

**THE ISLAMIC REPUBLIC OF AFGHANISTAN - ANTI-MONEY LAUNDERING  
AND PROCEEDS OF CRIME LAW**

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## CHAPTER ONE

### GENERAL

#### Article 1 – Purpose

The purpose of this law is to prevent and prohibit the use of financial institutions or any economic activities for money laundering and for the financing of terrorism.

#### Article 2 – Terms

- 1) For the purposes of the present law, the terms below shall have the following meanings:
  - a) "*confiscation*" means the permanent deprivation of funds and property by final order of a competent court whereby the ownership of such funds and property and the title, if any, evidencing such ownership, is transferred to the state;
  - b) "*criminal organization*" means any structured group of two or more persons acting in concert with the aim of committing one or more criminal offences, in order to obtain, directly or indirectly, funds and property or any kind of financial or other material benefit;
  - c) "*customer*" in relation to a transaction or an account includes:
    1. the person in whose name a transaction or account is arranged, opened or undertaken;
    2. a signatory to a transaction or account;
    3. any person to whom a transaction has been assigned or transferred;
    4. any person who is authorized to conduct a transaction; or
    5. Such other person as may be prescribed.

- d) “*financial institutions*” means any person or entity who conducts as a business one or more of the following activities or operations for or on behalf of a customer:
- i. Acceptance of deposits and other repayable funds from the public, including private banking;
  - ii. Lending, including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfaiting);
  - iii. Financial leasing, not extended to financial leasing arrangements in relation to consumer products;
  - iv. The transfer of money or its equivalent, including financial activity in both the formal or informal sector,
  - v. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveler’s cheques, money orders and bankers’ drafts, electronic money transfers);
  - vi. Financial guarantees and commitments;
  - vii. Trading in:
    - i. Money market instruments (cheques, bills, notes, derivatives etc.);
    - ii. foreign exchange;
    - iii. instruments whose value is determined by reference to an interest rate or yield or a foreign exchange rate or an index of prices or values of interest rates or yields, foreign exchange rates, securities or commodities;
    - iv. transferable securities;
    - v. Commodity futures.
  - viii. Participation in securities issues and the provision of financial services related to such issues;
  - ix. Individual and collective portfolio management;
  - x. Safekeeping and administration of cash or liquid securities on behalf of other persons;
  - xi. Otherwise investing, administering or managing funds or money on behalf of other persons;
  - xii. Underwriting and placement of life insurance and other investment related insurance, including insurance undertakings and insurance intermediaries (agents and brokers); and
  - xiii. Money and currency changing.
- e) “*Freeze*” means provisionally (i) deferring the execution of a transaction or (ii) prohibiting or restraining the transfer, alteration, conversion, disposition or movement

of funds and property, on the basis of an order or directive from a competent authority.

- f) *"Financing of terrorism"* means the offence of financing of terrorism as defined in the law of terrorism.
- g) *"funds and property"* means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments, including electronic or digital, evidencing title to, or interest in, such assets;
- h) *"Instrumentality"* means any funds and property used or intended to be used in any manner, wholly or in part, to commit one or more criminal offences.
- i) *"Money laundering"* shall mean the offence set forth in Article 3 of this Law.
- j) *"money transmission services" means a person carrying on a business of:*
  - (a) *Exchanging cash or the value of money;*
  - (b) *collecting, holding, exchanging or remitting money or its equivalent or otherwise arranging transfers of money or of its equivalent, on behalf of other persons;*
  - (c) *delivering funds; or*
  - (d) *Issuing, selling or redeeming traveler's cheques, money orders or similar instruments.*

"politically exposed person" means any person who is or has been entrusted with a prominent public function in the Islamic Republic of Afghanistan or in other countries, for example, heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned entities, and important political party officials. All family members of such persons, and close associates who have business or financial relationships with such persons are also included herein.

- k) "*Predicate offence*" means any criminal offence, even if committed abroad, enabling its perpetrator to obtain proceeds as defined in subparagraph (k) of this article.
- l) "*Proceeds of crime*" means any funds and property derived from or obtained directly or indirectly through the commission of an offence.
- m) "*reporting entity*" means the natural and legal persons referred to in Article 4 of this Law;
- n) "*Seizure*" means provisionally assuming custody or control of funds and property by a competent authority on the basis of an order issued by a court.
- o) "*Suspicious transaction*" means a transaction described in Article 17 of this Law.

### **Article 3 – Money laundering offence**

- (1) A person commits the offence of money laundering if the person:
  - (a) Conceals, disguises, converts, transfers, removes from or brings into the Islamic Republic of Afghanistan funds and property, knowing or having reason to believe that it is derived directly or indirectly from acts or omissions:
    - (i) in the Islamic Republic of Afghanistan which constitute an offence against any law of the Islamic Republic of Afghanistan; or
    - (ii) outside the Islamic Republic of Afghanistan which constituted an offence in the place where they occurred and which, had they occurred in the Islamic Republic of Afghanistan, would have constituted an offence against the law of the Islamic Republic of Afghanistan; or
  - (b) acquires, possesses or uses funds and property knowing or having reason to believe that it is derived directly or indirectly from those acts or omissions; or

(c) enters into or participates in an arrangement or transaction knowing or having reason to believe that it facilitates (by whatever means) the acquisition, retention, use or control of funds and property derived directly or indirectly from those acts or omissions by or on behalf of another person.

(2) Concealing or disguising funds and property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

(3) Knowledge or belief as an element of the offences in subsection 1 may be inferred from objective factual circumstances.

## CHAPTER II. PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

### A. Chapter I. General provisions

#### Article 4 – Institutions and professions subject to this law

- 1) This law shall apply to the following institutions and professions, hereinafter referred to as “reporting entities,” which shall be subject to the measures and obligations prescribed by this law:
  - a) financial institutions, including branches and representative offices of nonresident financial institutions; ;
  - b) Da Afghanistan Bank, to the extent that it engages in commercial banking services under Article 129 of the DAB Law;
  - c) dealing in bullion, precious metals and precious stones, to the extent that they are engaging in a cash transaction equal to or exceeding 1,000,000 Afghani;
  - d) a lawyer, *rahnamai mamelaat* (transaction guide), other independent legal professional, or accountant, when they arrange or carry out transactions for their client concerning the following activities:
    - i) buying and selling immovable assets;
    - ii) managing client money, securities or other assets;

- iii) opening or managing bank savings accounts or a *securities service provider* account`;
  - iv) securing capital necessary for the creation, operation or management of companies; and
  - v) Creating, operating or managing a legal person or business organization and buying and selling of business entities.
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- e) real estate agent to the extent that such agent is engaging in transactions concerning the buying and selling of real estate;
  - f) Such other entities and activities and in such circumstances as may be prescribed by regulation of Da Afghanistan Bank.

### **Chapter III. Transparency in financial transactions**

#### **Article 5 – transfers of funds via financial institutions and the originator information on electronic funds transfers**

- 1) Any transfer to or from foreign countries of monies or securities involving a sum equal to or exceeding 1,000,000 Afghani or its equivalent in foreign currency shall be effected by or through an authorized financial institution or an authorized money transmission service.
- 2) A financial institution and the money remittance service shall include accurate originator information and other related messages on electronic funds transfers and other forms of funds transfers and such information shall remain with the transfer.
- 3) Paragraph 2 shall not apply to an electronic funds transfer, other than a money transfer effected from the use of a credit or debit card as means of payments that results from a transaction carried out using a credit or debit card, provided that the

credit or debit card number is included in the information accompanying such a transfer.

- 4) Paragraph 2 shall not apply to electronic funds transfers and settlements between financial institutions where the originator and beneficiary of the funds transfer are acting on their own behalf.

## **Article 6 – Currency Reporting at the Border**

- 1) Any person (a) who leaves or arrives in the Islamic Republic of Afghanistan with or (b) imports or exports, by mail, courier, or otherwise

more than one million in cash or negotiable bearer instruments without first having reported in writing the fact to the relevant authority is guilty of an offence and shall be punishable on conviction by a fine of an amount equal to the cash he holds.

- 2) For the purpose of this article, the terms:

- (a) “authorized officer” means:

- i) a Police Officer; or
    - ii) a Customs Officer; and
    - iii) an employee of financial intelligence unit

- (b) “negotiable bearer instrument” means a writing representing a promise to pay money, (including bills of exchange, promissory notes or certificates of deposit) which may be payable to the bearer.

- 3) Where a person:

- (a) is about to leave the Islamic Republic of Afghanistan or has arrived in the Islamic Republic of Afghanistan; or

- (b) is about to board or leave, or has boarded or left, any ship or aircraft;

*then*. an authorized officer, in order to determine whether the person has in his or her possession, any cash or negotiable bearer instruments reportable under paragraph (1) of this article, and using such assistance, including the use of force as is reasonable and necessary,, may

- (a) Examine any article which a person has with him or her or in his or her luggage; and
  - (b) Search the person, if the officer has reasonable grounds to suspect that an offence under paragraph (1) of this article may have been or is being committed,;
- 4) A person shall not be searched except by a person of the same sex.
- 5) An authorized officer, and any person assisting such officer, may stop, board and search any ship, aircraft and other instruments used for the transportation .
- 6) Where an authorized officer has reasonable grounds to believe that cash or negotiable bearer instruments found in the course of an examination or search, conducted under paragraph (3) or (4) of this article, may afford evidence as to the commission of a covered offence the officer may seize the cash or negotiable bearer instruments.
- 7) An authorized officer who has seized cash and negotiable bearer instrument under paragraph (6) of this article shall report such seizure to the Financial Intelligence Unit within five working days after a seizure. An officer shall be authorized to inform the Financial Intelligence Unit once per month of all reported cross-border transfers of cash and other negotiable instruments and forward the copies of reports made by persons leaving or entering the Islamic Republic of Afghanistan.
- 8) Where the cash and negotiable bearer instruments have not been claimed by any person within two years of it being seized or detained, an authorized officer may make an application to the Court that such cash or negotiable instrument be forfeited to the Islamic Republic of Afghanistan.
- 9) No cash or negotiable bearer instruments detained under this section shall be released where –
- a. an application is made under chapter II of this Law for the purpose of the forfeiture of the whole or any part of the currency;
  - b. its continued detention is required pending determination of its liability to forfeiture; or
  - c. proceedings are instituted in the Islamic Republic of Afghanistan or elsewhere against any person for an offence with which the currency is connected,

### **Article 7– Overriding of secrecy**

Each reporting entity, supervisory authority and auditor shall comply with the requirements of this Law notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any law or otherwise.

### **Article 8 – Prohibition of anonymous accounts or similar products**

Reporting entities shall not keep anonymous accounts, or accounts in obviously fictitious names.

### **Article 9 – Identification of customers**

- 1) Reporting entities shall identify and verify the identity of their customers in the following circumstances when:
  - a. carrying out transactions equal to or exceeding 1,000,000 Afghani;
  - b. in receipt of a electronic transfer that does not contain complete originator information
  - c. there is a suspicion of money laundering or financing of terrorism; or
  - d. The reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.
  - e. establishing business relations with any person,
- 2) A natural person's identity shall be verified by the presentation of an original national identity card or passport that is current and bears a photograph, a copy or record of which shall be retained by the reporting entity, or such other documentation as may be prescribed in regulations by Da Afghanistan Bank.
- 3) A legal person shall be identified by the production of its current certificate of registration, license, or articles of association, a copy or record of which shall be retained by the reporting entity, or such other documentation establishing that it has been lawfully registered and that it is actually in existence at the time of the identification as prescribed in regulations by Da Afghanistan Bank. In addition, a legal person shall provide documentation regarding its owners and the ownership structure, and the reporting entity shall take reasonable measures to verify the identity of the actual owners of such legal person.

- 4) Directors, employees or agents acting or purporting to act on behalf of a customer shall provide appropriate evidence, including but not limited to a current power of attorney issued by a competent court in the Islamic Republic of Afghanistan, establishing the authority under which such person is acting as a representative, and also provide proof of identity, along with verification of identity of the natural person on whose behalf such agent acts or purports to act, in accordance with paragraph (2) above. A copy or record of these documents shall be retained by the reporting entity. Documentation which shall constitute appropriate evidence may be prescribed in regulations by Da Afghanistan Bank.

#### **Article 10 – Identification of customers in case of a series of related transactions**

Identification shall be required, even if the amount of the transaction exceed one million Afghani, if the transaction is one of a series of transactions that are or appear to be connected and would together surpass such amount..

#### **Article 11 - Consequences of failure to identify customers or beneficial owners**

If a reporting entity is unable to meet its obligations with respect to the identification procedures under articles 9 and 10 or any doubt remains as to the true identity of the customer or beneficial owner, it shall not open the account, commence or continue business relations or perform the transaction. In addition, the reporting entity shall submit a suspicious transaction report.

#### **Article 12 – special monitoring of transactions**

- 1) Reporting entities shall pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.
- 2) The report shall be maintained as specified in article [14].
- 3) Reporting entities shall pay special attention to business relationships and transactions with persons from countries which do not or insufficiently apply anti-money

laundering and combating the financing of terrorism requirements equivalent to those contained in this law.

- 4) In relation to paragraphs (1) and (3), a reporting entity shall report the transactions and its findings to the Financial Intelligence Unit as a suspicious transaction under Article [17].

### **Article 13 – Due diligence measures for politically exposed persons**

Reporting entities should, in relation to politically exposed persons, in addition to performing normal due diligence measures:

- a. have appropriate risk management systems to determine whether the customer is a politically exposed person;
- b. obtain senior management approval for establishing business relationships with such customers;
- c. take reasonable measures to establish the source of wealth and source of funds; and
- d. Conduct enhanced ongoing monitoring of the business relationship.

### **Article 14 – Record-keeping**

- 1) Reporting entities should maintain, for at least five years, all necessary records on transactions, both domestic and international.
- 2) Reporting entities should keep records on the identification data obtained through the customer due diligence process as required by article 9 for at least five years after the business relationship has ended. The identification data and transaction records should be available to domestic officials who are legally authorized.
- 3) Da Afghanistan Bank may, by regulation require banks to establish and maintain a centralized database consisting of information from branches on a national basis on the identity of customers, principals, beneficiaries, agents and beneficial owners, and on suspicious transactions.

### **Article 15 – Reporting of certain transactions**

A reporting entity shall report to the Financial Intelligence Unit in such form and manner and within such period as may be prescribed in regulations by Da Afghanistan Bank any transaction in cash in an amount as may be so prescribed, by Da Afghanistan Bank, unless the recipient and the sender are financial institutions.

### **Article 16 – Reporting of suspicious transactions**

- 1) Where a reporting entity:
  - (a) Suspects that any transaction or attempted transaction may be related to or derived from the commission of an offence;
  - (b) Suspects that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organizations,

The reporting entity, as soon as practicable after forming that suspicion, but no later than such period as may be prescribed in regulations by Da Afghanistan Bank, shall report the transaction or attempted transaction, to the Financial Intelligence Unit.

- 2) The reports required of reporting entities under this Law shall be sent to the Financial Intelligence Unit in a form and by any rapid means of communication as may be determined in regulations of Da Afghanistan Bank

- 3) Reporting entities shall be required to report a suspicious transaction carried out even if it became clear only after completion of a transaction that there were grounds for suspicion.

- 4) After having submitted a suspicious transaction report under this law, reporting entities shall also be required to report without delay any additional information that might confirm or invalidate the suspicion.

### **Article 17 - Supervisory authority or auditor to submit suspicious transaction report**

A Supervisory authority as defined in Article 18(b) or an auditor who,

- a. suspects that any transaction or attempted transaction may be related to or derived from the commission of an offence; or

- b. has information that it suspects may be:

- i. relevant to an act preparatory to an [offence of the financing of terrorism];  
or
- ii. relevant to an investigation or prosecution of a person or persons for an offence, or may otherwise be of assistance in the enforcement of this Law;

Shall as soon as practicable after forming that suspicion or receiving the information, but no later than such period as may be prescribed in regulations by Da Afghanistan Bank, shall report the transaction, attempted transaction, or information to the Financial Intelligence Unit.

### **Article 18 – Internal anti-money laundering programs at reporting entities**

- 1) Reporting entities shall develop programs for the prevention of money laundering. Such programs shall include the following:
  - a. Development of internal policies, procedures and controls, including appropriate compliance management arrangements,;
  - b. Designation of the administrative officials responsible for enforcing the policies, procedures and controls;
  - c. Create adequate screening procedures to ensure high standards when hiring employees;
  - d. Ongoing training for officials or employees; and
  - e. Internal audit arrangements to check compliance with and effectiveness of the measures taken to apply the present law
- 2) Reporting entities are not required to implement subparagraphs (b) and (e) above if the total number of persons comprising staff and management consists of less than [5] such persons.

## **CHAPTER 1V DETECTION OF MONEY LAUNDERING**

### **Establishment of Financial Intelligence Unit and Collaboration with anti-money laundering authorities**

#### **Article 19– Establishment**

- 1) A Financial Intelligence Unit shall be established under the authority of Da Afghanistan Bank.
- 2) The Financial Intelligence Unit shall have independent decision-making authority for purposes of exercising its functions as specified in this law.
- 3) The budget of the Financial Intelligence Unit shall be determined by the Supreme Council of Da Afghanistan Bank.

#### **Article 20– Organization**

- 1) The Financial Intelligence Unit shall be headed by a Director General appointed for a term of five years by the Supreme Council; the Director General shall be eligible for reappointment [for an additional term.]
- 2) No person shall serve as Director General unless he satisfies the requirements of subparagraphs (a) through (f) of paragraph 2 of Article 20 of the Law of Da Afghanistan Bank.
- 3) The Director General shall be suspended or removed by the Supreme Council for any reason specified under paragraph 3 of Article 20 of the Law of Da Afghanistan Bank; no such suspension or removal shall be effective until such Director General or his legal representative has been afforded a reasonable opportunity to present his views before the Supreme Council.
- 4) The Director General, with the approval of the Governor, shall establish the number and type of staff positions for the Financial Intelligence Unit, and shall have the power to hire and dismiss such persons.

#### **Article 21 – Confidentiality**

The officers, employees, agents or such other persons appointed to posts in the Financial Intelligence Unit shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within the Financial Intelligence Unit. Such information may not be used for any purposes other than those

provided for by this law and may not otherwise be disclosed except by order of a court of competent jurisdiction.

#### **Article 22 – Limitation of duties of employees**

- 1) The employees or such other persons appointed to posts in the Financial Intelligence Unit may not concurrently perform duties in any reporting entity or hold or pursue any elective office, assignment or other activity which might affect the independence of their position.
- 2) No member of the staff of the FIU shall simultaneously have other employment, whether gainful or not, without the prior written approval of the Supreme Council.
- 3) The officers, employees, agents or such other persons appointed to posts in the Financial Intelligence Unit shall cease to exercise any investigatory powers held by them in their former employment.
- 4) The Supreme Council shall adopt a staff regulation covering conditions of employment at the Financial Intelligence Unit.

#### **Article 23 – Receipt and analysis of reports**

The Financial Intelligence Unit shall receive the reports transmitted by reporting entities. It shall analyze such reports on the basis of all relevant information available to the Financial Intelligence Unit.

#### **Article 24 – Collection of data**

The Financial Intelligence Unit shall, in conformity with any applicable laws and regulations, including, without limitation, laws and regulations on the protection of privacy and on computerized databases, operate a database containing all relevant information concerning reports as provided under this law.

### **Article 25 – annual reporting**

1. An annual report shall be drawn up by the Financial Intelligence Unit and submitted to the Supreme Council and the Council of Ministers of the Islamic Republic of Afghanistan. The report shall provide an overall analysis and evaluation of the reports received, money laundering trends, financing of terrorism and other work that Financial Intelligence Unit is engaged in, and such other matters as the Supreme Council and Council of Ministers may require.
2. The Financial Intelligence reports listed in paragraph one of this article does not include the annual report of a person connected to a suspicious transactions.

### **Article 26 – Access to and exchange of information**

- 1) In the Financial Intelligence Unit may ask any reporting entity to submit, without charge, any information, documentation and records, for the purposes of exercising its functions as specified in this law, and any such reporting entity shall comply with such request.
- 2) In order to perform its functions under this law and for no other purpose, the Financial Intelligence Unit shall, upon request or directly, be granted access to databases of the public authorities in the Islamic Republic of Afghanistan. Such authorities shall respond to such requests for information in an expeditious manner. In all cases, information thus obtained shall be used by the Financial Intelligence Unit only for purposes of exercising its functions as specified in this law.
- 3) The Financial Intelligence Unit, Da Afghanistan Bank, and the law enforcement authorities may exchange information on matters within the scope of this law.

### **Article 27 – Relationships with foreign counterparts**

- 1) The Financial Intelligence Unit may, spontaneously or on request, provide, receive or exchange information with foreign financial intelligence units and foreign counterparts performing similar functions with respect to reports of suspicious transactions, provided that this is done on a reciprocal basis, and that such counterparts are subject to similar requirements of confidentiality. It may, for that purpose, conclude cooperation or other agreements with such units.

- 2) Upon receipt of a request for information or transmission from a foreign financial intelligence unit regarding a report of a suspicious transaction, the Financial Intelligence Unit shall respond to that request in an expeditious manner within the scope of the powers conferred by this law.
- 3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

### **Article 28 – Prevention of money laundering**

The Financial Intelligence Unit shall perform the following duties for the prevention of money laundering:

- a. Proposing to competent bodies the enactment of legislation and adoption of regulations, as well as changes and amendments to laws and regulations concerning the prevention and detection of money laundering.
- b. participating in drawing up the list of indicators for recognizing suspicious transactions; and
- c. participating in the professional training of the staff of reporting entities, state bodies, and organizations with public authorizations;

## ***CHAPTER V Receipt of reports and freezing of transactions***

### **Article 29 – Receipt of Reports by the Financial Intelligence Unit**

The Financial Intelligence Unit shall acknowledge the receipt of the report.

### **Article 30 – Freezing of funds and property and transactions**

- 1) If, by reason of the seriousness or urgency of the case, the Financial Intelligence Unit considers it necessary, it may issue an order to freeze funds and property or a transaction for

a period not exceeding seven days, which shall be communicated immediately to the funds and property owner or reporting entity. If the Financial Intelligence Unit finds within the time provided above that the reasons for suspicion of money laundering no longer exist, it shall inform the funds and property owner or reporting entity that the freeze order has been lifted.

2) The Financial Intelligence Unit may, during such seven day period, refer the matter to the prosecutor. During the determination by the prosecutor, the order to freeze the funds and property or execution of the transaction may be extended by the prosecutor up to an additional seven days, and the funds and property owner or reporting entity notified thereof. The prosecutor shall act promptly to determine whether it is appropriate to submit an application to a competent court for an order to freeze the funds and property or the execution of the transaction. If an application has been submitted to the court, the order to freeze the funds and property or the execution of the transaction may be extended for the same time periods.

3) If the prosecutor finds within the time provided above that the reasons for suspicion of money laundering no longer exist, it shall inform the funds and property owner or reporting entity that the freeze order has been lifted.

4) If the Financial Intelligence Unit or the prosecutor does not act within the time provided above, the freeze order be considered lifted.

5) The term ‘funds and property’ referred to in this article shall includes the categories set forth in subparagraphs (a) through. (d) of paragraph (1) of Article 32.

### **Article 31 - Seizure of funds and property**

A competent court, on application of the prosecutor, may issue an order authorizing the prosecutor to seize funds and property associated with the offence that is the subject of an investigation of money laundering, as well as the proceeds of this offence and any evidence facilitating the identification of such funds and property or proceeds.

## ***CHAPTER VI. Confiscation***

### **Article 32 – Confiscation**

- 1) In the event of a conviction for the offence of actual or attempted money-laundering, an order shall be issued by a competent court for the confiscation of funds and property:
  - a. used or intended to be used to commit the offence,

- b. constituting the proceeds of the offence, including funds and property intermingled with such proceeds or derived from or exchanged from such proceeds,
- c. constituting income and other benefits obtained from such funds and property or proceeds, or
- d. described in paragraphs. a – c above that has been transferred to any party

unless the owner of such funds and property can establish that he paid the court finds that the owner of such funds and property acquired it by paying a fair price or in return for the provision of services corresponding to their value or on any other legitimate grounds, and that he was unaware of its illicit origin.

- 2) Where funds and property derived directly or indirectly from the offence has been intermingled with funds and property acquired from legitimate sources, the confiscation of the latter funds and property shall be ordered solely up to the value, as assessed by the court, of the proceeds and funds and property referred to above.
- 3) When the funds and property to be confiscated cannot be produced, confiscation may be ordered for funds and property of equivalent value, including any funds and property belonging directly or indirectly to a person convicted of a money laundering offence, or funds and property acquired from the person convicted by his spouse, cohabiter or dependent children, unless fair value has been paid for such funds and property.
- 4) The confiscation order shall specify the funds and property concerned and contains the necessary details to identify and locate it.

### **Article 33 – Confiscation orders**

When the offence which generated the proceeds cannot be prosecuted, either because the perpetrator or perpetrators are unknown or because there is a legal impediment to prosecution for that offence, the public prosecutor's office may request the judge to have an order issued for the confiscation of the seized funds and property. The judge to whom the request is referred may issue a confiscation order if evidence is adduced that the aforesaid funds and property constitutes proceeds of crime as defined herein.

### **Article 34 – Confiscation of funds and property of criminal organizations**

Property of which a criminal organization has power of disposal shall be confiscated unless the lawful origin of the property is established.

### **Article 35 – Avoidance of certain legal instruments**

1) Any legal instrument, executed free of charge or for a valuable consideration *inter vivos* or *mortis causa*, the purpose of which is to safeguard property from confiscation, as provided for in articles 32 to 34, shall be void. In the case of avoidance of a contract involving payment, the buyer shall be reimbursed only for the amount actually paid.

### **Article 36 – Disposal of confiscated funds and property**

- 1) Confiscated funds and property and proceeds shall accrue to the State, which may allocate them to a fund for combating organized crime. The confiscated funds and property shall remain encumbered, up to their value, by any rights *in rem* lawfully established in favor of third parties.
- 2) In cases where confiscation is ordered under a judgment by default, the confiscated funds and property shall accrue to the State and be realized in accordance with the relevant procedures on the matter. However, if the court, ruling on an application to set aside such judgment, acquits the person prosecuted, it shall order restitution to the value of the confiscated funds and property by the State, unless it is established that such funds and property is the proceeds of crime.

### **Article 37 – Rights of third parties on confiscated funds and property**

Anyone who claims to have a right over the assets or funds that are the subject of a confiscation order may appeal to the jurisdiction that issued the order within one (1) year of the date of that order.

### **Article 38 – Dissemination of reports**

- 1) Whenever reasonable grounds to suspect that an offence of money laundering has been committed, the Financial Intelligence Unit shall immediately forward for investigation a report on the facts, together with its opinion, to the prosecutor, which shall decide upon further action. That report shall be accompanied by any relevant documents, other than the actual suspicious transaction report.
- 2) The identity of the reporting party shall not appear in the report unless:
  - a) there are reasons to suspect that the organization or its employee committed the offence of money laundering or if the information is necessary in order to establish facts during criminal proceedings
  - b) if the submission of this information is requested in writing by the prosecutor or the competent court.

### **Article 39 - Power to examine**

- 1) Da Afghanistan Bank may exercise its powers under Articles 45 to **52** of the Law of Banking with respect to any matter covered by this law regarding entities licensed, regulated or supervised by it under the Law of Banking and Da Afghanistan Bank Law (hereinafter known as “regulated entities.”)
- 2) The Financial Intelligence Unit or any person it authorizes may examine the records and inquire into the business and affairs of any reporting entity, other than any regulated entity, for the purpose of ensuring compliance with item 4 up to 45 of this law but can not investigate the matter.. The regulated entities are excluded from these requirements.
- 3) The financial intelligence at any reasonable time, enter any business premises, in which the Financial Intelligence Unit believes, on reasonable grounds, that there are records relevant to ensuring compliance with item 4 to 45 of this law, the reporting entity shall forward all the information concerning operations and administrations that the financial intelligence unit required.
- 4) The Financial Intelligence Unit may transmit any information from, or derived from, such examination under sub articles 1-2 and 3 of this article to the appropriate domestic or foreign law enforcement authorities, if the Financial Intelligence Unit has reasonable grounds to suspect that the information is suspicious or is relevant to an investigation for non-compliance with this Act, a criminal offence, a money laundering offence or an offence of the financing of terrorism offence.
- 5) Any person who willfully or intentionally obstructs or hinders or fails to cooperate with the Financial Intelligence Unit in the lawful exercise of the powers is guilty of an offence and shall be punishable on conviction:
  - (a) in the case of an individual by a fine of 5,000 Afghanis or imprisonment for not more than three months, or both; or
  - (b) In the case of a body corporate by a fine 25,000 Afghanis.

### **Article 40 - Powers to Enforce Compliance**

Da Afghanistan Bank and any supervisory agency, with respect to reporting entities supervised by them, and the Financial Intelligence Unit, with respect to all other reporting entities, shall have the following powers to enforce this law;

1. Revocation or suspension of a business license
2. impose on the reporting entity a fine up to 3,000 Afghani
3. order the reporting entity to conduct an external audit of its affairs, at the expense of the reporting entity, by an auditor acceptable to Da Afghanistan Bank;
4. order the reporting entity to do all or any of the following:
  - a) Remove an administrator, officer or employee of the reporting entity from office;
  - b) Ensure that an administrator, officer or employee of the reporting entity does not take part in the management or conduct of the business of the reporting entity except as permitted by Da Afghanistan Bank;
  - c) Appoint a person or persons acceptable to Da Afghanistan Bank as administrator of the reporting entity for such term as the order specifies;

Each order or temporary order given to a reporting entity pursuant to this Law shall be in writing and shall include a statement describing the actions that the reporting entity is ordered to take. Each such order or temporary order may specify the time by which, or period of time during which, it is to be complied with.

Each such order or temporary order given to a reporting entity shall be served upon the head office of the reporting entity; except that orders and temporary orders concerning a domestic branch office or representative office of a non-resident reporting entity may be served upon that office. Each such order or temporary order shall be accompanied by a copy of the text of the decision of Da Afghanistan Bank to give the order or temporary order, stating the factual grounds for the order or temporary order, one or more reasons why the order or temporary order is given, and the provision of the law authorizing Da Afghanistan Bank to give the order or temporary order.

Any order issued to a reporting entity by Da Afghanistan Bank that is not an order that the reporting entity has consented to, may be submitted to [the Financial Services Tribunal established under Article 108 of the Law of DA Afghanistan Bank] for review within thirty days from the date of service of the order upon the reporting entity.

Each such order or temporary order enters into force at the time of its service upon the reporting entity, unless it specifies a later date for its effectiveness. The order or temporary order remains in effect and shall be fully complied with until it terminates in accordance with its terms, or it is replaced by another order or temporary order of Da Afghanistan Bank, or it is annulled upon review by a decision of the Financial Services Tribunal, or it is rescinded by Da Afghanistan Bank by notice in writing to the reporting entity. Da Afghanistan Bank shall rescind an order or temporary order whenever it is no longer necessary or appropriate.

### **Article 41 – Feedback**

From time to time, the Financial Intelligence Unit shall provide feedback to reporting entities regarding matters including, but not limited to, the quality of suspicious transaction reports, detection of money laundering, typologies, and, to the extent not confidential, investigations and prosecutions of offences relating to money laundering and the financing of terrorism.

## **Chapter VII. Exemption from liability**

### **Article 42 – Exemption from liability for bona fide reporting of suspicions**

- 1) No proceedings for breach of banking or professional secrecy shall be instituted and no civil, administrative or criminal action may be brought or any professional sanction taken against any person who in good faith transmits information or submits reports in accordance with the provisions of the present law.
- 2) No civil, administrative or criminal action may be brought against any reporting entity or its directors or employees by reason of any material loss resulting from the freezing of a transaction as provided for in article [30].

### **Article 43– Exemption from liability for Financial Intelligence Unit**

No proceedings shall be instituted and no civil, administrative or criminal action may be brought or any professional sanction taken against the Financial Intelligence Unit Director General, officers, employees, agents and experts of the Financial Intelligence Unit who in good faith carry out their duties in accordance with the provisions of the present law.

## **Chapter VIII. Investigative techniques**

### **Article 44 – Special investigative techniques**

- 1) For the purpose of obtaining evidence of the predicate offence and evidence of offences provided for under the present law, the judicial authorities may order for a specific period:
  - a. The monitoring of bank accounts and the like;
  - b. Access to computer systems, networks and servers;
  - c. The placing under surveillance or tapping of telephone lines, facsimile machines, or electronic transmission or communication facilities;

- d. The audio or video recording of acts and behavior or conversations;
- 2) . The judicial authorities may also order the seizure of, or obtaining of information about, notarial and private deeds, or of bank, financial and commercial records.
- 3) However, these operations shall be possible only when there are strong grounds for suspecting that such accounts, telephone lines, computer systems and networks or documents are or may be used by persons suspected of participating in offences referred to in the first paragraph of this article.

#### **Article 45 – Undercover operations and controlled delivery**

- 1) No punishment may be imposed on competent judicial authority who, for the sole purpose of obtaining evidence relating to offences referred to in the present law, perform, in the manner specified in the following paragraph, acts which might be construed as elements constituting any of the offences referred to in articles 3, 48 and 50.
- 2) The authorization of the competent judicial authority shall be obtained prior to any operation as described in the preceding paragraph. A detailed report shall be transmitted to that authority upon completion of the operation.
- 3) The authority may, by substantiated ruling issued at the request of the competent judicial authority [competent to investigate the predicate and money laundering offences] carrying out such operation, delay the freezing or seizure of the money, or any other funds and property or advantage, until the inquiries have been completed and, if necessary, order specific measures for the safe keeping thereof.

### **CHAPTER IX. COERCIVE MEASURES AND PUNISHMENT**

#### **Punishment of the natural person**

#### **Article 46 – Money-laundering**

- 1)

- 4) a natural person committing the offence of money laundering shall be punished with imprisonment for not less than two years or more than five years or a fine of not less than 50,000 Afghani or more than 250,000 Afghani, or both.
- 5) An attempt to commit the offence of money laundering or aiding, abetting, facilitating or counseling the commission of any such offence shall be punishable as if the offence had been committed.

#### **Article 47 – Penalties applicable to corporate entities**

- 1) When the offence of money laundering is committed by an employee, agent or representative acting under their management or control, corporate entities, other than corporate entities owned by the Islamic Republic of Afghanistan, shall be liable to a fine of not less than 250,000 Afghani and not more than 1,250,000 Afghani, without prejudice to the conviction of those individuals as perpetrators of the offence or accessories to it.
- 2) Corporate entities may additionally be:
  - a. banned for a period not to exceed five years from directly or indirectly carrying on certain business activities;
  - b. dissolved if such corporation had been established for the purpose of committing the offence in question or it allowed its premises to be used for such purposes; and
  - c. required to publicize the judgment in the press or in any other audiovisual media.

#### **Article 48 – Penalties for offences related to money laundering**

- d. A natural or juridical person is committing the following offence shall be punished under the article 46 and 47 of this law.
- e. a person commits an offence who intentionally discloses any information regarding a report required to be filed under this Law to the person or persons to whom the report relates or to any other person not entitled to such information;
- f.
- g. intentionally destroys or removes registers or records which, in accordance with this Law must be maintained;

- h.
- i. under a false identity performs or attempts to perform any of the operations specified in articles , 5, 9 to 11, and 18;
- j.
- k. having learned, by reason of his trade or occupation, of any action by the Financial Intelligence Unit, or any money laundering inquiry or investigation by law enforcement authorities prior to the public disclosure of that action, inquiry or investigation by the appropriate authorities knowingly discloses that fact, by any means, to the person or persons to whom the investigation relates or to any other person not entitled to such information;
- l.
- m.
- n. communicates deeds or records specified in article 44 to the judicial authorities or to the officials competent to investigate criminal offences, knowing such deeds or records to contain errors or omissions, without informing them of that fact;
- o.
- p. otherwise communicates or discloses information or records required to be kept confidential under this Law to any person offence not authorized to receive such information or records by this Law; or
- q. intentionally fails to report a suspicion, as provided for in article 17,

2) A person commits an offence who:

- a. fails to report a suspicious transaction, as provided for in article 16;
- b. contravenes the provisions of article 5 concerning international transfers of funds and originator information; and
- c. contravenes the provisions of articles 8 to 14.

1. The penalty for the commission of the offences above shall be as follows: in the case of a natural person, imprisonment for not less than six months and not more than one year or a fine of not less than 5,000 Afghani and not more than 25,000 Afghani, or both,
2. with respect to corporate entities, a fine of not less than 25,000 Afghani and not more than 125,000 Afghani.
3. Persons found guilty of any offence or offences set forth in paragraphs 1 and 2 above may also be banned permanently or for a maximum period of five years from

pursuing the trade or occupation which provided the opportunity for the offence to be committed.

#### **Article 49 – Aggravating circumstances**

, when the offence is perpetrated by a member of a criminal organization or by a corporate entity owned or controlled by such organization the penalty applicable in such cases shall be;

1. in the case of a natural persons shall not be less than five years and not more than 14 years and a fine of not less than 500,000 Afghani and not more than two million Afghani,
2. in case of a corporate entities, a fine of not less than two million Afghani and not more than 10 million Afghani.
3. the penal law on the aggravating circumstances shall be applicable on this law.

#### **Article 50 – Mitigating circumstances**

The general system of mitigating circumstances contained in Afghan law shall be applicable to the offences provided for under this law.

### **CHAPTER X INTERNATIONAL COOPERATION**

#### **Article 51 Requests for mutual assistance**

- 1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:
  - a. gathering evidence or taking statements from persons;
  - b. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  - c. serving judicial documents;
  - d. carrying out searches and seizures;

- e. examining objects and sites;
- f. providing information and evidentiary items;
- g. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

#### **Article 52 – Refusal to execute requests**

- 1) A request for mutual assistance may be refused only:
  - a. if it was not made by a competent authority according to the legislation of the requesting country or if it was not transmitted in the proper manner;
  - b. if its execution is likely to prejudice the law and order, sovereignty, security or fundamental principles of the law of the Islamic Republic of Afghanistan;
  - c. if the offence to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of the Islamic Republic of Afghanistan;
  - d. if the measures requested, or any other measures having similar effects, are not permitted by the legislation of the Islamic Republic of Afghanistan or if, under the legislation of Afghanistan, they are not applicable to the offence referred to in the request;
  - e. if the decision whose execution is being requested is not enforceable under the legislation of the Islamic Republic of Afghanistan;
  - f. if there are substantial grounds for believing that the measure or order being sought is directed at the person in question solely on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status; or
  - g. if the request relates to an offence of a political nature or is motivated by political considerations.
- 2) Bank secrecy may not be invoked as a ground for refusal to comply with the request.
- 3) The public prosecutor's office may appeal against a court's decision to refuse compliance within [?.?] days following such decision.

- 4) The Government of the Islamic Republic of Afghanistan shall promptly inform the foreign Government of the grounds for refusal to comply with its request.

#### **Article 53 – Request for Investigatory Measures**

- 1) Investigatory measures shall be undertaken in conformity with the legislation of the Islamic Republic of Afghanistan unless the competent foreign authorities have requested that a specific procedure compatible with the legislation of the Islamic Republic of Afghanistan be followed.
- 2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

#### **Article 54 – Requests for provisional measures**

- 1) The court to which a request from a competent foreign authority for the taking of provisional measures is referred shall order such requested measures in accordance with its own legislation. It may also take a measure whose effects correspond most closely to the measures sought. If the request is worded in general terms, the court shall order the most appropriate measures provided for under the legislation.
- 2) Should it refuse to comply with measures not provided for under its legislation, the court to which a request for the execution of provisional measures ordered abroad is referred may replace them by measures which are provided for under that legislation and whose effects correspond most closely to the measures whose execution is being sought.

#### **Article 55 – Requests for confiscation**

- 1) In the case of a request for mutual legal assistance for issuance of a confiscation order, the court shall rule only after referring the matter to the public prosecutor's office. The confiscation order shall apply to funds and property representing the proceeds or instrumentality of an offence under this law, or to funds and property used or intended to be used to commit a terrorist financing offense in violation of Article 2 of the Law on Combating the Financing of Terrorism, or that constitute the proceeds of such an offense. The confiscation order shall apply only to funds and property that are located in the territory of the Islamic Republic of Afghanistan and may provide for payment of a sum of money corresponding to the value of the funds and property.

- 2) The court to which a request for the enforcement of a confiscation order issued abroad is referred shall be bound by the findings of fact on which the order is based, and may refuse to grant the request solely on one of the grounds stated in article 52

#### **Article 56 – Disposal of confiscated funds and property**

- 1) The Islamic Republic of Afghanistan has the power to dispose of funds and property confiscated in its territory at the request of foreign authorities. However, the Islamic Republic of Afghanistan may reach agreements with foreign states providing for the sharing, systematically or on a case-by-case-basis, of funds and property derived from confiscations ordered upon request.

### **CHAPTER XI Extradition**

#### **Article 57 – Requests for Extradition**

- 1) Requests for the extradition of persons wanted for prosecution in a foreign State shall be executed in the case of the offences provided for in articles 3, [48 and 49] of the present law and Article 2 of the Law on Combating the Financing of Terrorism , or for the purpose of the enforcement of a sentence in respect of any such offence.
- 2) The procedures and principles laid down in the extradition treaty in force or mutual agreement between the requesting State and the Islamic Republic of Afghanistan, or any applicable international convention to which the Islamic Republic of Afghanistan is a party, shall be applied.

#### **Article 58. Precautionary Measurement**

If the public prosecutor's office determines that the circumstances warrant, it shall take appropriate steps to ensure the presence of the person covered by the request for extradition. The court in its discretion, or upon request from the public prosecutor's office, may place the subject of the extradition request under judicial control or in detention.

#### **Article 59 – Dual criminality**

Under the present law, and the Law on Combating the Financing of Terrorism , extradition shall be carried out only if the offence giving rise to extradition or a similar offence is provided for under the legislation of the requesting State and of the Islamic Republic of Afghanistan.

### **Article 60 – Mandatory grounds for refusal**

- 1) Extradition shall not be granted:
  - a. if there are substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;
  - b. if a final judgment has been rendered in the Islamic Republic of Afghanistan in respect of the offence for which extradition is requested;
  - c. if the person whose extradition is requested has, under the legislation of either country, become immune from prosecution or punishment for any reason, including lapse of time or amnesty;
  - d. if the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in article 14 of the International Covenant on Civil and Political Rights;
  - e. if the judgment of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defense and has not had or will not have the opportunity to have the case retried in his or her presence.

### **Article 61 – Optional grounds for refusal**

- 1) Extradition may be refused:
  - a. if after a case has been referred to the competent authorities of the Islamic Republic of Afghanistan, such authorities have decided either not to institute or to terminate proceedings against the person concerned in respect of the offence for which extradition is requested;
  - b. if a prosecution in respect of the offence for which extradition is requested is pending in the Islamic Republic of Afghanistan against the person whose extradition is requested;
  - c. if the offence for which extradition is requested has been committed outside the territory of either country and the legislation of the Islamic Republic of

Afghanistan does not provide for jurisdiction over offences committed outside its territory in comparable circumstances;

- d. if the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;
- e. if the Islamic Republic of Afghanistan, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of the person in question would be incompatible with humanitarian considerations in view of the age, health or other personal circumstances of that person.

***Options:***

- f. if the offence for which extradition is requested is regarded under the legislation of the Islamic Republic of Afghanistan as having been committed in whole or in part within its territory.
- g. if the person whose extradition is requested is liable to the death penalty in respect of the offence of which that person is accused in the requesting country, unless that country gives sufficient assurances that the penalty will not be carried out.
- h. if the person whose extradition is requested is a national of the Islamic Republic of Afghanistan.

**Article 62 – Duty to extradite or to refer to prosecutor in International Law**

If the Islamic Republic of Afghanistan refuses extradition, it shall refer the case to its competent authorities in order that proceedings may be instituted against the person concerned in respect of the offence which gave rise to the request.

**Article 63 – Surrender of funds and property**

- 1) Within the limits authorized under the national legislation and subject to the rights of third parties, all funds and property found in the territory of the Islamic Republic of Afghanistan that has been acquired as a result of the offence committed or that may be required as evidence shall be surrendered to the requesting State if extradition is granted, upon request by that state.

- 2) The funds and property in question may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to cannot be carried out.
- 3) Should the funds and property be liable to seizure or confiscation in the territory of the Islamic Republic of Afghanistan, the State may temporarily retain it or hand it over.
- 4) Where the national legislation or the rights of third parties so require, any funds and property so surrendered shall be returned to the Islamic Republic of Afghanistan free of charge, after the completion of the proceedings, if the Islamic Republic of Afghanistan so requests.

## **Chapter XII. Provisions common to requests for mutual assistance and requests for extradition**

### **Article 64 – Non-criminal nature of offence**

For the purposes of the present law, and and the Law on Combating the Financing of Terrorism the offence referred to in article 3 shall not be regarded as offences of a political nature, offences connected with a political offence, offences inspired by political motives, or fiscal offences.

### **Article 65 –Transmission of requests**

- 1) Requests sent by competent foreign authorities with a view to establishing money laundering offences, terrorist financing offenses as referred to in the Law on Combating the Financing of Terrorist Financing ,or to enforcing or ordering provisional measures or confiscations or for purposes of extradition shall be transmitted through diplomatic channels.
- 2) In urgent cases, such requests may be sent through the International Criminal Police Organization (ICPO/Interpol) or directly by the foreign authorities to the judicial authorities of the Islamic Republic of Afghanistan, either by post or by any other, more rapid means of transmission leaving a written or materially equivalent record. In such cases, no official response shall be forwarded regarding the request unless notice is given through diplomatic channels. Requests and their annexes shall be accompanied by a translation in a language acceptable to the Islamic Republic of Afghanistan.

### **Article 66 – Content of requests**

- 1) Requests shall specify:

- a. Name and the authority requesting the measure;
- b. Name and the requested authority;
- c. the purpose of the request and any relevant contextual remarks;
- d. the facts in support of the request;
- e. any known details that may facilitate identification of the persons concerned, in particular marital status, nationality, address and occupation;
- f. any information necessary for identifying and tracing the persons, instrumentalities, proceeds or funds and property in question; and
- g. the text of the statutory provision establishing the offence or, where applicable, a statement of the law applicable to the offence and an indication of the penalty that can be imposed for the offence.

2) In addition, requests shall include the following particulars in certain specific cases:

- a. in the case of requests for the taking of provisional measures: a description of the measures sought;
- b. in the case of requests for the making of a confiscation order: a statement of the relevant facts and arguments to enable the judicial authorities to order the confiscation under domestic law;
- c. in the case of requests for the enforcement of orders relating to provisional measures or confiscations:
  - i. a certified true copy of the order, and a statement of the grounds on whose basis the order was made if they are not indicated in the order itself;
  - ii. a document certifying that the order is enforceable and not subject to ordinary means of appeal; and
  - iii. an indication of the extent to which the order is to be enforced and, where applicable, the amount of the sum for which recovery is to be sought in the item or items of funds and property; and

- d. where necessary and if possible, any information concerning third-party rights of claim on the instrumentalities, proceeds, funds and property or other things in question.
- 3) In the case of requests for extradition, if the person has been convicted of an offence: the original or a certified true copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable and the extent to which the sentence remains to be served.

#### **Article 67 – Handling of requests**

- 1) The [Minister of Foreign Affairs of the Islamic Republic of Afghanistan, after verifying that the request has been made in the proper manner, shall forward it to the public prosecutor's office at the place where the investigations are to be conducted or where the proceeds or funds and property in question are situated or where the person whose extradition is being requested is located.
- 2) The public prosecutor's office shall refer the matter to the officials competent to deal with requests for investigation or to the court competent to deal with requests relating to provisional measures, confiscations or extradition.
- 3) A judicial officer or a public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

#### **Article 68 – Additional information**

The Ministry of Foreign Affairs shall, *ex officio* or at the request of the court to which the matter is referred, be entitled to request, through diplomatic channels or directly, the competent foreign authority to provide all additional information necessary for complying with the request or facilitating compliance therewith.

#### **Article 69 – Requirement of confidentiality**

Where a request requires that its existence and substance be kept confidential, such requirement shall be observed except to the extent necessary to give effect to the request. If that is not possible, the requesting authorities shall be promptly informed to that effect.

#### **Article 70 – Postponement**

The public prosecutor's office may postpone referring the matter to the police authorities or to the court only if the measure or order sought could interfere with ongoing investigations or

proceedings. It shall immediately inform the requesting authority accordingly by diplomatic channels or directly.

#### **Article 71– Simplified extradition procedure**

With regard to the offences provided for under the present law or the Law on Combating the Financing of Terrorism,, the Islamic Republic of Afghanistan may grant extradition after receipt of a request for provisional arrest, provided that the person whose extradition is requested explicitly consents thereto.

#### **Article 72 – Restriction on the use of evidence**

The communication or use by the Islamic Republic of Afghanistan,, except with the prior consent of the foreign Government,.for investigations or proceedings other than those specified in the foreign request, of evidentiary facts contained therein, shall be prohibited,. Such other investigations or proceedings shall be invalidated,if this Article is violated.

#### **Article 73 – Allocation of Costs**

Costs incurred in complying with requests provided for under the present Law or the Law on Combating the Financing of Terrorism shall be borne by the requesting country unless otherwise agreed with the Islamic Republic of Afghanistan.

#### **Article 74 – Issuance of Regulations by Da Afghanistan Bank**

In carrying out its tasks under this law, Da Afghanistan Bank may issue regulations as it deems necessary with respect to the matters covered by this Law,

#### **Article 75. Entry into Force**

This law shall enter into force on the date of signature by the President of the Islamic Republic of Afghanistan and shall be published in the Official Gazette.