risk of money laundering, terrorist financing, and corruption, as officers responsible for implementation of the anti-money laundering, terrorist financing and corruption regime.

The individuals appointed as officers by the organisations and persons specified in points 1°) and 3°) of Article 1 must demonstrate, for their recruitment, that they have the qualifications, training and professional skills determined by Sovereign Ordinance. In order to carry out their duties, they and the persons under their authority shall be required to obtain professional certification, awarded after a period of training and issued in the conditions provided by Sovereign Ordinance. The cost of this professional certification and the related training shall be borne by the organisations and persons specified in points 1°) to 3°) of Article 1.

To ensure compliance with the obligations laid down in Chapter II, the organisations and persons specified in Articles 1 and 2 shall also put in place internal control measures.

The organisations and persons specified in Article 1 shall provide the *Service d'Information et de Contrôle sur les Circuits Financiers* with the name(s) of the individual(s) appointed, within fifteen days following their appointment or replacement, or otherwise, following receipt of a letter from the *Service d'Information et de Contrôle sur les Circuits Financiers* requesting this information.

The same information must, under the same conditions, be brought to the attention of the Public Prosecutor by the persons specified in points 1°) and 2°) of paragraph 1 of Article 2, or of the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association) by the persons specified in point 3°) of said paragraph.

Where the organisations and persons specified in Articles 1 and 2 belong to a group, they shall implement group-wide policies and procedures, notably as regards the protection of personal data and the sharing of information for AML/CFT purposes.

The conditions for the application of this Article shall be determined by Sovereign Ordinance.

Section - II Specific provisions applicable to groups

Article 28 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Article 1, established in the Principality and which belong to a group whose parent company is established in the Principality or in a State whose legislation contains provisions which are considered to be equivalent to Monegasque law, in particular in respect of professional secrecy and personal data protection, and whose compliance with these obligations is supervised, shall convey to the companies of the same group the information required for AML/CFT purposes, according to the procedures laid down by Sovereign Ordinance.

This information shall only be conveyed by the organisations and persons specified in points 1°) to 4°) of Article 1 to persons outside the group, except for the parent company's supervisory authority, with the prior consent of the person or organisation concerned.

The provisions of this Article are applicable without prejudice to Act no. 1,165 of 23 December 1993,

amended.

The internal procedures of the Monegasque institution shall define the procedures for the dissemination, within the group, of information required for AML/CFT purposes.

Article 29 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Article 1 and, where applicable, the group's parent company, shall impose upon their branches and subsidiaries established outside the Principality, in which they have a majority interest, under the conditions laid down by Sovereign Ordinance, the application of measures equivalent to those laid down in this Act as regards customer due diligence, information sharing and record keeping as well as personal data protection.

Where the law of the State on whose territory their branches or subsidiaries are located does not allow them to implement measures equivalent to those laid down in this Act, they shall ensure that their branches and subsidiaries apply specific due diligence measures.

They shall inform the *Service d'Information et de Contrôle sur les Circuits Financiers* which, if it deems said specific measures insufficient, shall impose additional monitoring measures, in particular by requesting that the group does not establish business relationships or that it puts an end to them, that it does not carry out transactions and, if necessary, that it ceases its activities in the third country concerned.

The minimum actions to be taken by the organisations and persons specified in points 1°) to 4°) of Article 1 and the type of additional measures they are required to take in order to mitigate the risks of money laundering and terrorist financing in the case specified in paragraph 2 shall be determined by Sovereign Ordinance.

Article 29-1 .- ***(Created by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in Article 1, which are established in the Principality of Monaco and own subsidiaries or branches in Monaco or other jurisdictions, must implement group-wide programmes to combat money laundering, terrorist financing, and the proliferation of weapons of mass destruction which take into consideration the risks in this field and the scale of their commercial activity, and include the following internal policies, procedures, and controls:

1°) systems to control compliance, including the appointment of a compliance officer at management level;

2°) selection procedures guaranteeing the recruitment of employees according to stringent criteria;

3°) an on-going training programme for employees;

4°) an independent audit function to test the system.

Section - III Provisions relating to personnel

Article 30 .- ***(Replaced by Act no. 1,462 of 28 June 2018)***

The organisations and persons specified in Articles 1 and 2 shall take appropriate measures, considering their size, the risks to which they are exposed and the nature of these risks, to inform their employees concerned by the provisions of this Act, of the rules applicable in respect of the fights against money laundering, terrorist financing and corruption, including as regards personal data protection requirements.

They shall put in place an on-going training and regular information programme, intended to help their employees recognise transactions and facts which could be related to money laundering, terrorist financing, or corruption, and to instruct them on how to proceed in such cases.

Article 31 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in Articles 1 and 2 shall put in place appropriate procedures enabling their directors and employees to report internally any breaches of the obligations laid down by this Act and its implementing instruments, by means of a specific channel. These procedures must be proportionate to the nature and size of the obliged entity concerned.

Reporting of breaches specified in the preceding paragraph shall be brought to the attention of a trusted person designated by the employer or, failing this, the immediate superior or the employer, under conditions that protect the confidentiality of the whistle-blower, the persons specified in the report and the information gathered by the recipients of the report.

Evidence that could identify the reporter may only be disclosed, except to the judicial authority, with the reporter's consent.

Information which could identify the person concerned by the report may not be disclosed, except to the judicial authority, until such time as it is established that the report has merit.

If no action is taken on the report within a reasonable period, the report may be sent, by any person who is aware of it, to the *Service d'Information et de Contrôle sur les Circuits Financiers*, the Public Prosecutor, or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*.

The whistle-blower shall not incur criminal liability where the information disclosed infringes a secret protected by law, if such disclosure is proportionate and necessary to safeguard the interests concerned in connection with the fight against money laundering, terrorist financing, or corruption.

The whistle-blower may not, for this reason, be excluded from a recruitment procedure or access to an internship or professional training period, or be subject to dismissal, sanction or any other adverse professional consequences.

The whistle-blower shall make the report without expectation of personal benefit or the desire to harm others.

Article 32 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The procedures and measures implemented in order to gather and process reports under the conditions specified in the preceding Article shall guarantee strict confidentiality. To this end, the Department of Justice, the *Service d'Information et de Contrôle sur les Circuits Financiers* and the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* shall provide persons with access to one or more secure communication channels. These channels shall guarantee that the identity of persons reporting information is known solely to those persons authorised to receive the report pursuant to the preceding paragraph. The conditions for the application of this paragraph shall be determined by Sovereign Ordinance.

Information which could identify the whistle-blower may be disclosed, except to the judicial authority, solely with the whistle-blower’s express prior consent and solely once it has been established that the report has merit.

Article 33 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

Where designated by the organisations or persons specified in Article 1 of this Act, the persons specified in paragraph 2 of Article 27, engaged in activity in the Principality, are notably required to establish procedures for internal control and communication and the centralisation of information, in order to prevent and detect the realisation of transactions relating to money laundering, terrorist financing, or corruption.

They shall disclose said procedures to the *Service d'Information et de Contrôle sur les Circuits Financiers* within a period of one month after receiving formal notice or a letter from this Service.

With the exception of those designated by the persons specified in points 15°), 15° bis) and 150° ter) of Article 1, they shall establish an annual activity report and send it to the *Service d'Information et de Contrôle sur les Circuits Financiers*, in the manner laid down by Sovereign Ordinance. They shall have access to all information necessary for the performance of their duties and shall have the appropriate resources for this purpose.

Article 33-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Where designated by the persons specified in Article 2, the persons specified in paragraph 2 of Article 27 are notably required to establish procedures for internal control and communication and the centralisation of information, in order to prevent and detect the realisation of transactions relating to money laundering, terrorist financing, or corruption.

They shall disclose said procedures, as the case may be, to the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* within a period of one month after receiving formal notice or a letter from said Public Prosecutor or *Bâtonnier*.

Article 34 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

Internal control procedures shall specifically take into account the increased risk of money laundering, terrorist financing or corruption in the case of remote transactions as specified in Article 13.

They shall be updated on a regular basis, in particular, in order to take into consideration changes in legislation.

A copy of these procedures, in French, shall be sent to the *Service d'Information et de Contrôle sur les Circuits Financiers* or, if required, to the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*.

The procedure for the application of the obligations laid down in this Article shall be determined by Sovereign Ordinance.

Chapter - IV Cash payments

Article 35 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

Natural or legal persons whose occupation is to deal in goods or services may not make or receive cash payments whose total value reaches or exceeds 30,000 euros.

If the total amount of payments reaches is equal to or greater than 10,000 euros, the organisations and persons specified in Articles 1 and 2 shall, as the case may be, implement the due diligence measures set out in Section I of Chapter II or in Article 14, depending on the level of risk posed by the client or the nature of the business relationship or of the transaction carried out.

The provisions of paragraph 1 shall apply to any sale or supply of goods or services, carried out in one or more seemingly related operations over a period of six calendar months.

The provisions of paragraph 2 shall apply to any transaction carried out in one or more seemingly related operations over a period of six calendar months.

Chapter - V Reporting and disclosure obligations

Article 36 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in Article 1 are required to report to the *Service d'Information et de Contrôle sur les Circuits Financiers*, in view of their activity, all sums and funds recorded in their books, all transactions or attempted transactions involving sums or funds that they know, suspect or have good reasons to believe are derived from an offence specified in Article 218-3 of the Criminal Code, or are linked to terrorist financing or corruption.

They are also subject to the same obligation if a transaction giving rise to a legitimate suspicion is refused or cannot be completed, at the behest of, because or by the fault of the client or due to precise and consistent indications suggesting involvement in the offences specified in this Act.

This report must be made in writing, before the transaction is carried out, and must specify the facts constituting the indications upon which the said organisations or persons have relied in order to make the report. It shall indicate, if applicable, the period within which the transaction is to be carried out. If the circumstances so require, the declaration may be sent early by fax or by appropriate electronic means.

All information gathered subsequent to the report and likely to modify its scope must be sent immediately to the *Service d'Information et de Contrôle sur les Circuits Financiers*.

This report, its content, and any follow-up actions taken, shall be confidential, subject to the sanctions laid down in Article 73.

Article 36-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The professionals specified in points 12°), 13°) and 20°) of Article 1 are not subject to the obligations set out in this Chapter during legal consultations, where they are ascertaining their client's legal position.

Article 37 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020)***

Upon receiving the report, the *Service d'Information et de Contrôle sur les Circuits Financiers* shall acknowledge receipt, unless the reporting person has expressly indicated otherwise.

If, due to the seriousness or urgency of the case, the *Service d'Information et de Contrôle sur les Circuits Financiers* considers it necessary, it may oppose the conduct of any transaction for the client concerned by the report, in order to analyse, confirm or rule out any suspicions, and to pass the findings of such analysis to the competent authorities.

This opposition shall be notified in writing or, failing this, by fax or appropriate electronic means, before the expiry of the period in which the transaction is to be carried out, specified in the preceding Article. It shall prevent the conduct of any transaction for a maximum period of five working days as from the notification.

If no notification of opposition is made within the prescribed period, the organisation or person concerned shall be free to carry out the transaction.

Article 38 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,520 of 11 February 2022)***

The effects of the opposition may be extended beyond the legal period by order of the Presiding Judge of the Court of First Instance upon request from the Public Prosecutor, at his own initiative or to whom the *Service d'Information et de Contrôle sur les Circuits Financiers* has referred the case pursuant to Articles 851 and 852 of the Code of Civil Procedure , who may, for any precautionary purposes, impound the funds, titles or items concerned by the reporting.

The order shall be immediately enforceable following its registration, or even before this formality has been accomplished if exceptionally ordered by the Presiding Judge of the Court of First Instance for reasons of urgency.

The organisations or persons specified in Article 1 holding the funds, securities or items covered by the interim measure are responsible for their legal custodianship.

If the transaction is not subject to opposition, the directors or employees of financial institutions may not be prosecuted for the offences specified in Act no. 890 of 1 July 1970 on drugs and Articles 218-2 and 339 of the Criminal Code , except in cases of fraudulent connivance with the owner of the funds or the originator of the transaction.

Article 39 .- ***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,520 of 11 February 2022)***

The organisations and persons specified in Articles 1 and 2 shall refrain from conducting any transaction which they know or suspect to be related to the proceeds of an offence specified in Article 218-3 of the Criminal Code, or to terrorist financing or corruption, until they have made the report provided by Articles 36 or 40. They may then conduct the transaction only where there is no objection from the *Service d'Information et de Contrôle sur les Circuits Financiers*, in the conditions provided in the final paragraph of Article 37.

If the organisations or persons specified in Articles 1 and 2 know or suspect that a transaction is related to the proceeds of an offence specified in Article 218-3 of the Criminal Code, terrorist financing, or corruption, but cannot make the report specified in Articles 36 or 40 before conducting the transaction, either because it cannot be delayed, or because it could prevent prosecution of the beneficiaries of the said offences, these organisations or persons shall make this report immediately after conducting the transaction.

In this case, they shall also state the reason for which the report could not be made prior to the transaction being carried out.

The provisions of paragraph 5 of Article 36 shall be applicable to the obligations laid down in this Article.

Article 40 .-***(Replaced by Act no. 1,462 of 28 June 2018; by Act no. 1,503 of 23 December 2020; by Act no. 1,520 of 11 February 2022)***

Notaries and bailiffs who, in the course of their professional duties, have knowledge of facts which they know or suspect to be related to an offence specified in Article 218-3 of the Criminal Code , terrorist financing

or corruption, are required to inform the Public Prosecutor immediately.

Senior attorneys (*avocats-défenseurs*), lawyers and junior barristers who, in the course of the activities listed in paragraph 2 of Article 2, have knowledge of facts which they know or suspect to be related to an offence specified in Article 218-3 of the Criminal Code , terrorist financing or corruption, are required to inform the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* immediately.

Subject to laws governing each of these professions, notaries, bailiffs, senior attorneys (*avocats-défenseurs*), lawyers and junior barristers are, however, not required to advise the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*, as the case may be, where the information concerning these facts was received from or obtained on one of their clients:

- during a legal consultation;
- in the course of ascertaining the legal position for their client;
- while performing their task of defending or representing that client in, or concerning judicial proceedings;
- while providing advice on instituting, conducting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.

Subject to the conditions laid down in the preceding paragraph, the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*, as the case may be, shall immediately send the suspicious transactions reports that they receive to the *Service d'Information et de Contrôle sur les Circuits Financiers*.

Where a report is made in breach of these provisions, the *Service d'Information et de Contrôle sur les Circuits Financiers* shall refuse it and immediately inform the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*, as appropriate.

The suspicious transaction report, its content, and any follow-up actions taken, shall be confidential, subject to the sanctions laid down in Article 73.

The procedure for the application of this Article shall be determined by Sovereign Ordinance.

Article 41 .- ***(Replaced by Act no. 1,462 of 28 June 2018)***

The reporting obligations laid down in this Chapter may be extended to transactions and facts concerning natural or legal persons domiciled, registered or established in a State or territory whose legislation is recognised as insufficient or whose practices are considered as hindering the fight against money laundering, terrorist financing or corruption.

A Ministerial Order shall determine the State or territory, the facts and type of transactions concerned.

Article 42 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020; by Ordinance no. 8,664 of 26 May 2021)***

The reporting obligations laid down in this Chapter, incumbent on the organisations and persons specified in Articles 1 and 2, are extended to transactions and facts concerning natural or legal persons subject to measures to freeze funds and economic resources which are necessary for the implementation of economic sanctions ordered by the United Nations, the European Union, or the Republic of France, and intended to enforce public international law, notably human rights, democracy, and international peace and security.

Article 43 .- ***(Replaced by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The reports and transmissions of information laid down in this Chapter shall be made, as appropriate, by the person(s) designated at the organisations or persons specified in Articles 1 and 2, pursuant to paragraph 2 of Article 27.

The rules on the procedures for these reports and transmissions shall be determined, in particular with regard to their form and content, by Ministerial Order.

Old Articles 44.- to 49 ***(Renumbered by Act no. 1,462 of 28 June 2018 as Articles 78 to 83).***

Article 44 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

A report made in good faith under this Chapter shall not be liable to prosecution under Articles 307 and 308 of the Criminal Code .

No civil liability action may be initiated, nor any professional sanction or prejudicial or discriminatory employment measure imposed on an organisation or person specified in Articles 1 and 2, its directors or authorised employees, who make such a report in good faith.

These provisions shall be applicable even:

- where the party making the report did not have exact knowledge of the facts concerned by the report;

- where the activity or transaction concerned by the suspicious activity report was not carried out; and

- where it is not proven that the facts which led to the report were unlawful, or where the prosecution of these facts results in a judgment of discharge, dismissal, or acquittal.

Article 45 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

I - By way of derogation from Article 36, the persons specified in points 1°) to 4°) of Article 1 that are part of the same group may inform each other of the existence and content of the report specified in Article 36, whether they are established in the Principality or another State, provided all of the following conditions are met:

a) the group-wide policies and procedures comply with the requirements set out in this Act, in particular in respect of professional secrecy and personal data protection;

b) the information is only shared between persons who are part of the same group and subject to a reporting obligation equivalent to Article 36;

c) the information disclosed is necessary for group due diligence in respect of anti-money laundering, terrorist financing, and corruption, and shall be used exclusively for this purpose;

d) the information is disclosed in compliance with the provisions of Act no. 1,165 of 23 December 1993, as amended.

II - By way of derogation from Articles 36 and 40, the persons specified in points 12°), 13°) and 20°) of Article 1 and in Article 2 and who belong to the same professional structure, may inform each other of the existence and content of the report specified in Article 36 or 40, depending on the case, whether they are established in the Principality or another State, provided all of the following conditions are met:

a) the information is not disclosed to a person or an institution which is not established in a State or territory specified in Article 41;

b) the information is exchanged only among persons of the same professional structure subject to reporting obligations equivalent to those of Articles 36 or 40;

c) the information disclosed is necessary for the exercise, within the structure, of due diligence in respect of the fight against money laundering, terrorist financing and corruption and shall be used exclusively to this end;

d) the information is disclosed in compliance with the provisions of Act no. 1,165 of 23 December 1993, as amended.

III - By way of derogation from Articles 36 and 40, the persons specified in points 1°) to 4°) of Article 1, points 12°), 13°) and 20°) of Article 1 and in Article 2 may, where acting for the same client and in the same transaction or where they have knowledge, for the same client, of the same transaction, may inform each other, and by any secure means, of the existence and the content of the report provided by Articles 36 or 40, as the case may be.

These exchanges of information are authorised solely between organisations and persons of the same professional category, and provided all of the following conditions are met:

a) the information is not disclosed to a person or an institution which is not established in a State or territory specified in Article 41;

b) the persons concerned are subject to equivalent obligations as regards professional secrecy;

c) the information exchanged is used exclusively for the purpose of preventing money laundering, terrorist financing, and corruption;

d) the information is disclosed in compliance with the provisions of Act no. 1,165 of 23 December 1993, as amended.

Chapter - VI National financial intelligence unit

Section - I Organisation and role

Article 46 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020; by Act no. 1,520 of 11 February 2022)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* is the national financial intelligence unit tasked with receiving and examining suspicious transaction reports from the organisations and persons specified in Article 1, along with all relevant information concerning the fight against money laundering, the predicate offences specified in Article 218-3 of the Criminal Code, terrorist financing, corruption, and the proliferation of weapons of mass destruction.

It also analyses suspicious transaction reports and relevant information sent to it, as appropriate, by the Public Prosecutor or the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* under the conditions laid down in Article 40.

In the exercise of its duties, the *Service d'information et de Contrôle sur les Circuits Financiers* acts independently and does not receive instructions from any authority.

This unit discharges its duties in accordance with the conditions laid down in this Act and its implementing instruments.

The organisation and operational procedures of this unit are determined by Sovereign Ordinance. It is composed of specially commissioned and duly sworn officers. They may not use or disclose the information gathered in the course of their duties for purposes other than those laid down in this Act, subject to the penalties laid down in Article 308 of the Criminal Code.

The unit publishes an annual report of its activities and keeps detailed statistics for this purpose.

Article 47 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

In the exercise of its duties, the *Service d'Information et de Contrôle sur les Circuits Financiers* conducts:

1 °) Operational analysis, using information that is available and may be obtained in order to identify specific targets, including persons, property, or criminal organisations or networks, to track particular activities or transactions, and to establish links between these targets and any proceeds of criminal offences and money laundering, predicate offences, and terrorist financing;

2°) Strategic analysis, using information that is available and may be obtained, including data provided by other competent authorities, in order to identify trends and types of money laundering and terrorist financing.

Article 48 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* is the national authority tasked by the Government with undertaking a national assessment of the risks of money laundering and terrorist financing, intended to identify, assess, understand and mitigate the risks of money laundering, terrorist financing, and the proliferation of weapons of mass destruction to which the Principality is exposed, in the manner provided by Sovereign Ordinance.

This process shall notably cover the following aspects:

- the sectors most at risk;
- the risks associated with each relevant sector;
- the most common methods used by criminals to launder illicit proceeds;
- the measures to be taken to address the risks identified and to improve the national

AML/CFT regime.

The *Service d'Information et de Contrôle sur les Circuits Financiers* updates this assessment and provides professionals with the necessary information for their own risk assessments, under the conditions laid down by Sovereign Ordinance.

For the implementation of this process, it may gather any information necessary for this purpose in accordance with the conditions set out in Article 50.

Article 48-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* shall establish guidelines, for the organisations and persons specified in Article 1 and in points 1°) and 2°) of Articles 2, in order to ensure feedback and to assist the parties concerned with the implementation of the Act, and in particular to detect and report suspicious transactions.

Section - II Powers and prerogatives

Article 49 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020; by Act no. 1,520 of 11 February 2022)***

In the exercise of its duties, the *Service d'Information et de Contrôle sur les Circuits Financiers* may request that documents, information or data kept in accordance with Article 23, in whatever format, be communicated to it.

This right is exercised on the basis of on-site or off-site inspections with regard to the organisations and persons specified in Article 1.

When examining the reports and information specified in Article 36, the *Service d'Information et de Contrôle sur les Circuits Financiers* may issue any request for additional information, in accordance with Article 50, and carry out checks in accordance with the conditions laid down in Article 54.

In this case, the officers of the *Service d'Information et de Contrôle sur les Circuits Financiers* shall have the prerogatives listed in Article 54.

Where investigations conducted by the *Service d'Information et de Contrôle sur les Circuits Financiers* bring to light serious evidence of money laundering, associated predicate offences specified in Article 218-3 of the Criminal Code, terrorist financing, or corruption, it shall establish a report which it shall then forward to the Public Prosecutor, accompanied by any relevant documents, with the exception of the report itself which must under no circumstances be included in the exhibits, subject to the penalties laid down in Article 308 of the Criminal Code. Where the *Service d'Information et de Contrôle sur les Circuits Financiers* is aware of information or documents complementary to this report, it may forward them to the Public Prosecutor at any time.

Subject to the provisions of paragraph 1 of Article 37, where the *Service d'Information et de Contrôle sur les Circuits Financiers* forwards a report to the Public Prosecutor, it shall inform the organisation or the person that made the report.

The Public Prosecutor shall inform the *Service d'Information et de Contrôle sur les Circuits Financiers* of the opening or discontinuance of legal proceedings and judgments handed down by the criminal courts. The information is also sent by the *Service d'Information et de Contrôle sur les Circuits Financiers* to the reporting party, subject to Article 37.

Article 49-1 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The reports referred to in Article 36 shall only be sent to the judicial authority at the latter's request, solely in cases where this report is necessary for holding liable the organisations or persons specified in Article 1, their directors and employees, and where the investigation shows that they could be involved in the money laundering, terrorist financing or corruption mechanism that they have revealed.

Article 50 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

For the purposes of the application of this Act, the *Service d'Information et de Contrôle sur les Circuits Financiers* shall receive, either spontaneously or at its own request and as soon as possible, even in the absence of the report provided by Articles 36 and 40, as applicable, any information or document in their possession and which is necessary for the fulfilment of its duties, from the following:

1°) any organisation or individual specified in Article 1;

2°) the Police Department, in particular as regards information of a legal nature;

3°) other departments of the State and of the Municipality, of legal entities with a duty of public or general interest, and public institutions;

4°) the Public Prosecutor or other judicial officers;

5°) national bodies carrying out supervisory duties;

6°) professional bodies listed by Ministerial Order, excluding those of the professionals mentioned in Article 2;

7°) the *Bâtonnier* of the *Ordre des avocats-défenseurs et des avocats*.

Article 50-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Subject to application of Article 61 of the Code of Criminal Procedure, information held by the *Service d'Information et de Contrôle sur les Circuits Financiers* may not be used for purposes other than those provided by this Act.

Its disclosure is prohibited, notwithstanding paragraph 4 of Article 49.

Article 50-2 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Without prejudice to the provisions of the preceding Article, the *Service d'Information et de Contrôle sur les Circuits Financiers* may also send the authorities, bodies and departments specified in points 2°) to 5°) of Article 50 any information or document related to this Act and useful for the exercise of their respective duties. This information is confidential.

The recipients of such information may not reveal its existence or content or pass it to any other authority without the prior consent of the *Service d'Information et de Contrôle sur les Circuits Financiers*.

The provisions of the preceding paragraph shall not apply to information disclosed by the *Service d'Information et de Contrôle sur les Circuits Financiers* to the Police Department, the Public Prosecutor, and other judiciary magistrates.

The recipients of the information shall notify the *Service d'Information et de Contrôle sur les Circuits Financiers* of how the information sent to them is used and the outcome of any actions taken on the basis of said information.

Article 51 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020*****; amended by Act no. 1,520 of 11 February 2022)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* may receive upon its request or at their initiative, any intelligence necessary for the performance of its duties from foreign financial intelligence units exercising similar powers.

This intelligence may be used solely for the purpose for which it was provided, and may not be disseminated to another authority or another executive department of the State or used for other purposes, except with the prior consent of the financial intelligence unit which provided it.

Dissemination of such intelligence to other authorities or departments may be refused solely where:

- it falls beyond the scope of applicable provisions relating to the fight against money laundering, terrorist financing, or corruption; or

- it could lead to impairment of a criminal investigation; or

- it would otherwise not be in accordance with fundamental principles of national law of that financial intelligence unit.

Any such refusal to grant consent shall be appropriately explained.

After receiving information from foreign financial intelligence units exercising powers similar to its own, or from foreign authorities engaged in the fight against money laundering, terrorist financing, and the proliferation of weapons of mass destruction, the *Service d'information et de Contrôle sur les Circuits Financiers* shall provide feedback in due course, if those units or authorities request it.

Article 51-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

In the fight against money laundering and terrorist financing, the *Service d'Information et de Contrôle sur les Circuits Financiers* may, either spontaneously or upon request, disseminate information in connection with this Act to foreign financial intelligence units exercising similar powers, subject to reciprocity, regardless of the predicate offence and even where the predicate offence has not been identified at the time the information is disseminated.

The request for information shall describe the relevant facts and background information, provide reasons for the request, and specify how the information sought will be used.

The *Service d'Information et de Contrôle sur les Circuits Financiers* may refuse to disseminate intelligence to other financial intelligence units solely in exceptional cases, where such dissemination would be detrimental to the fundamental interests of the Principality.

Information shall only be disseminated under the following conditions:

- the foreign financial intelligence units are subject to obligations of professional secrecy equivalent to those which the *Service d'Information et de Contrôle sur les Circuits Financiers* is legally required to fulfil;

- the information disseminated is processed in a manner that guarantees an adequate level of protection pursuant to the provisions of Act no. 1,165 of 23 December 1993, amended.

The *Service d'Information et de Contrôle sur les Circuits Financiers* shall, promptly and to the largest extent possible, grant its prior consent to the foreign financial intelligence unit to disseminate the information it provides to its competent authorities, regardless of the nature of the predicate offence.

It may oppose such dissemination where:

- it falls beyond the scope of applicable provisions relating to the fight against money laundering, terrorist financing, or corruption; or

- it could lead to impairment of a criminal investigation; or

- it would otherwise not be in accordance with the fundamental rights and freedoms guaranteed by Title III of the Constitution.

For the processing of these exchanges of information, the *Service d'Information et de Contrôle sur les Circuits Financiers* has the same powers as those assigned to it under this Act, and in particular the right of objection laid down in Article 37. It shall respond promptly to requests for information from financial intelligence units.

Article 52 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

Where the *Service d'Information et de Contrôle sur les Circuits Financiers* receives a report pursuant to Article 36 which concerns a Member State of the European Union, it shall forward this report immediately to the financial intelligence unit of that State.

Article 53 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* may, for a maximum period of six months, which may be renewed, designate for the organisations and persons specified in Articles 1 and 2, for the fulfilment of their due diligence obligations:

1°) transactions which, due to their specific nature or the specific geographic areas from which, to which, or with which they are carried out, represent a high risk of money laundering or terrorist financing;

2°) persons who present a high risk of money laundering or terrorist financing.

Subject to the penalties laid down in Article 73, the persons specified in paragraph 1 may not disclose

to their clients or third parties, other than supervisory authorities, the information provided by the *Service d'Information et de Contrôle sur les Circuits Financiers* when it makes a designation pursuant to the provisions of this Article.

Chapter - VII The *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*

(Chapter created by Act no. 1,503 of 23 December 2020)

Article 53-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* (Chairman of the Bar Association of Monaco) shall establish guidelines for the persons specified in point 3°) of Article 2, in order to ensure feedback and to assist the members of the *Ordre des avocats-défenseurs et avocats* with the implementation of the Act, and in particular to detect and report suspicious transactions.

(Chapter created by Act no. 1,503 of 23 December 2020)

Article 53-2 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* shall publish an annual report containing information on:

- sanctions imposed on senior attorneys (*avocats-défenseurs*), lawyers and junior barristers under the provisions of Chapter XI;

- the number of reports of offences received under the provisions of Article 31;

- the number of suspicious transaction reports received, and the number of suspicious transaction reports forwarded to the *Service d'Information et de Contrôle sur les Circuits Financiers*;

- the number and description of measures taken by the *Bâtonnier* in order to ensure that senior attorneys (*avocats-défenseurs*), lawyers and junior barristers of the *Ordre des avocats-défenseurs et avocats* comply with their obligations as regards customer due diligence, suspicious transaction reports, record-keeping, and internal organisational measures.

Chapter - VIII Supervision

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 54 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The enforcement of the provisions of this Act and of the measures taken for its implementation by the organisations and persons specified in Article 1 is carried out by specially commissioned and duly sworn officers of the *Service d'Information et de Contrôle sur les Circuits Financiers*.

To this end, they may carry out on-site and off-site inspections, which may not be opposed or hindered in any way on grounds of professional secrecy, and may in particular:

1°) access all professional premises or premises used for professional activities;

2°) conduct such checks and verifications as they deem necessary;

3°) satisfy themselves that the procedures and obligations provided by this Act and its implementing instruments have been put in place;

4°) obtain any documents, in any format, that they consider useful for the exercise of their duties, and make copies of such documents by any means;

5°) obtain information, documentation or supporting documents useful for the exercise of their duties, from directors or representatives of professionals;

6°) summon and hear any person who could provide them with information, where appropriate by means of a video-conference or audio-conference system;

7°) obtain transcripts, by any appropriate means of processing, of information contained in the computer programmes of professionals or in documents directly usable for inspection purposes, and keep such transcripts in an appropriate format. This transcription cannot be refused and must be made as soon as possible;

8°) obtain any information necessary from the operators of withdrawal or payment card systems.

Following an on-site inspection, the officers of the *Service d'Information et de Contrôle sur les Circuits Financiers* who took part in the inspection shall draft a report under the conditions laid down by Sovereign Ordinance, following adversarial exchanges.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 54-1 .- ***(Created by Act no. 1,520 of 11 February 2022)***

The frequency and scope of the checks provided by Article 54, on the organisations and persons specified in points 1°) to 4°) of Article 1, are determined on the basis of an assessment of the risks of money laundering, terrorist financing, and the proliferation of weapons of mass destruction, established by the *Service d'information et de Contrôle sur les Circuits Financiers*.

The *Service d'information et de Contrôle sur les Circuits Financiers* shall revise the risk profile assessment of these financial institutions or financial groups, including the risk of non-compliance, regularly and whenever significant events or changes occur to the management and operations of said institutions and groups.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 55 .- ***(Created by Act no. 1,462 of 28 June 2018)***

In the exercise of these checks, officers of the *Service d'Information et de Contrôle sur les Circuits Financiers* are bound by the duty of professional secrecy. They may seek the assistance of an expert also bound by the duty of professional secrecy pursuant to the provisions of Article 308 of the Criminal Code and who officially swears to uphold them.
The expert thus appointed and the officers of the *Service d'Information et de Contrôle sur les Circuits Financiers* must be free of any conflict of interest with regard to the organisations and persons under inspection.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 56 .- ***(Created by Act no. 1,462 of 28 June 2018)***

In the course of checks, on-site inspections at professional premises or those used for professional purposes may only be conducted between 6 a.m. and 9 p.m., or, outside these hours, when public access is authorised or when a professional activity is ongoing.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 57 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The enforcement of the provisions of this Act and of the measures taken for its implementation by the persons specified in points 1 °) and 2°) of Article 2 is carried out by the Public Prosecutor, who may be assisted by officers of the *Service d'Information et de Contrôle sur les Circuits Financiers*.

The procedures for this inspection shall be determined by Sovereign Ordinance.

Following the inspection operations, the Public Prosecutor shall draft a report under the conditions laid down by Sovereign Ordinance, following adversarial exchanges.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 57-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The enforcement of the provisions of this Act and of the measures taken for its implementation by the persons specified in point 3°) of Article 2 is carried out by the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats*.

The *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* shall be tasked with conducting on-site and off-site inspections to check that senior attorneys (*avocats-défenseurs*) and lawyers comply with their obligations under this Act and the measures taken for its implementation, and with obtaining documents relating to compliance with these obligations.

On-site inspections shall take place in the presence of the lawyer concerned.

For checks conducted under the preceding paragraph, the senior attorneys (*avocats-défenseurs*) and lawyers shall disclose to the *Bâtonnier*, upon request, the documents to be kept in accordance with Article

23.

Following the inspection operations, the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* shall draft a report under the conditions laid down by Sovereign Ordinance, following adversarial exchanges.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 58 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

In the course of the checks specified in Articles 57 and 57-1, the Public Prosecutor and the *Bâtonnier* of the *Ordre des avocats-défenseurs et avocats* may disclose to the *Service d'Information et de Contrôle sur les Circuits Financiers* any information or documents that they deem useful for the exercise of the latter's duties.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 58-1 .- ***(Created by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

The supervisory authorities specified in Articles 54 and 57 shall adopt a risk-based approach to supervision. This approach shall notably take into consideration the characteristics, diversity, and number of the professionals specified in Articles 1 and 2. To this end, they shall:

1°) implement the actions and resources necessary in order to have a clear understanding of the risks of money laundering and terrorist financing;

2°) have on-site and off-site access to all relevant information on the specific domestic and international risks associated with customers, products and services of organisations and persons under their jurisdiction; and

3°) base the frequency and intensity of on-site and off-site supervision on the risk profile of organisations and persons under their jurisdiction, and on the risks of money laundering, terrorist financing, and corruption.

They shall assess the money laundering, terrorist financing, and corruption risk profile of organisations and persons under their jurisdiction, including the risks of non-compliance. They shall review this assessment both periodically and when there are major events or developments in their management and operations.

They shall review the risk assessment specified in Article 3, and the adequacy and implementation of the internal policies, controls, and procedures specified in Article 27 by organisations and persons under their jurisdiction.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 58-2 .- ***(Created by Act no. 1,503 of 23 December 2020)***

To ensure compliance with the provisions of Chapters II to V, the supervisory authorities specified in Articles 54 and 57 may order any organisation or person under their jurisdiction to take any measure intended to put their situation in order within a specified period of time.

Where the find breaches of the provisions of Chapters II to V by organisations or persons under their jurisdiction or where such organisations or persons have failed to obey an order to comply with these provisions, sanctions may be imposed in the manner provided in Articles 65 to 69.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 59 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The persons specified in points 4°) to 6°), 8°) to 19°) and 21°) to 26°) of Article 1 are required to have an annual report drawn up by a chartered or certified accountant or a duly registered approved accountant, to assess the application of this Act and the measures taken for its enforcement.

Partnerships and sole traders whose turnover and number of employees are below a threshold laid down by Sovereign Ordinance shall be exempt from this assessment report.

A copy of this report shall be sent to the *Service d'Information et de Contrôle sur les Circuits Financiers* and to the management of these persons within a period of six months following the close of the preceding financial year.

(Former Chapter VII renumbered by Act no. 1,503 of 23 December 2020)

Article 59-1 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

In the application of this Chapter, the *Service d'Information et de Contrôle sur les Circuits Financiers* may collaborate and exchange information with foreign authorities exercising powers similar to its own with regard to the fight against money laundering, terrorist financing, and corruption.

This cooperation shall be possible solely subject to reciprocity and on the condition that these foreign authorities are subject to obligations of professional secrecy similar to those of the *Service d'Information et de Contrôle sur les Circuits Financiers* and offer sufficient guarantees that information disseminated cannot be used for purposes other than the fight against money laundering, terrorist financing, and corruption.

To this end, bilateral agreements may be signed authorising the exchange of intelligence and aimed at the following, concurrently or non-concurrently:

1°) extension of on-site inspections to foreign-based branches and subsidiaries of the organisations or persons specified in points 1°) to 4°) of Article 1 and falling under the jurisdiction of the *Service d'Information et de Contrôle sur les Circuits Financiers*;

2°) the realisation by the *Service d'Information et de Contrôle sur les Circuits Financiers*, at the request of a foreign authority, of on-site inspections at branches or subsidiaries of the organisations or persons specified in points 1°) to 4°) of Article 1 and subject to the supervision of that foreign authority. The inspections may be carried out jointly with the foreign authority.

Chapter - IX Cross-border transport of cash

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 60 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

All natural persons entering or leaving the territory of the Principality carrying, on their person, in their luggage or in their means of transport, cash whose total amount exceeds an amount laid down by Sovereign Ordinance, shall be required to declare it to the supervisory authority, in writing or electronically, using the form provided for this purpose. They shall make this cash available for inspection.

The obligation to declare cash shall not be deemed to have been fulfilled where the information supplied is incorrect or incomplete, or where the cash is not made available for inspection.

The notion of cash shall be defined by Sovereign Ordinance.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 60-1 .- ***(Created with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

Where cash sent without the intervention of a courier, referred to as “unaccompanied cash”, whose value exceeds an amount laid down by Sovereign Ordinance, enters or leaves the territory of the Principality, the sender, recipient or their representative, as appropriate, shall make a disclosure declaration to the supervisory authority within a period of thirty days.

Said authority may withhold the unaccompanied cash until such time as the sender, recipient or their representative makes the disclosure declaration.

The obligation to declare unaccompanied cash shall not be deemed to have been fulfilled where the declaration is not made within the required period, where the information supplied is incorrect or incomplete, or where the unaccompanied cash is not made available for inspection.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 61 .- ***(Created by Act no. 1,462 of 28 June 2018; amended with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

The supervisory authority, the content of the declarations specified in Articles 60 and 60-1, and the declaration procedure, shall be determined by Sovereign Ordinance.

The supervisory authority shall send the declarations specified in this Chapter to the *Service d'Information et de Contrôle sur les Circuits Financiers*, which shall record them, process them and establish statistics relating thereto.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 62 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

The officers of the supervisory authority shall be tasked with collecting and checking the declarations on-site. They may not use the declarations for purposes other than those laid down in this Act, subject to the penalties laid down in Article 308 of the Criminal Code.

In order to verify compliance with the obligation to declare accompanied cash, criminal investigation police officers and the Police Department may require documents to be presented to establish the identity of the natural persons concerned, and may carry out controls on these persons, their luggage and means of transport.

In order to verify compliance with the obligation to disclose unaccompanied cash, criminal investigation police officers and the Police Department may carry out controls on any consignment or means of transportation, which contains or may contain unaccompanied cash.

These controls shall notably be carried out on the basis of a risk analysis. This risk analysis shall notably take account of the national risk assessment carried out by the *Service d'Information et de Contrôle sur les Circuits Financiers*.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 62-1 .- ***(Created with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

If the obligation to declare accompanied cash under Article 60 or the obligation to disclose unaccompanied cash under Article 60-1 has not been fulfilled, the competent authorities shall compose an ex officio declaration which shall contain to the extent possible the details to appear on the declarations specified in said Articles, in the manner laid down by Sovereign Ordinance.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 62-2 .- ***(Created with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

Where the competent authority detects a natural person transporting cash in an amount below the threshold specified in Article 60, and where there are indications that this cash is related to money laundering, terrorist financing, or corruption or with predicate offences, it shall record this information and the details to appear in the declaration specified in said Article.

Where the competent authority establishes that unaccompanied cash in an amount below the threshold specified in Article 60-1 enters or leaves the territory of the Principality, and where there are indications that the cash is related to money laundering, terrorist financing, or corruption or with predicate offences, it shall record this information and the details to appear in the declaration specified in said Article.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 63 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

Where the obligations to declare accompanied cash or to disclose unaccompanied cash, specified in Articles 60 and 60-1, have not been met, or where these obligations have been met but there are indications leading to the suspicion that the cash is related to money laundering, terrorist financing, or corruption or to predicate offences, regardless

of the amount of cash concerned, this cash shall be withheld by the supervisory authority.
The supervisory authority shall establish a report to be forwarded to the competent judicial authorities, with a copy sent to the *Service d'Information et de Contrôle sur les Circuits Financiers*.

The competent authority shall send notice of the decision to withhold the cash to the person required to make the declaration specified in Article 60 or the disclosure declaration specified in Article 60-1.

The duration of this withholding may not exceed fifteen days, renewable once upon authorisation from the Public Prosecutor for a maximum period of sixty days.

At the end of this withholding period, the cash shall be returned to the natural person from whom it was temporarily taken, without prejudice to the possibility of subsequent seizure by judicial authorities.

Where proceedings are brought, the Presiding Judge of the Court of First Instance may, at the request of the Public Prosecutor, order that all or part of the funds concerned by the reporting obligation be impounded, pending a definitive court judgment on the merits. An application may be made at any time to have the interim measures lifted, either partially or wholly.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 63-1 .- ***(Created with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

The supervisory authority shall record the information obtained under Articles 60, 60-1 and 62-1, and forward it along with that specified in Article 62-2, within fifteen working days of said information being obtained, to the *Service d'Information et de Contrôle sur les Circuits Financiers*, which shall process it, record it, and establish statistics relating thereto.

The *Service d'Information et de Contrôle sur les Circuits Financiers* may forward this information to foreign financial intelligence units in the manner laid down in Article 51-1.

(Former Chapter VIII renumbered with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)

Article 64 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced with effect from 31 December 2021 by Act no. 1,503 of 23 December 2020)***

Processing of personal data under this Chapter shall be carried out solely for the purposes of preventing money laundering and terrorist financing.

The supervisory authority and the *Service d'Information et de Contrôle sur les Circuits Financiers* shall retain a copy of the information obtained under Articles 60, 60-1 and the final paragraph of Articles 62-1 and 62-2, for a maximum period of five years. These personal data shall be deleted at the end of this period.

The retention period may be extended once, for a period not exceeding three additional years:

1°) by the *Service d'Information et de Contrôle sur les Circuits Financiers* where, after conducting a thorough assessment of the necessity and proportionality of such further retention, it considers it to be justified as necessary for the performance of its duties as regards the prevention of money laundering and terrorist financing;

2°) by the supervisory authority where, after conducting a thorough assessment of the necessity and proportionality of such further retention, it considers it to be justified as necessary for the performance of its duties as regards effective controls on compliance with the obligations to declare accompanied cash or disclose unaccompanied cash.

Subject to cooperation agreements in force and to reciprocity, the supervisory authority shall disseminate, to its counterparts in Member States of the European Union, the ex officio declarations established pursuant to Article 62-1, the information obtained under Article 62-2, and the declarations obtained under Articles 60 and 60-1, where there are indications that the cash is linked to money laundering or terrorist financing, along with anonymised information on the risks and the results of risk analyses. This dissemination shall be carried out within a period of time laid down by Sovereign Ordinance.

Personal data gathered under Articles 60, 60-1, 62-1 and 62-2, disseminated by the competent authority to foreign counterparts, may not be disclosed or disseminated to other authorities without its prior consent, except in the case of legal proceedings.

Chapter - X Miscellaneous provisions

(Chapter created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 64-1 .- ***(Created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)***

The organisations and persons specified in points 1 °) and 2°) of Article 1 shall be required to declare to the *Service d'Information et de Contrôle sur les Circuits Financiers*, the opening, modification, and closure of payment accounts, bank accounts identified by an IBAN, and rental agreements of safe deposit boxes under their management.

The declarations specified in the preceding paragraph shall be made within a period of one month following the opening, closure and modification of the accounts and safe deposit box rental agreements.

(Chapter created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 64-2 .- ***(Created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)***

These declarations shall be subject to computer processing referred to as “register of bank accounts and safe deposit boxes”, listing existing accounts and safe deposit boxes open. This register shall be kept by the *Service d'Information et de Contrôle sur les Circuits Financiers*.

The *Service d'Information et de Contrôle sur les Circuits Financiers* shall have direct, immediate and unfiltered access to the information contained in this register.

This information shall also be accessible, solely for the purposes of the fight against money laundering, terrorist financing, and corruption, to the following competent public authorities:

- authorised officers of the Department of Budget and Treasury;

- authorised officials of the judicial authorities;

- criminal investigation police officers of the Police Department, acting on written orders from the Public Prosecutor or on the authority of an investigating judge;

- authorised officers of the Department of Tax Services.

This information shall also be accessible to authorised officers of the *Commission de Contrôle des Activités Financières*, in the exercise of its duties as provided by Act no. 1,338 of 7 September 2007 on financial activities, amended, in the same manner as to the competent public authorities specified in the preceding paragraph.

The conditions for access to the register, and the arrangements for ensuring traceability of consultations by authorised persons, shall be determined by Sovereign Ordinance.

(Chapter created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 64-3 .- ***(Created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)***

The declarations specified in Article 64-1 must include information that can be used to identify any natural person or legal entity which holds or controls a payment account, a bank account identified by an IBAN, and safe deposit box rental agreements.

The content of the declarations and the list of information that can be used to identify

the person or persons specified in the preceding paragraph shall be determined by Sovereign Ordinance.

(Chapter created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 64-4 .- ***(Created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* is authorised to access information on the Register of Trade and Industry (*Répertoire du Commerce et de l'Industrie*) and the Special Registry of Non-Trading Companies (*Répertoire spécial des Sociétés Civiles*) for the purpose of verifying the identification details of the persons specified in the preceding Article.

It shall include any changes.

(Chapter created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 64-5 .- ***(Created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)***

The right to access and rectify information appearing in the register of bank accounts and safe deposit boxes and relating to the holder of the accounts and agreements specified in Article 64-1 shall be exercised in the manner provided by Act no. 1,165 of 23 December 1993, amended.

Where rectifications are to be made, the request must then be submitted directly by the holder or his successors-in-title directly to the banking institution with which the accounts or agreement concerned are held.

The conditions for access to information on the register of bank accounts and safe deposit boxes, and the arrangements for ensuring traceability of consultations by authorised persons, shall be determined by Sovereign Ordinance.

(Chapter created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 64-6 .- ***(Created with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)***

Any procedural measure or formality carried out by one of the competent authorities specified in paragraphs 2 and 3 of Article 64-2, based on information contained in the register of bank accounts and safe deposit boxes, for reasons other than those provided in said Article, shall be null and void.

Where regular consultation of the register of bank accounts and safe deposit boxes reveals offences or breaches other than those related to the fight against money laundering or terrorist financing, this shall not cause interlocutory proceedings to become null and void.

Chapter - XI Sanctions

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Section - 1 Administrative sanctions

Article 65 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

The Minister of State, at the proposal of the commission specified in Article 65-1, may impose administrative sanctions for serious, repeated or systematic breaches by an organisation or person specified in Article 1 of all or part of their obligations under Chapter II, with the exception of paragraph III of Sub-Section I of Section I and Section V, and Chapters III, IV, and V.

In the cases set out in the previous paragraph, the Minister of State may also, upon a proposal of the commission, order an administrative penalty against the directors of the legal entities prosecuted as well as other natural persons who are employees, agents or those acting on behalf of that legal entity, due to their personal involvement.

Where the breaches specified in paragraph 1 concern the persons specified in Article 2, in addition to the sanctions specified in indents 3 and 4 of paragraph 1, and paragraph 2 of Article 67, sanctions may be imposed on:

1°) notaries, notary clerks, and apprentice notaries, in the manner provided by Articles 63 et seq. of the Ordinance of 4 March 1886, amended;

2°) bailiffs, in the manner provided by Articles 90 et seq. of Act no. 1,398 of 24 June 2013;

3°) senior attorneys (*avocats-défenseurs*) and lawyers, in the manner provided by Articles 32 et seq. of Act no. 1,047 of 28 July 1982, amended.

The Minister of State may also, upon a proposal of the commission, impose an administrative sanction on natural persons who are employees or agents of, or acting on behalf of, the professionals specified in the preceding paragraph, by reason of their personal involvement.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 65-1 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020; replaced by Act no. 1,520 of 11 February 2022)***

The *Service d'Information et de Contrôle sur les Circuits Financiers* shall refer the following to the Minister of State:

1°) the inspection reports specified in Article 54, accompanied by all of the documents on which they are based;

2°) facts identified in the course of its supervisory duties and which could constitute serious, repeated or systematic breaches of the obligations laid down by this Act and its implementing instruments.

It shall forward them to a commission composed of nine members, and shall inform the person concerned. This commission shall include:

- two members of the Council of State appointed by the Chairman of the Council of State, one as Chairman, the other as Vice-Chairman;

- two magistrates of the Court of First Instance, appointed by the Presiding Judge of the Court of Appeal;

- five persons, appointed by the Minister of State by reason of their expertise in the field of the prevention of money laundering, terrorist financing, and corruption, in legal, economic, or financial matters, and their knowledge of the Monegasque economy.

The commission's members shall be appointed by Sovereign Ordinance for a term of five years. Their mandate may be renewed once. They shall be bound by a duty of professional secrecy pursuant to Article 308-1 of the Criminal Code.

Convened by its Chairman, the commission shall validly deliberate where comprised of four members, appointed by the Chairman, including, if he does not sit as a member himself, the Vice-Chairman, one magistrate, and two persons appointed by the Minister of State.

After reading the report prepared by another member of the commission appointed by its Chairman, it shall deliberate on the existence and seriousness, repeated or systematic nature of one or more breaches, and where appropriate shall adopt a reasoned proposal for sanctions by a majority of the members present. In the event of a split decision, the Chairman shall have the casting vote.

Any member of the commission shall inform the Chairman of any conflict of interests to which they are or may be subject.

The composition of the commission shall be disclosed to the person held responsible, who may request that one of the commission's members be recused if there are serious reasons to doubt their impartiality. The procedure for recusing members of the commission shall be determined by Sovereign Ordinance.

If the Chairman is absent or otherwise unavailable, they shall be replaced by the Vice-Chairman.

The State shall provide the commission with such material and human resources as it may require in order to carry out its appointed tasks.

To this end, one or more civil servants or officers of the State shall be assigned to the commission, including one to act as secretary general, who shall receive no instructions as to the notification of grievances.

Where, following a referral, the commission observes the existence of complaints which may be qualified as serious, repeated or systematic breaches liable to sanction, it shall proceed in accordance with the provisions of Articles 65-2 and 65-3.

Where it considers that there are manifestly no grounds for sanctions, it shall inform the Minister of State, who shall proceed in accordance with the provisions of Article 65-4.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 65-2 .- ***(Created by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

Where, based on the criteria specified in Article 66, the commission considers that the findings of the *Service d'Information et de Contrôle sur les Circuits Financiers* constitute breaches as defined by Article 65 and liable to sanction by an official warning, it shall invite the Minister of State to impose this sanction.

Where the Minister of State decides to issue the official warning proposed by the commission under the preceding paragraph, the person held responsible shall be given notice of this proposed sanction and the grievances identified by registered postal letter with advice of receipt. This notice shall also indicate that by accepting this proposed sanction, the person held responsible waives their right to appeal the decision of the Minister of State to impose the sanction.

Upon receipt of the notice, the person held responsible shall have a period of one month in which to accept or refuse the proposed sanction. During this period, the person held responsible may obtain a copy of the documents in the commission's possession, upon request.

Where the person held responsible refuses the sanction, the procedure provided by Article 65-3 shall apply. If no response is received, the person held responsible shall be deemed to have refused the sanction proposed by the Minister of State.

If the Minister of State refuses to impose the official warning proposed by the commission, he shall defer pronouncement of the sanction pending completion of the procedure provided by Article 65-3. The commission shall be give notice of this decision.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 65-3 .- ***(Created by Act no. 1,503 of 23 December 2020; replaced by Act no. 1,520 of 11 February 2022)***

Where no proposal for sanctions can be made upon the grievances raised under the provisions of Article 65-2 or where the person held responsible has refused the sanction proposed by the Minister of State pursuant to said Article, the commission shall send the person held responsible written notice of the grievances which may be qualified as breaches within the meaning of Article 65, in the manner laid down by Sovereign Ordinance. These grievances shall include a precise list of the facts of which the person is accused, and the provisions they are alleged to have breached. They shall be accompanied by a copy of the inspection report specified in Article 54 and all of the documents upon which it is based.

This notice shall be given within a period of eighteen months following the date on which the matter is referred to the commission by the Minister of State. Failing this, no proceedings which may lead to the imposition of one of the sanctions provided by Articles 67 and 67-3 may be brought.

Where notice of the grievances is sent to a legal entity, it shall also be sent to its legal representatives.

Upon receiving this notice, the person held responsible shall have a period of two months in which to give their written observations. Upon receiving a reasoned request from the person held responsible, the Chairman of the commission may grant them an additional period, the length of which shall be determined at the Chairman's discretion but which may not exceed two months. This request must be made no later than five working days before the end of the initial period of two months.

The person held responsible may, by sending a simple request to the secretariat of the commission, obtain a copy of the file in the commission's possession.

In support of their written observations, the person held responsible may submit a separate request, asking to be heard, in their presence, by any person they deem useful to their defence, excluding civil servants or officers of the *Service d'Informations et de Contrôle sur les Circuits Financiers* or any other State officer or civil servant.

The commission may also hear or question any person it deems useful.

Upon receipt of the explanations from the person held responsible and having heard the persons specified in the preceding paragraph, and where the commission considers that there are manifestly no grounds to propose sanctions, it shall inform the Minister of State, who shall proceed in accordance with the provisions of Article 65-4. Failing this, the person held responsible shall be summoned by the commission for a hearing of their explanations, or duly called to provide such explanations in accordance with the conditions laid down by Sovereign Ordinance. The summons shall indicate the response to the request for hearing, if one has been made, and shall inform the person held responsible of the identity of such persons as the commission considers it is useful to be heard.

During their hearing, the person held responsible may be assisted by legal counsel of their choice.

The explanations of the person held responsible, and where applicable their legal counsel or other persons heard, shall be recorded in a report prepared by the commission.

The commission shall issue an opinion on the existence, seriousness, and repeated or systematic nature of a breach, and where appropriate shall issue a recommendation on sanctions, which it shall send to the Minister of State.

The rapporteur appointed for the case shall not be present when the commission deliberates.

Criminal proceedings pending in which a final judgment of the court has not been handed down shall not preclude the application of this Article.

The conditions for the organisation and functioning of the commission, other than those provided by this Article, shall be determined by Sovereign Ordinance.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 65-4 .- ***(Created by Act no. 1,503 of 23 December 2020; amended by Act no. 1,520 of 11 February 2022)***

The Minister of State shall inform the person held responsible of his decision, by registered postal letter with advice of receipt. He shall also inform the commission and the *Service d'Information et de Contrôle sur les Circuits Financiers*.

After notice of the Minister of State's decision has been sent, the person held responsible may obtain a copy of the commission's reasoned opinion upon request from the Minister of State.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 66 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

When imposing sanctions, the Minister of State shall take into consideration all of the relevant circumstances, and in particular, where appropriate:

- the seriousness of the breaches committed, the frequency of their repetition, and their duration;
- notices and orders sent by the *Service d'Information et de Contrôle sur les Circuits Financiers* under Article 58-2;
- the degree of responsibility of the party which committed the breaches;
- damage sustained by third parties as a result of the breaches;
- the advantage gained from the breach;
- the degree of cooperation shown by the party which committed the breaches during the sanction procedure;
- any previous breaches committed by the same party and any sanctions previously imposed;
- the financial situation of the party which committed the breaches.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 67 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020; replaced by Act no. 1,520 of 11 February 2022)***

Where the Minister of State finds that one of the organisations or persons specified in paragraphs 1, 2, and 4 of Articles 65 has committed a serious, repeated, or systematic breach of all or part of their obligations under this Act, he may impose the following administrative sanctions:

- an official warning;
- a formal reprimand;
- an order requiring the natural person or legal entity to cease the conduct and to desist from repetition of that conduct;
- a prohibition on conducting certain transactions;
- temporary suspension or withdrawal of operating licence and work permit.

The Minister of State may, either instead of, or in addition to the aforementioned sanctions, impose a pecuniary penalty which may not exceed one million euros or, where the profits gained from the breach can be determined, twice the amount of those profits.

Even where a sanction is imposed, the Minister of State may give formal notice to any organisation or person specified in Article 1 to remedy the breaches identified.

Sanctions entailing prohibitions on conducting certain transactions or the temporary suspension or withdrawal of an operating licence and work permit, provided for in this Article, may be suspended. This suspended sanction may, where applicable, include an obligation of remediation. In this case, the sanction decision shall determine the obligations to be met by the person sanctions, and the period of time in which they must do so. This period may not exceed one year after notice of the sanction is given.

Within two months after the period fixed by the sanction decision has expired, the person concerned shall send the *Service d'information et de Contrôle sur les Circuits Financiers* a remediation report.

On the basis of this report, the *Service d'information et de Contrôle sur les Circuits Financiers* shall ensure, by conducting desk audits and on-site inspections, that the person sanctioned has, within the allotted period, remedied the breaches that gave rise to the sanction.

After these checks, the *Service d'information et de Contrôle sur les Circuits Financiers* shall prepare a situation report finding whether the person sanctioned has or has not complied with their obligation of remediation.

It shall send this report to the Minister of State.

Where the situation report finds that the person sanctioned has not remedied the breaches within the period of time fixed by the sanction decision, the suspension of the sanction shall be revoked by a decision of the Minister of State.

Where the situation report finds that the person sanctioned has remedied the breaches within the period of time fixed by the sanction decision, the suspension of the sanction shall remain in effect until the period provided in the preceding paragraph has expired.

In all cases, the Minister of State shall send notice of his decision to the person sanctioned.

If, within a period of two years after the sanction has been imposed, the person sanctioned commits a serious, repeated, or systematic breach resulting in the imposition of a further sanction, this shall, upon a reasoned decision, cause the initial sanction to be enforced. In this case, the initial sanction may not be confused with the second.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 67-1 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,520 of 11 February 2022)***

Where direct and personal responsibility for the breaches is established against directors of organisations or persons specified in Article 1 or members or their management body, the Minister of State may also issue a decision against them temporarily suspending them from fulfilling managerial functions in the said entities for a period not exceeding ten years, or an automatic dismissal, with or without the appointment of a provisional administrator.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 67-2 .- ***(Created by Act no. 1,462 of 28 June 2018)***

The organisations and persons specified in Article 1 may be held liable, where the breaches have been committed for their account, by a natural person acting individually or as a member of a body of the said organisation or the said legal entity, and who holds a managerial position in accordance with one of the following:

1°) the natural person has the power to represent the organisation or legal entity with regard to third parties;

2°) the natural person is authorised to take decisions that are legally binding upon the organisation or legal entity with regard to third parties;

3°) the natural person exercises control within the legal entity.

The organisations and persons specified in Article 1 may also be held liable where the lack of supervision or control by a person specified in the preceding paragraph has made the commission of the breaches specified in Article 65 possible by a person under their authority.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 67-3 .- ***(Created by Act no. 1,462 of 28 June 2018)***

Where the Minister of State finds breaches of the provisions of Article 65 by the organisations and persons specified in points 1°) to 4°) of Article 1, he may also, either instead of or in addition to the sanctions set out in paragraph 1 of Article 67, impose a pecuniary penalty of an amount up to the higher of the following:

- five million euros;

- ten per cent of the total annual turnover according to the latest available accounts approved by the management body.

Where the undertaking is a subsidiary of a parent undertaking, the relevant total annual turnover may be that resulting from the consolidated accounts of the parent undertaking of the previous year.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 67-4 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

The sanctions imposed by the Minister of State pursuant to Articles 67 to 67-3 may be subject to a full remedy action before the Court of First Instance, within a period of two months following the date of their notification.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 68 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

Except where the decision stipulates a longer period, pecuniary penalties shall be paid to the Public Treasury of the Principality within a period of three months following the date of their notification, and shall bear interest at the statutory rate beyond this period.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 69 .- ***(Created by Act no. 1,462 of 28 June 2018)***

The Minister of State may decide to get its decision published in the Journal de Monaco, on the website of the *Service d'Information et de Contrôle sur les Circuits Financiers* and, as the case may be, in any other paper or digital format.

However, administrative sanctions imposed by the Minister of State shall be published anonymously in the following cases:

1°) where non-anonymous publication would compromise an on-going criminal investigation;

2°) where non-anonymous publication would occasion disproportionate damage.

Where the cases mentioned in points 1 °) and 2°) are likely no longer to exist within a short time, the Minister of State may decide to defer the publication during this period.

The Minister of State may also order the person sanctioned to bear all or part of the publication costs specified in paragraph 1, as well as the costs of the control measures having led to the establishment of the offences.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Section - II Criminal sanctions

Article 70 ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020)***

Any person who prevents or attempts to prevent the controls carried out pursuant to Articles 49, 54 and 57, shall be liable to a period of imprisonment of one up to six months and the fine provided by point 4 of Article 26 of the Criminal Code , or by only one of these penalties.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 71 ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

Any of the legal entities specified in Article 21 which fails to notify the Register of Beneficial Owners of the supplementary or amending declaration provided by paragraph 1 of Article 22-1 shall be liable to the fine provided by point 2 of Article 29 of the Criminal Code.

Any of the persons and organisations specified in Articles 1 and 2 who fails to report the non-registration or any inconsistency they observe between the information on the Register of Beneficial Owners and the information in their possession, in breach of paragraph 2 of Article 22-2, shall be liable to the fine provided by point 4 of Article 29 of the Criminal Code.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 71-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The following shall be liable to the fine provided by point 2 of Article 26 of the Criminal Code:

1°) a person who establishes or maintains a correspondent banking relationship in breach of Article 16;

2°) a person who conducts an anonymous transaction by means of Treasury bills or interest-bearing notes in breach of Article 19;

3°) a person who fails to record and keep the information listed in Articles 19 and 20;

4°) any of the legal entities specified in Article 21, who fails to obtain and keep adequate, accurate and updated information on their beneficial owners and beneficial interests held, in breach of paragraph 3 of Article 21;

5°) any beneficial owner who fails to communicate the necessary information to the legal entities specified in Article 21, in breach of paragraph 6 of Article 21, or communicates such information outside the period laid down in paragraph 7 of Article 21;

6°) any of the legal entities specified in Article 21 who fails to provide the organisations and persons specified in Articles 1 and 2, as part of due diligence measures, all adequate, accurate and updated information in its possession concerning their beneficial owners, or who knowingly provides inaccurate or incomplete information in breach of the final paragraph of Article 21;

7°) any of the legal entities specified in Article 21 who, in breach of Article 22, fails to communicate information about their beneficial owners to the Minister of State for entry in the Register of Beneficial Owners;

8°) any of the organisations and persons specified in Articles 1 and 2 who breaches their obligation to keep documents and information as laid down in Article 23.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 71-2 .- ***(Created by Act no. 1,503 of 23 December 2020)***

The following shall be liable to the fine provided by point 4 of Article 26 of the Criminal Code:

1 °) any of the organisations and persons specified in Article 1 who knowingly fails to make the suspicious transaction report provided by Article 36;

2°) any of the persons specific in Article 2 who knowingly fails to make the suspicious transaction report provided by Article 40;

3°) any of the organisations and persons specified in Articles 1 and 2 who fails to make the suspicious transaction report provided by Articles 39, 41 and 42;

4°) any of the organisations and persons specified in points 1°) and 2°) of Article 1 who fails to make the declaration provided by Article 64-1.

(Formerly Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 72 .- ***(Created by Act no. 1,462 of 28 June 2018; amended by Act no. 1,503 of 23 December 2020; by Act no. 1,520 of 11 February 2022)***

Any person who fails to make the mandatory declaration provided by Articles 60 and 60-1 shall be liable to a fine equal to half of the sum concerned by the offence or attempted offence, without prejudice to any seizure and confiscation of the cash concerned, ordered under the conditions laid down in Article 12 of the Criminal Code.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 73 .- ***(Created by Act no. 1,462 of 28 June 2018)***

Any person who fails to comply with the non-disclosure requirement of Articles 36, 40, 41, and 53 shall be liable to the fine laid down in point 4 of Article 26 of the Criminal Code.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 74 .- ***(Created by Act no. 1,462 of 28 June 2018)***

Any person who discloses requests for information or documents, as well as any exchange of intelligence laid down in Article 50, shall be liable to the fine laid down in point 4 of Article 26 of the Criminal Code .

(Formerly Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 75 .- ***(Created by Act no. 1,462 of 28 June 2018)***

Any person who discloses evidence that could identify the whistle-blower or the person concerned by the report mentioned in Article 31, shall be liable to a term of imprisonment of three years and the fine provided by point 4 of Article 26 of the Criminal Code.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 76 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

Any person who contravenes the exercise of the right laid down by Article 31 shall be liable to the fine provided by point 3 of Article 26 of the Criminal Code. The maximum fine may be increased fivefold where the offence is committed by one of the organisations or persons specified in points 1°) to 4°) of Article 1.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 77 .- ***(Created by Act no. 1,462 of 28 June 2018; replaced by Act no. 1,503 of 23 December 2020)***

Any of the organisations and persons specified in points 1 °) to 4°) of Article 1 who fails to fulfil the obligations laid down in Article 26 shall be liable to the fine provided by point 4 of Article 26 of the Criminal Code . The maximum fine may be increased fivefold.

Any of the organisations and persons specified in points 5°) to 26°) of Article 1, and any of the persons specified in Article 2, who fails to fulfil the obligations laid down in Article 26, shall be liable to the fine provided by point 4 of Article 26 of the Criminal Code.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 77-1 .- ***(Created by Act no. 1,503 of 23 December 2020)***

Any person who breaches the prohibition laid down in paragraph 1 of Article 35 shall be liable to the fine provided by point 4 of Article 26 of the Criminal Code.

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 78 .- ***(Former Article 44 renumbered by Act no. 1,462 of 28 June 2018). - (See Article 218 of the Criminal Code).***

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 79 .- ***(Former Article 45 renumbered by Act no. 1,462 of 28 June 2018). - (See Article 219 of the Criminal Code).***

(Former Chapter IX renumbered with effect from 31 August 2021 by Act no. 1,503 of 23 December 2020)

Article 80 .- ***(Former Article 46 renumbered by Act no. 1,462 of 28 June 2018)***

Any person who attempts to commit the offences laid down by this Act shall be liable to the same penalties as those applicable to the offences themselves.

Chapter - XII Miscellaneous provisions

(Former Chapter X renumbered by Act no. 1,503 of 23 December 2020)

Article 81 .- ***(Former Article 47 renumbered by Act no. 1,462 of 28 June 2018). – (See Article 17 of Act no. 1,338 of 7 September 2007).***

(Former Chapter X renumbered by Act no. 1,503 of 23 December 2020)

Article 82 .- ***(Former Article 48 renumbered by Act no. 1,462 of 28 June 2018). - (See Article 8 of Act no. 1,144 of 26 July 1991).***

(Former Chapter X renumbered by Act no. 1,503 of 23 December 2020)

Article 83 .- ***(Former Article 49 renumbered and amended by Act no. 1,462 of 28 June 2018)***

The conditions and procedure for application of this Act shall be laid down and specified by Sovereign Ordinance.

Act no. 1,162 of 7 July 1993 on participation by financial organisations in the fight against money laundering and terrorist financing, amended, and any provision contrary to this Act and its implementing instruments, are repealed.

In all legislative and regulatory texts in force, references to the provisions of Act no. 1,162 of 7 July 1993 shall be replaced, where appropriate, by references to the provisions of this Act.

A term of imprisonment of two years and the fine provided by point 4 of Article 26 of the Criminal Code, the amount of which may be increased to ten times the amount of any profits made but may not be less than the amount of such profits, shall be imposed upon any person who enters into a transaction, places an order to trade or adopts a behaviour which:

- gives or is likely to give misleading indications as to the supply of, or demand for, or price of a financial instrument, or which secures or is likely to secure the price of a financial instrument at an abnormal or artificial level;

- affects the price of a financial instrument by employing fictitious devices or any other form of deception or contrivance so as to hinder the normal function of a financial instrument market by misleading others.