LAW OF 11 JANUARY 1993* ON PREVENTING USE OF THE FINANCIAL SYSTEM FOR PURPOSES OF LAUNDERING MONEY AND TERRORISM FINANCING

Chapter 1 - *General Provisions*

Article 1. This Law implements Council Directive 91/308/EEC of 10 June 1991 on use of the financial system for purposes of laundering money.

Article 2. The provisions of this Law are applicable to the financial institutions and individuals indicated below:

1° the National Bank of Belgium;

2° credit institutions listed in Article 13 of the Law of 22 March 1993 concerning the status and supervision of credit institutions, and the branch offices in Belgium of credit institutions governed by the laws of another European Community Member State, registered pursuant to Article 65 of the aforementioned Law;

3° investment companies governed by Belgian law approved in conformity with Article 47, §1 of the Law of 6 April 1995 concerning the secondary markets, the status and supervision of investment companies, investment intermediaries and advisors in the form of a brokerage firm [*société de bourse*];

4° insurance companies established in Belgium and approved to deal in life insurance pursuant to the Law of 9 July 1975 concerning the supervision of insurance companies;

5° the Postal Service;

6° investment companies governed by Belgian law approved in conformity with Article 47, §1 of the Law of 6 April 1995 concerning the secondary markets, the status and supervision of investment companies, investment intermediaries and advisors in the form of a financial instruments brokerage house [*société de courtage en instruments financiers*];

7° the Public Trustee Office [*Caisse des Dépôts et Consignations*];

8° investment companies governed by Belgian law approved in conformity with Article 47, §1 of the Law of 6 April 1995 concerning the secondary markets, the status and supervision of investment companies, investment intermediaries and advisors in the form of a financial management company [*société de gestion de fortune*];

9° investment advising companies established in Belgium, as referred to by Article 123 of the Law of 6 April 1995 concerning the secondary markets, the status and supervision of investment companies, investment intermediaries and advisors;

10° all individuals established in Belgium, as referred to by Article 139, section 1, 1°, of the aforementioned Law of 6 April 1995, which engage professionally in transactions as referred to by Articles 137, section 2 and 139 *bis*, section 2 of that same Law;

11° mortgage companies registered under Article 43 of the Law of 4 August 1992 on mortgage lending;

12° individuals or legal entities approved under Article 74 of the Law of 12 June 1991 on consumer credit;

13° individuals or legal entities which issue or manage credit cards;

14° lease-financing companies approved under Article 2 of Royal Decree No. 55 of 10 November 1967 establishing the legal status of companies engaged in lease-financing;

15° the branch offices in Belgium of investment companies governed by the laws of another European Union Member State, as referred to by Article 110 of the aforementioned Law of 6 April 1995;

16° the branch offices in Belgium of investment companies governed by the laws

* As amended by the Royal Decrees of 22 April 1994, 24 March 1995, 28 December 1999, 20 July 2000 and 21 September 2004, and by the Laws of 11 July 1994, 7 April 1995, the two Laws of 10 August 1998, the Law of 22 April 1999, of 4 and 7 May 1999, the Law of 3 May 2002 and the Law of 12 January 2004.

of States which are not members of the European Community, as referred to by Article 111 of the aforementioned Law of 6 April 1995;

17° the real estate agents referred to in Article 2 of the Royal Decree of 6 September 1993 protecting the professional title and exercise of the profession of real estate agent and who exercise the activities referred to in Article 3, 1 of the same Decree;

18° the guardian companies authorised, in application of Articles 1, §1, 3° and 2 of the Law of 10 April 1990 on guarding companies, security companies and internal guardian services, to provide services of surveillance and protection for transporting valuables;

19° investment companies governed by Belgian law approved in conformity with Article 47, §1 of the Law of 6 April 1995 concerning the secondary markets, the status and supervision of investment companies, investment intermediaries and advisors in the form of a firm for placement of orders in financial instruments.

20° market operators of the Belgian regulated markets, as far as it does not relate to their public assignments;

21° dealers in diamonds who are registered in application of article 169, §3, of the Program Law of 2 August 2002;

22° insurance brokers as mentioned in the Law of 27 March 1995 on insurance brokerage and the distribution of insurances, who perform their professional activities outside any exclusive agency agreement in the group of activities "life" referred to in the Law of 9 July 1975 concerning the supervision of insurance companies;

23° specialists in derivative instruments established in Belgium as referred to in Article 45*bis* of the aforementioned Law of 6 April 1995;

The King may add other financial institutions or individuals to the list provided in section 1.

Moreover, he may revise the list when implementing other legal provisions.

Article 2*bis*. To the extent that they expressly provide for it, the provisions of this law are also applicable to the following persons :

1° notaries;

2° bailiffs;

3° individuals or legal entities that are members of the Institute of Company Auditors, in conformity with Articles 4 to 4*ter* of the Law of 22 July 1953 creating an Institute of Company Auditors who exercise activities in Belgium;

4° individuals or legal entities registered on the list of external certified accountants and on the list of external tax advisors referred to in article 5, §1 of the Law of 22 April 1999 on the accounting and fiscal professions, as well as the individuals or legal entities registered on the roll of approved accountants and on the roll of approved tax specialist-accountants referred to in article 46 of the same Law;

5° individuals or legal entities who operate one or several class I games as referred to in the Law of 7 May 1999 on gaming, gaming halls and the protection of the players.

Article 2*ter*. To the extent that they expressly provide for it, the provisions of this law are also applicable to lawyers:

1° when they assist their client in the planning or execution of transactions concerning the:

a) buying and selling of real property or business entities;
b) managing of client money, securities or other assets;
c) opening or management of bank, savings or securities accounts ;
d) organisation of contributions necessary for the creation, operation or management of companies;
e) creation, operation or management of trusts, companies or similar structures;

2° or when they act on behalf of and for their client in any financial or real estate transaction.

Article 3. §1. For the purpose of implementation of this Law, the laundering of money means:

- converting or transferring money or other assets for the purpose of concealing or disguising their illicit origin or assisting any

individual involved in the offence from which this money or these assets derive to avoid the legal consequences of his actions;

- concealing or disguising the nature, origin, location, use, movement or ownership of money or assets known to be of illicit origin;

- acquiring, holding, or using money or assets known to be of illicit origin;

- participating in any of the acts referred to in the foregoing three points, association for the purpose of committing said acts, attempting to commit said acts, assisting in their perpetration, inciting or advising someone to commit said acts or facilitating their commission;

§1bis. For the purpose of implementation of this Law, the financing of terrorism is understood in the meaning of Article 2, §2, b) of the framework decision of the Council of the European Union of 13 June 2002 on combating terrorism and of Article 2 of the International Convention for the suppression of the financing of terrorism approved in New York on 9 December 1999.

§ 2. For purposes of implementation of this Law, the origin of money or assets is illicit when derived from:

1° The commission of an offence linked to:

- terrorism or the financing of terrorism;
- organised crime;
- illicit trafficking in narcotics;
- illicit trafficking in weapons, goods and merchandise;
- trafficking in illegal labour;
- trafficking in human beings;
- exploitation of prostitution;
- illicit use in animals of hormonal substances or illegal trade in such substances;
- illicit trafficking in human organs and tissues;
- fraud to the detriment of the financial interests of the European Communities;
- serious and organised fiscal fraud setting in motion complex mechanisms or procedures with an international dimension;
- embezzlement by public officials and corruption;
- serious environmental crime;
- counterfeiting currency or bank notes;
- counterfeiting products;
- piracy.

2° stock market-related offences or an improper public appeal for savings or providing investment, foreign exchange or fund transfer services without licence;

3° fraud, breach of trust, abuse of corporate assets, hostage-taking, theft or extortion using violence or threats, or an offence related to the state of bankruptcy.

§ 3. The institutions and individuals referred to in Articles 2, 2bis and 2ter shall provide full assistance in enforcement of this Law by identifying all acts of money laundering and terrorism financing.

Chapter II - *Identification of Clients and Internal Organisation at the level of the Institutions and Individuals referred to in Articles 2, 2bis and 2ter*

Article 4. §1. The institutions and individuals referred to in Articles 2, 2bis, 1° to 4°, and 2ter must identify their clients and their agents and verify their identity by means of a supporting document, of which a copy is made on paper or by electronic means, when:

1° they establish business relations that will make them regular clients;

2° the client wishes to perform:

a) a transaction for an amount of 10.000 EUR or more, whether performed in a single or several apparently related transactions; or

b) a transaction, even for an amount lower than 10.000 EUR, as soon as there is a suspicion of money laundering or terrorism financing; or

c) a transfer of funds referred to in Article 139bis, paragraph 2 of the Law of 6 April 1995 concerning the status and supervision of investment companies, investment intermediaries and investment advisors;

3° they have doubts about the veracity or adequacy of the identification data regarding an existing client.

The identification and verification must cover the name, first name and address for individuals. Notwithstanding Article 5, §1, they also cover the name, registered office and directors for legal entities and trusts, as well as knowledge of the provisions regarding the

power to commit the legal entity or the trust. The identification also covers the object and presumed nature of the business relationship.

§2. The institutions and individuals referred to in Articles 2, 2bis, 1° to 4°, and 2ter must observe constant diligence regarding the business relationship and carefully examine the performed transactions in order to make sure that they are consistent with the knowledge they have of their client, of his commercial activities, of his risk profile and, where necessary, of the origin of the funds.

§3. When the institutions and individuals referred to in Articles 2, 2bis, 1° to 4°, and 2ter cannot satisfy their due diligence obligation referred to in § 1 and 2 above, they may not enter into or maintain a business relation. They decide whether there are grounds to inform the Financial Intelligence Processing Unit.

§4. The institutions and individuals referred to in Article 2, with the exception of 17°, 18° and 21°, are authorised to have the due diligence obligations of § 1 and 2 above executed by a third party business introducer, as long as the latter is also a credit or financial institution referred to in Article 1 of Directive 91/308/EEC or a credit or financial institution established in a state whose legislation imposes equivalent due diligence obligations to those set forth in Articles 4 and 5 of this Law. The member states of the Financial Action Task Force on money laundering are presumed to satisfy this condition. The King may extend this presumption to other states upon recommendation of the Financial Intelligence Processing Unit.

§5. The institutions referred to in Article 2 whose activity covers the transfer of funds in the meaning of Article 139bis of the Law of 6 April 1995 on the status and supervision of investment companies, intermediaries and advisors are required to incorporate in the remittances and transfers and related messages accurate and useful information regarding their clients ordering such transactions. The same institutions shall conserve all this information and pass it on when they act as intermediary in a payment chain.

§6. The modalities of application of the obligations enumerated above shall be specified by the authorities referred to in Article 21 of this Law and, where appropriate, by regulation in accordance with Article 21bis of this Law, on a risk sensitive basis depending on the type of client, the business relationship or the transaction. As regards §5 this includes the circumstances in which the information must be kept or made available to authorities or other financial institutions, on the understanding that the regulation may contain specific provisions for cross-border transfers sent in batch.

Article 5. The institutions and individuals referred to in Articles 2, 2bis, 1° to 4° and 2ter must identify and take all reasonable measures to verify the identity of the individual or individuals for the account of whom the transaction is conducted:

1° in case of doubt on the question whether the clients referred to in Article 4 are acting for their own account or in case of certainty that they do not act for their own account;

2° when the client is a legal entity or a trust.

When the client is a legal entity or a trust, the measures include the identification of the individual or individuals who ultimately own or control the client.

When the client or holder of a controlling interest is a company quoted on the stock exchange, it is not necessary to identify its shareholders nor to verify their identity.

§2. The application modalities of the obligations enumerated above shall be specified by the authorities referred to in Article 21 of this Law and, where appropriate, by regulation in accordance with Article 21bis of this Law, on a risk sensitive basis depending on the type of client, the business relationship or the transaction.

Article 5*bis*. The persons referred to in Article 2*bis*, 5° must verify, using a supporting document of which a copy is made on paper or by electronic means, the identity of all clients wishing to perform a financial transaction relating to gambling. In this case, Article 5 is applicable.

Article 6. The institutions and individuals referred to in Article 2, 2bis, 1° to 4°, and 2ter are not subject to the identification requirements set forth in Articles 4 and 5 when the client is also an institution or individual referred to in Article 2, with the exception of 17°, 18° and 21°, or a credit or a financial institution referred to in Article 1 of Directive 91/308/EEC or a credit institution established in a state whose legislation imposes equivalent obligations as those set forth in Directive

91/308/EEC. The member states of the Financial Action Task Force on money laundering are presumed to satisfy this condition. The King may extend this presumption to other states upon recommendation of the Financial Intelligence Processing Unit.

Article 4 notwithstanding, identification is not required from the insurance companies referred to in Article 2, 4° and the insurance intermediaries referred to in Article 2, 22° which deal in life insurance, when the amount of the periodic premium(s) to be paid over the course of the year does not exceed 1,000 EUR or in the case of payment of a single premium whose amount does not exceed 2,500 EUR. If the periodic premium(s) to be paid over a one-year period are increased so as to exceed the 1,000 EUR ceiling, identification is required.

Article 6*bis*. The institutions and individuals referred to in Articles 2, 2bis and 2ter take specific and adequate measures necessary to deal with the increased risk of money laundering and financing of terrorism that exists when they enter into business relationship or perform a transaction with a client who is not physically present for the purposes of identification.

The application modalities of this obligation shall be specified by the authorities referred to in Article 21 of this Law and where appropriate by regulation in accordance with Article 21bis of this Law.

Article 7. The institutions and individuals referred to in Articles 2, 2bis and 2ter shall keep a copy of the supporting document that served as identification, using any kind of record-keeping system, for at least five years after ending their relationship with their clients or any other person referred to in Article 4, sections 1 and 2.

The same applies to documents used to provide the identification referred to in Article 5 and 5*bis*.

Without prejudice to the requirement stipulated in Article 6, section 4, of the Law of 17 July 1975 on accounting and the annual accounts of companies, the institutions and individuals referred to in Articles 2, 2*bis*, 1° and 5°, and 2ter shall keep a copy of the registrations, statements and documents from transactions conducted, using any kind of record-keeping system, for at least five years from the time the transactions were conducted, so that they can be reconstructed precisely. They record the transactions conducted in such a way as to be able to respond to requests for information referred to in Article 15 within the time limit referred to in that Article.

Article 8. The institutions and individuals referred to in Articles 2, 2*bis* and 2ter shall review with special attention any transaction they consider particularly likely, by its nature or its unusual character in view of the client's activities, by the circumstantial elements or by the capacity of the people involved, to be linked to money laundering or the financing of terrorism.

The institutions and individuals referred to in Articles 2 and 2bis, 5° shall prepare a written report regarding the results of such review; this report shall be sent to the individuals referred to in Article 10, so that it can be kept for the period stipulated in Article 7.

On opinion of the Banking and Finance Commission and the Financial Intelligence Processing Unit, the King may draw up a list of currency transactions which are particularly deemed to be linked to money laundering and terrorism financing, and regarding which the institutions and individuals referred to in Article 2 must prepare a written report to be sent to the persons referred to in Article 10.

Article 9. The institutions and individuals referred to in Articles 2, 2*bis* and 2ter shall take the appropriate measures to make their employees and representatives aware of the provisions of this Law. These measures include participation of their employees and representatives in special programmes to help them recognize transactions and facts that may be linked to money laundering and terrorism financing and instructing them on how to proceed in such cases.

Article 10. The institutions and individuals referred to in Articles 2 and 2*bis*, 5°, shall assign responsibility for the implementation of this Law to one or more individuals within their institution. These individuals shall be responsible primarily for establishing internal control procedures and for communicating and centralising information in order to prevent, pinpoint and block transactions linked to money laundering and terrorism financing. The internal control procedures shall specifically take into account the increased risk of money laundering and terrorism financing in cases of non face to face operations referred to in Article 6*bis*.

The application modalities of this obligation shall be specified by the authorities referred to in Article 21 of this Law and, where appropriate, by regulation in accordance with Article 21bis of this Law.

Chapter II*bis*. – *Restriction of Cash Payments.*

Article 10*bis*. The sales price of real estate may only be paid by means of a bank transfer or cheque, except for an amount not exceeding 10% of the sales price and as long as this amount is not higher than 15.000 EUR. The agreement and deed of sale must specify the number of the financial account from which the amount was or will be debited.

When the individuals referred to in Articles 2, 17° and 2*bis*, 1° establish that the above provision has not been respected, they immediately inform the Financial Intelligence Processing Unit.

Article 10ter. The price of a sale by a merchant for a product whose total value is equal or greater than 15.000 EUR may not be paid in cash.

Chapter III. - *Transmission of Information between the Institutions or Individuals referred to in Articles 2, 2bis and 2ter and the Authorities responsible for Combating Money Laundering.*

Article 11. §1. An administrative authority with legal personality bearing the name "Financial Intelligence Processing Unit," is hereby established. It shall be responsible for processing and transmitting information with a view to combating money laundering and terrorism financing.

§2. Without prejudice to the powers of the judicial authorities, this Authority shall be responsible for receiving and analysing information transmitted by the institutions and individuals referred to in Articles 2, 2*bis* and 2ter pursuant to Articles 12 to 15, by the supervisory authorities referred to in Article 21 pursuant to said Article and by the foreign institutions fulfilling functions similar to those of the Authority, within a framework of mutual co-operation. It shall take all measures necessary pursuant to Articles 12 to 16. The rules regarding the transmission of the information referred to in Articles 12 to 15 by the persons referred to in Articles 2, 2bis and 2ter may be determined by the King upon the advice of the Financial Intelligence Processing Unit.

§3. This Authority, composed of financial experts and a senior officer seconded from the federal police, shall be placed under the supervision of the Ministers of Justice and Finance and headed by a magistrate or his deputy temporarily detailed from the Public Prosecutor's Office. Its members shall be appointed by the King.

They may not perform concomitantly or have performed in the year preceding their appointment the duties of an administrator, director, manager, or agent in the institutions or for the individuals referred to in Articles 2 and 2*bis*, 5°.

§4. At least once a year, this Authority shall prepare a report on its activities for the aforementioned Ministers.

§5. At the time of their appointment, the financial experts must fulfil the following requirements:

1. be of Belgian nationality;
2. enjoy civil and political rights;
3. be at least 35 years old;
4. have their domicile in Belgium;
5. have at least 10 years of experience in the performance of judicial, administrative or scientific duties relating to the operations of the individuals and institutions referred to in Article 2.

The financial experts shall take the oath stipulated in the Decree of 20 July 1831, administered by the Minister of Justice.

They cannot hold any elected public office or engage in any public or private employment or activity that could compromise the independence or integrity of the position.

§6. By Royal Decree, after discussion within the Council of Ministers, the King shall set the terms regarding the composition, organisation, operation and independence of this Authority.

§7. By Royal Decree, after discussion within the Council of Ministers, the King shall establish the contribution to the operating expenses of the Unit to be paid by the institutions and individuals referred to in Articles 2 and 2*bis*, as well as how they shall be collected.

§8. This authority is assimilated with the State for the application of the laws and regulations regarding income taxes, sales taxes, rights and fees of the State, the provinces, the municipalities and the agglomerations of municipalities.

Article 12. §1. When the institutions or individuals referred to in Article 2 are aware of or suspect that a transaction to be executed is linked to money laundering or terrorism financing, they shall inform the Financial Intelligence Processing Unit before executing the transaction, indicating, if applicable, the period within which it is to be executed. This information may be provided by telephone, but must be immediately confirmed by fax, or failing this, by any other written means.

The Unit shall provide immediate acknowledgement of receipt of this information.

§2. If the matter is serious or urgent, the Unit may, should it deem such action necessary, oppose execution of a transaction prior to expiration of the time period stipulated by the institutions or individuals referred to in Article 2.

Immediate notification of this opposition shall be provided by fax, or failing this, by any other written means.

This opposition shall halt the execution of the transaction for a maximum of two working days from the time of notification.

§3. If, in the judgement of the Unit, the action taken in §2 should be extended, it shall refer the matter immediately to the Crown Prosecutor or to the Federal Prosecutor, who shall make the necessary decisions. In the absence of a decision communicated to the institutions or individuals referred to in Article 2 within the time period stipulated in §2, the institutions or individuals shall be free to execute the transaction in question.

Article 13. Should the institutions or individuals referred to in Article 2 be aware or suspect that a transaction to be conducted is linked to money laundering or terrorism financing, and be unable to inform the Financial Intelligence Processing Unit before the transaction is executed, either because it is not possible to delay executing the transaction due to its nature, or because it could prevent prosecution of the individuals benefiting from the suspected money laundering or suspected terrorism financing, the institutions or individuals shall inform the Unit immediately after executing the transaction. In such a case, the reason why it was impossible to provide the information prior to executing the transaction must be indicated.

Article 14. Other than the cases referred to in Articles 12 and 13, when the institutions or individuals referred to in Article 2 are aware of a fact that could indicate money laundering or terrorism financing, they shall provide this information immediately to the Financial Intelligence Processing Unit. This information may be provided by telephone but must be confirmed by fax, or failing this, by any other written means.

The Unit shall provide immediate acknowledgement of receipt of this information.

Article 14*bis*. §1. The individuals referred to in Article 2*bis*, 1° to 4°, who, in the exercise of their profession, learn of facts which they know or suspect to be linked to money laundering or terrorism financing are obliged to immediately inform the Financial Intelligence Processing Unit.

§2. When the persons referred to in Article 2*bis*, 5°, know or suspect that an operation is linked to money laundering or terrorism financing, they shall immediately inform the Financial Intelligence Processing Unit.

In addition, these persons must in all events immediately inform the Financial Intelligence Processing Unit of the transactions whose list is established by the King on opinion of the Financial Intelligence Processing Unit.

§3. The persons referred to in Article 2ter who, in the exercise of the activities enumerated in this Article, learn of facts that they know or suspect to be linked to money laundering or terrorism financing are obliged to immediately inform the President of the bar association to which they belong.

However, the persons referred to in Article 2ter do not transmit this information if it was received from one of their clients or obtained on one of their clients in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained

before, during or after such proceedings.

The President of the bar association verifies the respect of the conditions set out in Article 2ter and in the preceding section. If these conditions are met, he immediately sends the information to the Financial Intelligence Processing Unit.

Article 14*ter*. On opinion of the Financial Intelligence Processing Unit the King may extend the reporting obligation referred to in Articles 12 to 14bis to transactions and facts involving individuals or legal entities domiciled, registered or established in a country or territory whose legislation is considered insufficient by a competent international authority for consultation and coordination or whose practices are deemed by this authority as impeding the fight against money laundering. The King may determine the type of these facts and transactions as well as their minimal threshold.

Article 14*quater*. The persons referred to in Article 2, section 1, 2°, 3°, 4° 6°, 8°, 9°, 10°, 19° and 20° may not open a branch or representative office domiciled, registered or established in a State or territory designated by the King in application of Article 14ter. They cannot acquire or create, directly or through the intermediary of a financial company or of a mixed financial company, a subsidiary company performing the activity of a credit institution or of an investment company or of an insurance company domiciled, registered or established in an aforementioned State or territory.

Article 15. §1. When the Financial Intelligence Processing Unit receives the information referred to in Article 11, §2, the Unit or one of its members or one of its staff designated for this purpose by the leading magistrate or by his deputy, may demand to obtain, within a defined time limit, any additional information deemed useful to accomplish the assignment of the Unit:

1° from all the institutions and individuals referred to in Articles 2, 2bis and 2ter as well as from the President of the bar association referred to in Article 14bis, §3;

2° from the police services, notwithstanding Article 44/1 of the Law of 5 August 1992 on the police function, amended by the Law of 26 April 2002 regarding the essential elements of the status of the staff of police services and various other provisions involving police services;

3° from the administrative services of the State;

4° from the receivers of a bankruptcy;

5° from the temporary administrators referred to in Article 8 of the Law of 8 August 1997 on bankruptcies;

6° from the judicial authorities. However, information may not be communicated to the Unit without the express consent of the Attorney General or Federal Crown Prosecutor, and information obtained from a judicial authority may not be communicated by the Unit to a foreign organisation pursuant to Article 17, §2, without the express consent of the Attorney General of Federal Crown Prosecutor.

The persons referred to in Article 2*ter* and the President of the bar association referred to in Article 14*bis*, §3, do not transmit this information if it was received from one of their clients or obtained on one of their clients in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.

The judicial authorities, the police services, the administrative services of the State, the receivers of a bankruptcy and temporary administrators may spontaneously communicate any information that they deem useful to the exercise of its mission spontaneously to the Financial Intelligence Processing Unit.

The Prosecutor's Office shall communicate to the Financial Intelligence Processing Unit all final decisions issued in cases where the Unit transmitted information in application of Articles 12, §3 and 16 of this Law.

§2. Moreover, independently of the cases referred to in §1, the Unit may at any time obtain from the institutions and individuals referred to in Articles 2 and 2*bis*, 5°, which are not subject to any prudential supervision, any information that it deems useful regarding how these same institutions and individuals implement Articles 4 to 10, 12 to 14*bis* and §1.

Article 16. Without prejudice to the case referred to in Article 12, §3, the Financial Intelligence Processing Unit shall review the information covered by Article 11, §2. Should this review reveal a serious indication of money laundering or terrorism financing, this information shall be transmitted to the Crown Prosecutor or to the Federal Crown Prosecutor. When the information is sent to the Crown Prosecutor, a copy is addressed by the Unit to the Federal Crown Prosecutor.

Article 17. §1. Without prejudice to the implementation of the foregoing Articles and with the exception of the case where they are called upon to testify in court, the members of the Financial Intelligence Processing Unit and members of its staff, the members of the police services and other officials seconded to it as well as the external experts it calls upon, may not disclose, even in the case referred to in Article 29 of the Code of Criminal Procedure, the information collected in the discharge of their duties.

The member of the Unit, the member of its staff or the external expert who divulges any information referred to in section 1 shall be punished with the penalties set forth in Article 458 of the Penal Code.

§2. §1 does not apply to information provided in a framework of mutual co-operation, pursuant to international treaties to which Belgium is a party, or, in return for reciprocity, to foreign organisations that fulfil similar functions and are subject to the same duties of secrecy as those of the Unit in order to accomplish their mission.

Nor does §1 apply to the requests for information addressed by the European Anti-Fraud Office, within the framework of the application of Articles 209A of the Treaty of 25 March 1957 establishing the European Community and 183A of the Treaty of 25 March 1957 instituting the European Atomic Energy Community, amended by the Treaty of 7 February 1992.

However, for purposes of implementation of Article 22, the Unit may provide the information useful to the authorities referred to by this Article.

Moreover, when it transmits information to the Crown Prosecutor or to the Federal Crown Prosecutor, pursuant to Articles 12, §3, and 16, regarding the laundering of money or assets deriving from an offence over which a supervisory or regulatory authority has investigative powers, the Unit shall inform said authority of this transmission.

When this transmission concerns information relating to the laundering of money deriving from the commission of an offence linked to defrauding the financial interests of the European Communities, the Unit can inform the European Anti-Fraud Office.

When this transmission concerns information relating to the laundering of money deriving from the commission of an offence linked to serious and organised fiscal fraud setting in motion complex mechanisms or procedures with an international dimension or from the commission of an offence within the competence of the Customs and Excise Administration, the Unit informs the Minister of Finance of this transmission.

When this transmission contains information communicated to the Unit by the State Security Department (*Sûreté de l'Etat*) or the General Service for Information and Security of the Armed Forces (*Service général du renseignement et de la sécurité des Forces armées*) the Unit informs them of this transmission.

Article 18. The transmission of information referred to in Articles 12 to 14*bis* is done as a rule by the person appointed within the institutions referred to in Articles 2 and 2*bis*, 5°, in conformity with Article 10, or by the individuals referred to in the Articles 2bis, 1° to 4° and 2ter.

However, all employees and representatives of the institutions or individuals referred to in Articles 2, 2*bis* and 2ter shall personally transmit information to the Unit whenever the procedure outlined in section 1 cannot be followed.

Article 19. The institutions or individuals referred to in Articles 2, 2*bis* and 2ter as well as the President of the bar association referred to in Article 14bis, §3 may not, under any circumstances, inform the client concerned or third parties that information has been transmitted to the Financial Intelligence Processing Unit pursuant to Articles 12 to 15, or that an investigation into money laundering is in progress.

Article 20. No civil, criminal or disciplinary proceedings may be initiated against and no professional sanction imposed upon the

institutions or individuals referred to in Articles 2, 2*bis* and 2ter, their employees or representatives as well as the President of the bar association referred to in Article 14bis, §3, who in good faith have provided information pursuant to Articles 12 to 15.

Chapter IV. – *Supervisory and Regulatory Authorities.*

Article 21. The supervisory or regulatory authorities or the disciplinary authorities of the institutions and individuals referred to in Articles 2, 2*bis* and 2*ter* who identify facts that are likely to serve as a proof of money laundering or terrorist financing are required to inform the Financial Intelligence Processing Unit of such facts.

Notwithstanding the legal and regulatory provisions governing their duty of professional secrecy, the authorities in charge of supervising the financial markets, when they identify facts likely to constitute proof of money laundering, shall communicate such facts to the Financial Intelligence Processing Unit.

Article 21*bis*. The supervisory authorities of the institutions and individuals referred to in Article 2, section 1, 2°, 3°, 4°, 8°, 9°, 10°, 11°, 15°, 16°, 19° and 20° shall determine the terms of the obligations set forth in Chapter II of this law by regulation submitted to the King for approval.

If they fail to establish the regulation referred to in the preceding section or to amend it in the future, the King is authorized to adopt or amend this regulation Himself.

Article 22. Without prejudice to the measures defined by other laws or regulations, the supervisory or regulatory authority or the competent disciplinary authority may, in cases of non-compliance with the provisions of Articles 4 to 19, or Decrees issued for their implementation, by the institutions or individuals referred to in Articles 2, 2*bis* and 2ter subject to them:

1° publish, in accordance with terms established by it, the decisions and measures that it shall adopt;

2° impose an administrative fine of not less than 250 EUR and not more than 1.250.000 EUR, after hearing the defence of the institutions and individuals or at least after having duly summoned them. The fine shall be collected for the Treasury by the VAT, Registration and Property Administration.

The Unit is informed by the competent authority of the final sanction imposed under section 1.

These sanctions may be pronounced by the Minister of Finance vis-à-vis institutions or persons referred to in Articles 2, 2*bis* and 2ter that are not subject to any supervisory or regulatory authority nor to any disciplinary authority.

Chapter V. – *Sanctions applicable in case of non-compliance with Article 10ter*

Article 23. Violations of the provisions of Article 10*ter* are established by the agents designated by the Minister responsible for economic affairs in accordance with Article 113 of the Law of 14 July 1991 on commercial practices and consumer information and protection.

In case of non-compliance by a merchant with the provisions of Article 10ter, the Minister responsible for economic affairs may impose an administrative fine that may not exceed 10% of the amount unduly paid in cash, nor exceed 1.250.000 EUR; the fine is collected for the Treasury by the Administration for VAT, Registration and Property.

Chapter VI. - *Transitory Provision.*

Article 24. The identification or verification of the identity of individuals and legal entities who, at the time of entering into force of the Law of 12 January 2004 amending the Law of 11 January 1993 on preventing use of the financial system for purposes of laundering money, the Law of 22 March 1993 regarding the status and control of credit institutions and the Law of 6 April 1995 concerning the status and supervision of investment companies, investment intermediaries and brokers, have the capacity of regular client of an institution or individual referred to in Articles 2, 2bis, 1° to 4° and 2ter, in the meaning of Article 4 shall occur within a year after entering into force of the Law of 12 January 2004 amending the Law of 11 January 1993 on preventing use of the financial system for purposes of laundering money, the Law of 22 March 1993 regarding the status and control of credit institutions and the Law of 6 April 1995 concerning the status

and supervision of investment companies, investment intermediaries and brokers.

Chapter VII. - *Final Provision.*

Article 25. The King shall establish the date on which this Law enters into effect.